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**CRCCD
OBSERVATORY
ON SUSTAINABLE
FINANCE AND THE
GREEN ECONOMY**

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Issue 6



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CRCCD OBSERVATORY ON SUSTAINABLE FINANCE AND THE GREEN ECONOMY

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UPDATES

I. *The Sustainability Reporting Decree*

On 10 September 2024, [Legislative Decree No. 125 of 6 September 2024](#) was published in the Italian Official Gazette, aimed at transposing [Directive \(EU\) 2022/246](#) (Corporate Sustainability Reporting Directive or “CSRD”) concerning corporate sustainability reporting (the “**Sustainability Reporting Decree**”) into Italian law¹.

As previously touched upon in [Issue 5](#) of the Observatory, the Sustainability Reporting Decree regulates sustainability reporting as an integral and specifically marked section of the management report.

Sustainability reporting will be subject to a specific compliance certification. Indeed, the Sustainability Reporting Decree provides that the compliance of sustainability reporting with the rules under such Decree must be attested, pursuant to Legislative Decree No. 39 of 27 January 2010, by a statutory auditor who has obtained the appropriate qualification (the features of which are also governed by a decree of the Italian Ministry of Economy and Finance, in agreement with the Italian Ministry of Justice, upon consultation with Consob (the Italian National Commission for Companies of the Stock Exchange)). This role, which is expressly defined as a “sustainability auditor” (*revisore della sostenibilità*) in the Sustainability Reporting Decree, will be subject to Consob’s supervision.

The provisions of the Sustainability Reporting Decree apply:

- (i) from the financial years beginning in 2024, for (i) large companies (defined as companies that, at the year-end financial statements, have exceeded, in their first financial year of activity or subsequently for two consecutive financial years, two of the following three limits: EUR 25,000,000 recorded in the balance sheet, EUR 50,000,000 in net revenues from sales and services, and employed on average 250 employees during the financial year) and (ii) parent companies of large groups (defined as groups consisting of a parent company and subsidiaries to be included in the consolidated financial statements and which, on a consolidated basis, at the parent company’s year-end financial statements, have exceeded, in their first financial year of activity or subsequently for two consecutive financial years, two of the three limits indicated above) that are public interest entities, pursuant to Article 16(1) of Italian Legislative Decree No. 39 of 27 January 2010, and at the year-end financial statements employed on average more than 500 employees during the financial year;
- (ii) from financial years starting in 2025, for the remaining large companies and parent companies of large groups;
- (iii) from the financial years beginning in 2026, for (i) small and medium-sized listed companies (defined as companies with securities admitted to trading on EU regulated markets that, at the year-end financial statements, are included, in their first financial year of

¹ For a discussion of CSRD and the related European Sustainability Reporting Standards (ESRS), see Section 3 of [Issue 2](#), Section 11 of [Issue 4](#), and Sections 4 and 8 of [Issue 5](#) of the Observatory.

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activity or subsequently for two consecutive financial years, within two of the following three ranges: from EUR 450,001 to EUR 24,999,999 recorded in the balance sheet, from EUR 900,001 to EUR 49,999,999 of net revenue from sales and services, 11 to 250 employees employed on average during the financial year), (ii) small and non-complex institutions, as referred to in Article 4(1)(145) of [Regulation \(EU\) No. 575/2013](#), provided that they are large or small and medium-sized listed entities, and (iii) captive insurance undertakings and captive reinsurance undertakings, as referred to in Article 13(2) and (5) of [Directive 2009/138/EC](#), provided that they are large or small and medium-sized listed entities.

However, the provisions of Article 5 of the Sustainability Reporting Decree, concerning corporate sustainability reporting of companies from third-party countries, will apply from the 2028 financial year.

Individual entities (large companies and small and medium-sized listed entities) and parent companies of large corporate groups are not subject to the reporting requirements under Article 3 from (1) to (6), and under Article 4 from (1) to (6), respectively, of the Sustainability Reporting Decree if the information required therein is included: (i) by the parent company in its consolidated sustainability report pursuant to Article 4 of the Sustainability Reporting Decree; (ii) by the European parent company in its consolidated management report prepared in accordance with [Directive 2013/34/EU](#) (the so-called Accounting Directive); and (iii) by the non-European parent company in its own consolidated sustainability report prepared in accordance with the European Sustainability Reporting Standards (“ESRS”), adopted by the European Commission, or in accordance with other sustainability reporting standards that the European Commission, by means of an implementing act, has declared to be equivalent to the ESRS, provided that such reporting is made in the single electronic reporting format referred to in [Delegated Regulation \(EU\) 2019/815](#), is accompanied by an attestation of compliance issued by persons or undertakings authorised to do so under the law to which the non-European parent company is subject, and is published within the terms and in the manner referred to in Article 6 of the Sustainability Reporting Decree.

