CLIENT MEMORANDUM

Climate Disclosure: The Continuing Call for Transparency

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AUTHORS

William Thomas | **Annise Maguire**

Climate change stakeholders continue to push for broader information from corporations and financiers on matters of carbon risk and management. Investors are on track to file 142 shareholder resolutions during the 2014 proxy season urging companies to increase disclosures and improve environmental performance.[1] Reporters have a range of options for meeting this challenge. This briefing focuses on three major transparency initiatives: the CDP (formerly known as the Carbon Disclosure Project); the Sustainability Accounting Standards Board ("SASB"); and the Climate Disclosure Standards Board ("CDSB").

CDP

For corporations with a global footprint, a working familiarity with the CDP is essential. The CDP is a non-profit project based in the United Kingdom that promotes greater measurement and disclosure of greenhouse gas ("GHG") emissions, energy use, as well as climate risks and opportunities. The CDP sends an annual questionnaire, on behalf of its investor partners, to targeted companies and cities. The questionnaire is designed to help these companies and cities identify and report on risks and opportunities in their investment portfolios and their municipalities. Participation is voluntary, and the

1 *Companies face record number of shareholder resolutions urging action on environmental issues*, IW FINANCIAL (March 24, 2014).

self-reported information submitted to the CDP is compiled and published in publicly available annual reports and other forms. While the CDP's first, and largest, initiative focused exclusively on climate change, since its launch in 2000 the CDP has expanded its programs and publications to address deforestation, water, and supply chains. Indeed, the CDP possesses the world's largest collection of self-reported climate data.

SASB

Corporations with a domestic focus seeking guidance on environmental disclosures in the context of existing filings should review the SASB's standards. The SASB's standards and industry-based indicators: target publicly-listed corporations in the United States ("U.S.") that report on sustainability issues; are modeled after the Financial Accounting Standards Board's standards; and, are designed for disclosures in mandatory filings to the U.S. Securities and Exchange Commission ("SEC").[2] The SASB's sustainability standards differ from those of the CDP and other environmental reporting tools in that the SASB standards are not broad reporting guidelines or a framework for comprehensive environmental reporting, but instead provide more limited and focused tools and processes that companies can use to determine the materiality of issues and performance metrics for their particular industry. While other disclosure tools are designed for independent reporting of environmental and sustainability issues, information generated through the SASB's standards is intended to be integrated within existing, mandatory financial reports (i.e., Forms 10-K or 20-F). The goal is to provide investors with a complete picture of all material information pertinent to a company, as well as a benchmark to compare companies within given industries on both financial and non-financial risks and opportunities. The SASB is currently rolling out reports that prioritize sustainability issues by industry, as well as identifying industry-specific key performance indicators.[3] Additionally, in June 2013, the SASB signed a Memorandum of Understanding ("MoU") with the CDP to promote greater support for the development of disclosure standards for climate change-related issues. Under the MoU, the SASB agreed to use the CDP's data as evidence for determining the materiality of climate change-related issues within a given industry. The MoU also provides the SASB with technical assistance in referencing the CDSB protocols for the disclosure of carbon emissions.

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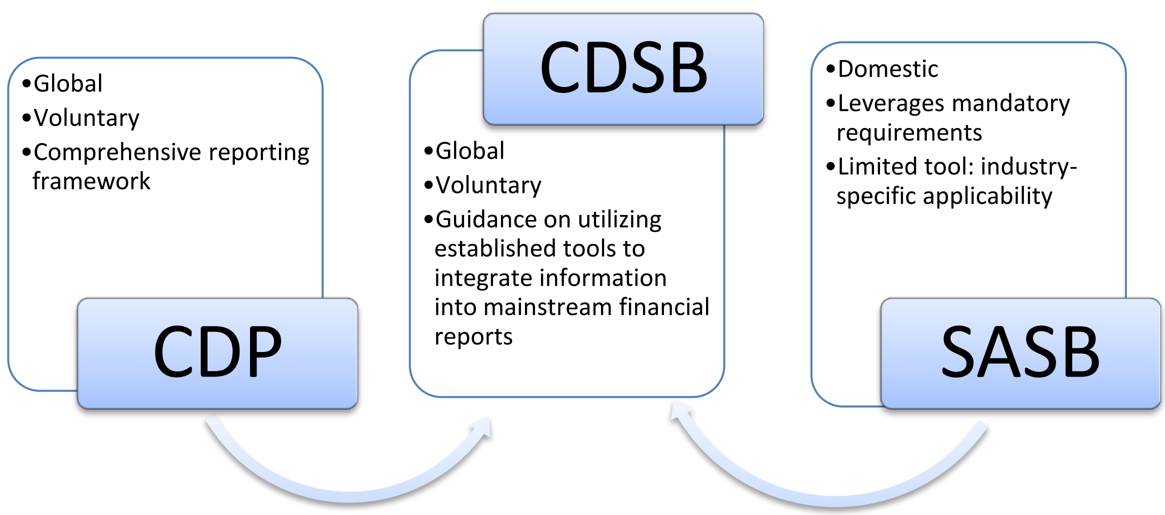
2 Despite the SEC's February 2010 Interpretive Guidance on climate disclosure, carbon transparency advocates continue to apply pressure on the SEC to improve the quality of climate change-related disclosures in 10-K filings. See Jim Coburn & Jackie Cook, Ceres, *Cool Response: The SEC & Corporate Climate Change Reporting; SEC Climate Guidance & S&P 500 Reporting—2010 to 2013* (Ceres, February 2014). Interestingly, during the same period, the quantity and quality of climate change-related disclosures voluntarily reported through the CDP increased. *Id.*

