

# Keeping Track of New ESG Regs

(version 1.0 – updated February 2021)

This is a live document.

Updates and alterations will be made periodically to reflect new information.

Timeline (newest to oldest)	Title of legislation, report or proposal	Status of regulation	Compliance required	Regulatory body or organisation(s)	Applies to	Key impacts on disclosure of ESG data	Source / Link	Relevant ESG Components
Expected end of 2021	EU Taxonomy Regulation	Draft Regulation	Mandatory (once in effect)	European Commission	EU Asset managers and fund managers	Will require asset managers, fund managers and other financial market participants to satisfy strict criteria when labelling products and services as environmentally sustainable (this includes compliance with minimum social safeguards).	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0353">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0353</a>	ESG
Phased from Q1-21	EU Disclosure Regulation: (EU) 2019/2088	Upcoming Regulation	Mandatory (once in effect)	European Council and Parliament	EU Investment firms, AIFMs & UCITS management companies	Establishes dual criteria by which to qualify 'sustainable investment': economic activity must serve specific environmental or social objectives but must also "do no significant harm" (DNSH) in any of those domains. DNSH requirement is key to address 'greenwashing' concerns and misclassification	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2088&amp;from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2088&amp;from=EN</a>	ESG
Expected Jan 2021	FCA Disclosure Regs	Upcoming Regulation	'Comply or Explain'	UK, Financial Conduct Authority (FCA)	Commercial companies with a UK premium listing (per LR chapters 9 & 21)	Pressures all premium listed companies to comply with TCFD-aligned disclosures by forcing them to declare and explain non-compliance	<a href="https://www.fca.org.uk/publication/consultation/cp20-3.pdf">https://www.fca.org.uk/publication/consultation/cp20-3.pdf</a>	E & G
Expected end of 2020	Amendments to MiFID II (Directive 2014/65/EU). Expected under Reg 2017/565.	Draft Regulation	Mandatory (when finalised)	European Commission	EU Investment intermediaries, institutional investors, asset managers, IFAs	Will integrate ESG and sustainability factors with existing client suitability regulations in MiFID II. When conducting suitability assessments, firms will be required to ask about clients' ESG preferences alongside standard questions pertaining to their financial objectives.	<a href="https://ec.europa.eu/finance/docs/level-2-measures/mifid-delegated-act-2018_en.pdf">https://ec.europa.eu/finance/docs/level-2-measures/mifid-delegated-act-2018_en.pdf</a>	ESG
Expected end of 2020	Amendments to IDD (Insurance Distribution Directive) 2016/97/EU. Expected under Reg 2017/2359.	Draft Regulation	Mandatory (when finalised)	European Commission	EU Investment intermediaries, institutional investors, asset managers, IFAs	Will integrate investor ESG preferences with existing suitability obligation for insurance-based investments. When conducting suitability assessments, firms will be required to ask about clients' ESG preferences alongside standard questions pertaining to their financial objectives.	<a href="https://ec.europa.eu/finance/docs/level-2-measures/idd-delegated-act-2018_en.pdf">https://ec.europa.eu/finance/docs/level-2-measures/idd-delegated-act-2018_en.pdf</a>	ESG
Will apply from 03-Sept-20	The Shareholder Rights Directive II, Directive (EU) 2017/828.	Upcoming Regulation	Mandatory	European Council and Parliament	EU companies trading on regulated markets, asset managers and institutional intermediaries.	Will require chain of investment intermediaries to disclose shareholder identities to issuers to improve engagement with & integration of shareholder preferences. Also requires asset managers to disclose voting behaviour & how they monitor social & environmental impact of investee companies.	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L0828&amp;from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L0828&amp;from=EN</a>	ESG