The above exemptions do not apply to large companies with securities admitted to trading on EU regulated markets. Furthermore, the obligation of exempted companies to include the minimum information required by Article 7(3) of the Sustainability Reporting Decree in their management report is not affected. Exempted companies that are subsidiaries of non-European parent companies must also include, in their management report, the information set forth in Article 8 of [Regulation \(EU\) 2020/852](#) (the so-called Taxonomy Regulation), if such information is not included in the parent company’s consolidated sustainability report.

2. *The Euronext ESG Trends Report 2024*

On 9 September 2024, Euronext published the first [Euronext ESG Trends Report](#), which provides an overview of the environmental, social and governance performance of companies listed on Euronext markets.

The report is based on an analysis of data from 1,729 companies listed on Euronext markets for the years 2020, 2021, 2022 and 2023, broken down into more than 50 quantitative indicators for each company, with a particular focus on indicators taken from the [CSRD](#), the [Sustainable Finance Disclosure Regulation \(EU\) 2019/2088](#) (“SFDR”) and the [Taxonomy Regulation](#).

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The key findings of this analysis, as indicated in the report and covering (unless otherwise stated) the four-year period, can be summarised as follows:

- (i) significant reductions in reported greenhouse gas emissions, particularly for mid-cap companies (which recorded a 29% reduction in their reported greenhouse gas emissions);
- (ii) 26% reported energy intensity reduction;
- (iii) 7% increase in the share of renewable energy consumption and production;
- (iv) 2% increase in gender diversity in boards of directors compared to 2021, with a concurrent increase in the number of women in management positions;
- (v) 70% alignment to the [CSRD](#), [SFDR](#) and [Taxonomy Regulation](#) by large cap companies and 49% by mid-cap companies.

3. The forthcoming entry into force of ESMA guidelines on the use of ESG or sustainability-related terms in investment fund nomenclature

On 21 August 2024, the European Securities and Markets Authority (ESMA) published [translations](#) into all official languages of the European Union of its guidelines on the use of ESG or sustainability-related terms in the naming of investment funds, for the purposes of ensuring greater transparency in dealings with investors and preventing greenwashing (the “**Guidelines**”), previously published in English in the ESMA’s final report of 14 May 2024, also dealt with in [Issue 5](#) of the Observatory,

In its final report, the ESMA clarified that the Guidelines would enter into force three months after the publication of their official translations, that is, on 21 November 2024.

Fund managers will then be required to immediately apply the Guidelines with respect to all funds established after such date.

With regard to funds already existing at the date the Guidelines became effective, the ESMA’s final report provided instead for a six-months’ transitional period which means, therefore, that with respect to these funds managers will be required to apply the Guidelines starting from 21 May 2025.

4. The Nature Restoration Regulation (EU) 2024/1991

On 29 July 2024, [Regulation \(EU\) 2024/1991](#) of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869 (the “**Nature Restoration Regulation**”) was published in the Official Journal of the European Union. The Nature Restoration Regulation entered into force on 18 August 2024.

The Nature Restoration Regulation, as part of the [European Green Deal](#), establishes a framework of measures aimed at the overall goal of restoring at least 20% of both terrestrial and marine areas of the European Union by 2030, as well as all ecosystems in need of restoration by 2050.

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Restoration measures under the Nature Restoration Regulation cover marine, coastal and freshwater ecosystems, as well as terrestrial urban, agricultural and forest ecosystems, with a special focus on pollinator populations and renewable energy sources.

In order to ensure that the restoration measures implemented under the Nature Restoration Regulation bring about an effective and measurable improvement in the status of ecosystems, both at the level of individual restoration areas and at national level, each EU Member State will have to develop a draft national restoration plan to be submitted to the European Commission by 1 September 2026, and to carry out appropriate preparatory monitoring and research. The Nature Restoration Regulation also regulates the monitoring and reporting obligations of Member States to the European Commission while implementing their national restoration plans.

Each national nature restoration plan shall detail the means by which each Member State intends to achieve the objectives of the Nature Restoration Regulation, including an estimate of the financing needs for the implementation of the restoration measures. This estimate shall include a description of the support measures for stakeholders affected by the restoration measures or other obligations under the Nature Restoration Regulation, and shall indicate the means of intended financing (whether public or private), including financing or co-financing with EU funding instruments.