3 As of this briefing, the SASB has issued standards for the Healthcare, Financial, and Technology & Communications industries. Reports are pending for the following industries, with projected release dates: Non-renewable Resources (6/5/14); Transportation (9/4/14); Services (12/3/14); Resource Transformation (2/25/15); Consumption I (6/2/15); Consumption II (8/25/15); Renewable Resources & Alternative Energy (11/24/15); and Infrastructure (3/31/16).

CDSB

The CDSB, launched at the 2007 World Economic Forum with the mantra "harmonization not duplication," seeks to help companies understand and more effectively apply existing standards when measuring and reporting on climate change risks and opportunities, and to assist regulators in decision-making. Guidance for accomplishing these goals is provided through the CDSB's Climate Change Reporting Framework. The CDSB describes its framework as having been "designed to elicit climate change-related information of value to investors[,]" and "[c]reated in line with the objectives of financial reporting and rules on non-financial reporting . . . to filter out what is required to understand how climate change affects a company's financial performance." The goal is to "standardize climate change-related disclosure in mainstream financial reports."



What's New?

The CDSB has recently released a revised version of its framework for comment (the "draft" or "draft framework"), *CDSB Framework Consultation Draft: Promoting and Advancing Disclosure of Environmental Information*. The revised framework is scheduled for launch in the third quarter of 2014. The draft's structural changes include a new, expanded scope, and reflect developments made in other corporate reporting practices, relying heavily on the design and approach of the *CEO Water Mandate*. However, most of the structural changes are cosmetic rather than substantive, focusing on the way information is presented; these changes were made to allow for the future expansion of the framework. The draft framework also proposes substantive changes, specifically, on the issues of boundaries (REQ-19, which establishes that information must be relevant to investors) and materiality (REQ-24, which imposes a "materiality" threshold for information included in reports).

Under REQ-19, information is relevant when it "is capable of making a difference to the decisions of users. . . ." Relevant information will help users assess environmental risks and opportunities that could impact a company's objectives, as well as actual or potential environmental impacts. Factors that are also indicative of an issue's relevance include: prevalence of voluntary reporting; investor demand; and increased regulatory activity. Disclosures are material under REQ-24 when: the information is relevant; they provide "complete" information without superfluous or duplicative details; and, they are evaluated from the entity's specific perspective, avoiding general formulations or generic language.

The draft also expands the existing framework's scope beyond climate change and GHG reporting to include natural capital—primarily, risks associated with deforestation, commodities, and water shortages. Changes to the framework's scope were made in an attempt to satisfy the International Integrated Reporting Council's ("IIRC") requirements for Natural Capital Reporting, with the goal of establishing the CDSB's framework as a means of implementation for IIRC's Natural Capital Reporting.[4] The CDSB comment period on the draft framework closes May 19, 2014.[5]

<u>Final Thoughts</u>

As calls for carbon transparency continue unabated, the CDP, the SASB, and the CDSB regimes bear keeping in mind when contemplating disclosure. While each regime is unique, all three share a common goal: providing investors, and the public, with better financial and non-financial information from which they can evaluate risks and opportunities. Companies should factor these regimes into account when framing and executing mandatory and voluntary reporting efforts, mindful of the particular views of their specific financial and sustainability stakeholders.

If you have any questions regarding this memorandum, please contact William Thomas (202-303-1210, wthomas@willkie.com), Annise Maguire (202-303-1162, amaguire@willkie.com) or the attorney with whom you regularly work.

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4 In July 2013, CDP, CDSB, and IIRC signed a MoU intended to improve the measurement and reporting of natural capital in mainstream corporate reports.

5 Comments submitted will be made available to the public unless a specific agreement is reached with the CDSB to the contrary.