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08-Apr-20	Regulation on how ESG factors are reflected in bench-marking statements	Draft Regulation	Mandatory (when finalised)	European Commission	EU Benchmark Administrators	Requires benchmark administrators to disclose specific ESG factors for specific types of benchmark	<a href="https://www.regulationtomorrow.com/eu/european-commission-sets-out-sustainability-criteria-for-benchmarks/">https://www.regulationtomorrow.com/eu/european-commission-sets-out-sustainability-criteria-for-benchmarks/</a>	ESG
08-Apr-20	Regulation on how ESG factors are reflected in bench-marking methodology	Draft Regulation	Mandatory (when finalised)	European Commission	EU Benchmark Administrators	Requires Benchmark Administrators to explain how their benchmarking methodology reflects ESG factors for each benchmark provided	<a href="https://www.regulationtomorrow.com/eu/european-commission-sets-out-sustainability-criteria-for-benchmarks/">https://www.regulationtomorrow.com/eu/european-commission-sets-out-sustainability-criteria-for-benchmarks/</a>	ESG
08-Apr-20	Regulation on the minimum standards for EU Climate Transition Benchmarks	Draft Regulation	Mandatory (when finalised)	European Commission	EU Benchmark Administrators	Establishes transparency requirements for benchmark methodology	<a href="https://www.regulationtomorrow.com/eu/european-commission-sets-out-sustainability-criteria-for-benchmarks/">https://www.regulationtomorrow.com/eu/european-commission-sets-out-sustainability-criteria-for-benchmarks/</a>	ESG
13-Dec-19	FCA Listing Rules LR 9.8.6R (6)	Existing Regulation	Mandatory	UK, Financial Conduct Authority (FCA)	UK Listed companies and companies going through an IPO	Requires annual financial reports to disclose ESG-related risks and opportunities in so far as they relate to compliance or non-compliance with the provisions of the UK Corporate Governance Code 2018 (UKCGC). UKCGC guidance explicitly recognises that companies have an obligation to wider society.	<a href="https://www.handbook.fca.org.uk/handbook/LR.pdf">https://www.handbook.fca.org.uk/handbook/LR.pdf</a>	ESG
10-Dec-19	Low Carbon Benchmarks Regulation: Regulation (EU) 2019/2089	Existing Regulation	Mandatory	EU Council and Parliament	EU Benchmark Administrators and Asset Managers	Obliges Benchmark Administrators to disclose the methodology used to measure and evaluate ESG risk factors. This increases transparency and uniformity in the use of low-carbon and ESG indices, thereby providing investors with the ability to compare different benchmark methodologies in an informed manner.	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2089&amp;from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2089&amp;from=EN</a>	ESG
01-Oct-19	The Pension Protection Fund (Investment and Disclosure) Regulations 2018	Existing Regulation	Mandatory	UK, Department for Work and Pensions (DWP)	UK Pension Trustees	Requires Pension Trustees to disclose (in their Statement of Investment Principles) how they integrate ESG factors. Also requires Trustees to disclose their Social and Governance policies as they relate to stewardship, engagement, and voting practices	<a href="http://www.legislation.gov.uk/ukSI/2018/988/pdfs/ukSI_20180988_en.pdf">http://www.legislation.gov.uk/ukSI/2018/988/pdfs/ukSI_20180988_en.pdf</a>	ESG
01-Jul-19	FCA Prospectus Regulation Rules (PR) Articles 6,7 & 14	Existing Regulation	Mandatory	UK, Financial Conduct Authority (FCA)	UK Issuers of securities	Requires that prospectuses must disclose any information which is material to an investor making an informed assessment of prospects and risks. Supporting ESMA Guideline 7 para 35 notes this may create an obligation to disclose ESG-risk factors if financially material.	<a href="https://www.handbook.fca.org.uk/handbook/PRR.pdf">https://www.handbook.fca.org.uk/handbook/PRR.pdf</a>	ESG
22-Jun-17	Pension Funds and Social Investment Report	Proposal	n/a	The UK Law Commission	UK Pension funds	Suggests that Pension Fund Trustees should be required to disclose their stewardship policies, including engagement and voting practices (which map closely onto social and governance concerns)	<a href="https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/06/Final-report-Pension-funds-and-social-investment-report.pdf">https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/06/Final-report-Pension-funds-and-social-investment-report.pdf</a>	S & G