For the purpose of assessing the draft national restoration plan, the European Commission will consider: (i) its compliance with Article 15 of the Nature Restoration Regulation (under the heading *Content of the national restoration plan*); (ii) its adequacy for meeting the targets and fulfilling the specific obligations set out in Articles 4 to 13 of the Nature Restoration Regulation; and (iii) the plan's contribution to the overall objective of the Nature Restoration Regulation, the commitment to restore at least 25,000 kilometres of free-flowing rivers in the European Union by 2030, and to the further commitment to plant at least three billion new trees in the European Union by 2030.

The Nature Restoration Regulation undoubtedly calls for effective planning and monitoring by Member States, targeted towards an increasingly multidimensional goal of climate neutrality, accompanied by financial commitments that are projected to be unprecedented in terms of their scope and amount.

5. The IASB's exposure draft "Climate-related and Other Uncertainties in the Financial Statements"

On 31 July 2024, the [International Accounting Standards Board](#) (IASB), the independent body responsible for issuing the IAS/IFRS accounting standards, published and submitted for public consultation an [exposure draft](#) entitled *Climate-related and Other Uncertainties in the Financial Statements*.

The publication of this exposure draft represents the principal step in an operational programme undertaken by the IASB in March 2023 with the main aim of improving the financial reporting on the effects of climate-related risks, in order to provide, also in financial terms, information that is more appropriate to the needs of operators and more consistent with the statements made by companies and that is not contained in their financial statements.

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To this end, the exposure draft proposes, by means of eight practical examples, an illustration of how an entity should apply the current IAS/IFRS accounting standards², as well as the standard IFRS 18 *Presentation and Disclosure in Financial Statements* (applicable from the 2027 financial year), to reflect in its financial reporting the implications of uncertain climate-related factors as well as other uncertain factors related to ESG profiles, such as uncertainty arising from possible future legislative developments in environmental matters or possible consumer preferences for more environmentally sustainable products.

With respect to these types of risks, the eight proposed practical examples – which, according to the IASB’s intentions, should complement the implementation guidelines of the aforementioned accounting standards – consider IAS/IFRS application assumptions concerning (i) materiality judgments leading to additional disclosures; (ii) materiality judgments that do not lead to additional disclosures; (iii) basic assumptions for the impairment or non-impairment of assets; (iv) assumptions concerning the future and other major sources of estimation uncertainty; (v) other assumptions concerning the future that are not specifically required by IAS/IFRS; (vi) the impact of risks on credit risk exposures; (vii) provisions for the disposal and environmental restoration of production sites (albeit of insignificant book value); and (viii) disclosure of disaggregated information about classes of property, plant and equipment.

The public consultation process on the IASB’s exposure draft will end on 28 November 2024.

6. Consob’s Call for Attention No. 1/2024

On 25 July 2024, Consob published its [Call for Attention No. 1/24](#) concerning compliance with sustainable finance requirements in providing investment services.

In its Call for Attention, Consob acknowledges that it has commenced specific supervisory actions aimed at monitoring the way in which the European regulatory framework on sustainable finance is being implemented by intermediaries in providing investment services, and draws the attention of operators to the main elements of the reference framework.

The main elements analysed by Consob are:

- (i) sustainability transparency under the [SFDR](#). In particular, Consob, with a view to fostering the understanding and use of sustainability information also by less sophisticated clients, draws the intermediaries’ attention to the need to ensure that disclosure is clear, correct and not misleading in accordance with the standards of the MiFID II and its implementing provisions;
- (ii) the assessment of clients’ sustainability preferences as part of the adequacy assessment. In this regard, Consob points out that intermediaries must explain the concept of sustainability by using clear non-technical language, ensure an adequate level of detail when collecting information on clients’ sustainability preferences, investigate in detail the sustainability characteristics of products, and finally ensure that, as part of the mechanisms adopted for monitoring sustainability preferences, the client is always allowed to adjust

² These are in particular IAS 1 *Presentation of Financial Statements*; IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*; IAS 36 *Impairment of Assets*; IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*; and IFRS 7 *Financial Instruments: Disclosures*.