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01-Jun-17	TCFD (Implementation Guidelines and sector specific guidance)	Proposal	Voluntary	TCFD (set up under G20 Financial Stability Board)	All listed companies and asset managers	Proposes 'scenario modelling' as a basis to determine what climate-related risks and opportunities are likely to be financially material over a given time horizon.	<a href="https://www.fsb-tcfd.org/wp-content/uploads/2017/12/FINAL-TCFD-Annex-Amended-121517.pdf">https://www.fsb-tcfd.org/wp-content/uploads/2017/12/FINAL-TCFD-Annex-Amended-121517.pdf</a>	E
01-Jun-17	TCFD (Technical Supplement - Scenario Analysis)	Proposal	Voluntary	TCFD (set up under G20 Financial Stability Board)	All listed companies and asset managers	Proposes 'scenario modelling' as a basis to determine what climate-related risks and opportunities are likely to be financially material over a given time horizon.	<a href="https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Technical-Supplement-062917.pdf">https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Technical-Supplement-062917.pdf</a>	E
01-Jun-17	TCFD (Final Report)	Proposal	Voluntary	TCFD (set up under G20 Financial Stability Board)	All listed companies and asset managers	Proposes 'scenario modelling' as a basis to determine what climate-related risks and opportunities are likely to be financially material over a given time horizon.	<a href="https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-2017-TCFD-Report-11052018.pdf">https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-2017-TCFD-Report-11052018.pdf</a>	E
01-Jan-17	EU Non-Financial Reporting Directive 2014/95/EU	Existing Regulation	'Comply or Explain'	European Council and Parliament	EU based Public Interest Entities (PIEs), both financial and non-financial, with > 500 employees	Requires some large EU firms to publish annual data on environmental protection (use of land, water, materials, energy + GHG emissions), social responsibility & board diversity. Introduces principle of 'double materiality' to address both societal & financial impacts.	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&amp;from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&amp;from=EN</a>	ESG
20-Jul-16	Singapore Exchange Listing Rules 711A & 711B Sustainability Reporting Guide	Existing Regulation	'Comply or Explain'	Singapore Exchange (SGX)	Singapore Exchange Listed financial & non-financial firms	Requires Listed firms to disclose material environmental, social and governance factors & performance targets to investors. SGX Sustainability Reporting Guide defines material ESG factors as those which "act as barriers or enablers to achieving business goals" (Para 4.7)	<a href="http://rulebook.sgx.com/entiresection/1">http://rulebook.sgx.com/entiresection/1</a>	ESG
03-Jul-16	EU Market Abuse Regulation (MAR) EU 596/2014 (Articles 12,15,17)	Existing Regulation	Mandatory	European Council and Parliament (then adopted by the FCA)	EU Securities Issuers	May require disclosure of ESG data if omitting to do so would give rise to market manipulation. Article 17 also interacts with MiFID II to mandate disclosure of emissions allowances	<a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0596&amp;from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0596&amp;from=EN</a>	ESG
29-Jan-16	Disclosure Guidance and Transparency Rules (DTR 4.1.8 R and DTR 4.2.7 R)	Existing Regulation	Mandatory	UK, Financial Conduct Authority (FCA)	UK premium listed companies (per LRs 9.2.6 and 9.8.7A) and all standard equity listed companies (per LRs 14.3.23 and 14.3.24)	ESG disclosures may be required in circumstances where they are material to an investor's assessment of the risks and opportunities shaping the investee business	<a href="https://www.handbook.fca.org.uk/handbook/DTR.pdf">https://www.handbook.fca.org.uk/handbook/DTR.pdf</a>	ESG
01-Jul-14	Fiduciary Duties of Investment Intermediaries	Proposal	n/a	The UK Law Commission	UK Investment Intermediaries and Pension Trustees	Proposal suggests that investment decisions take ESG factors into account where they are financially material.	<a href="https://www.lawcom.gov.uk/project/fiduciary-duties-of-investment-intermediaries/">https://www.lawcom.gov.uk/project/fiduciary-duties-of-investment-intermediaries/</a>	ESG

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01-Oct-13	Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013	Existing Regulation	Mandatory	UK Statute	UK firms which are 'Quoted Companies' per Companies Act 2006	Requires UK 'Quoted Companies' to publish annual GHG Emissions (includes both 'direct' Scope 1 & 'indirect' Scope 2 emissions)	<a href="https://www.legislation.gov.uk/ukxi/2013/1970/made/data.pdf">https://www.legislation.gov.uk/ukxi/2013/1970/made/data.pdf</a>	E
21-Jul-10	Section 1502 Dodd-Frank Wall Street Reform and Consumer Protection Act	Existing Regulation	Mandatory	US Federal Law	Any US company required to file reports with the SEC, if conflict minerals are necessary to their products	Requires certain companies to disclose their annual use of conflict minerals, especially if sourced from the Democratic Republic of Congo or adjoining countries.	<a href="https://www.govinfo.gov/content/pkg/COMPS-9515/pdf/COMPS-9515.pdf">https://www.govinfo.gov/content/pkg/COMPS-9515/pdf/COMPS-9515.pdf</a>	S
28-Mar-10	NAIC Climate Risk Disclosure Survey (2010)	Mandatory Survey	Mandatory	US, National Association of Insurance Commissioners	US Insurers that meet certain thresholds	Requires insurers to disclose general information about management of climate change risks.	<a href="https://www.state.nj.us/dobi/bulletins/blt1011survey.pdf">https://www.state.nj.us/dobi/bulletins/blt1011survey.pdf</a>	E
08-Feb-10	SEC Guidance Regarding Disclosure Related to Climate Change	Existing Regulation	Mandatory	US, Securities and Exchange Commission (SEC)	US firms subject to SEC reporting requirements	Requires SEC regulated firms to disclose climate-related material risks that can affect or have affected the firm's financial condition.	<a href="https://www.sec.gov/rules/interp/2010/33-9106.pdf">https://www.sec.gov/rules/interp/2010/33-9106.pdf</a>	E
30-Oct-09	EPA (Greenhouse Gases Rule) 40 CFR Part 98	Existing Regulation	Mandatory	US, Environmental Protection Agency (EPA)	Large US GHG emitters & fuel and industrial gas suppliers	Mandates disclosure of GHG emissions > 25,000 Tonnes CO2e/year (both direct emissions & potential emissions from supplied products if oxidised)	<a href="https://www.govinfo.gov/content/pkg/CFR-2019-title40-vol23/xml/CFR-2019-title40-vol23-part98.xml">https://www.govinfo.gov/content/pkg/CFR-2019-title40-vol23/xml/CFR-2019-title40-vol23-part98.xml</a>	E