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his or her sustainability preferences if no product is capable of meeting them, by appropriately keeping track of the choice made, but without permanently changing the client's sustainability preferences;

- (iii) taking into account the sustainability objectives in product governance processes. In this respect, Consob notes that sustainability objectives should be enumerated, with an appropriate level of detail, within the target market category broadly referring to “client objectives and needs”. In addition, Consob notes that, in relation to products that do not take sustainability factors into account, intermediaries will have to make assessments on a case-by-case basis, on the basis of the specific product characteristics, as to whether it is appropriate to identify a negative target market in terms of clients' sustainability objectives. Finally, Consob recalls that production and distributor intermediaries are required to take into account any sustainability targets also when periodically reviewing the products manufactured and distributed.

Consob's Call for Attention is accompanied by a list of positive and negative operating practices that have emerged in practice, construed by Consob as means by which to support intermediaries in adopting more developed and sustainable finance-compliant operating methods.

7. *The new consolidated ESA Q&A document on the SFDR and the Delegated Sustainability Regulation*

On 25 July 2024, the ESMA, the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) – jointly, the “European Supervisory Authorities” or “ESAs” – published a new [consolidated Q&A document](#) related to the [SFDR](#) and [Delegated Regulation \(EU\) 2022/1288](#) (the “**Delegated Regulation for Sustainability**”), which updates the similar document of 12 January 2024 (previously discussed in [Issue 4](#) of the Observatory).

Similarly to the previous document, this consolidated document contains the responses of the European Commission and the ESAs to questions requesting the interpretation of the sustainability reporting requirements in the financial services sector, as set forth in the SFDR, or of the technical reporting standards prescribed in the Delegated Regulation for Sustainability implementing the SFDR³.

Like the previous version, the consolidated document consists of eight sections, on: (i) the scope of application of the SFDR; (ii) the definition of “sustainable investment”; (iii) the concept of “current value of investments” for the purpose of disclosing the principal adverse impacts “PAIs” of investment decisions on sustainability factors and the calculation of the degree of eco-sustainability of investments; (iv) disclosure on PAIs; (v) financial product disclosures; (vi) so-called multi-option products; (vii) disclosure of the degree of eco-sustainability of investments; and (viii) financial advisors and intermediaries under the so-called execution-only regime.

Compared to the previous version, 16 Q&As have been added to the abovementioned sections as (i), (iv) and (v). The ESAs also clarified that they will continue to answer questions on the practical

³ For a discussion of the SFDR and the Delegated Regulation for Sustainability, please refer to Section 4 of [Issue 2](#) of the Observatory.

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application of the SFDR's regulatory framework in due course, and to consolidate the answers given, in order to facilitate the continued implementation of the SFDR.

8. *The ESMA's opinion on the European regulatory framework on sustainable finance*

On 24 July 2024, ESMA published an [opinion](#) on the European regulatory framework on sustainable finance, being this ESMA's most recent response to the European Commission's request for advice on managing the risks of greenwashing and the supervision of sustainable finance policies.

Bearing in mind the fundamental role that mobilising private capital will play in achieving the [European Green Deal](#)'s two key objectives (reducing greenhouse gas emissions by at least 50-55% by 2030 compared to 1990 levels, and climate neutrality by 2050), the ESMA outlines in this opinion (meaningfully entitled *Sustainable investments: Facilitating the investor journey – A holistic vision for the long term*) the principle that the European regulatory framework on sustainable finance should, in a long-term perspective, further facilitate access by investors to sustainable investments, the effective value chain of such investments, and thus the financing of the transition to a sustainable economy.

The recommendations made by ESMA in its opinion can be non-exhaustively summarised as follows:

- (i) the EU taxonomy should become the sole, common reference point for assessing the sustainability of investments, and should be incorporated into the entire European regulatory framework on sustainable finance;
- (ii) the EU taxonomy should be completed for all activities that can substantially contribute to environmental sustainability;
- (iii) the EU taxonomy should be completed with reference to the assessment of social sustainability, i.e. by developing a social taxonomy;
- (iv) a definition of "transition investments" should be developed and incorporated into the European regulatory framework on sustainable finance in order to provide legal certainty and support the creation of transition-related investment products;
- (v) all financial products should disclose some basic minimum sustainability information, covering environmental and social characteristics;
- (vi) a product categorisation system should be introduced catering for sustainability and transition, based on a set of clear eligibility criteria and binding transparency obligations;
- (vii) In the case of products that refer to ESG metrics and estimates, the consistency of the metrics should be improved and the reliability of the estimates ensured;
- (viii) Before implementing policy solutions, appropriate consumer and financial sector tests should be conducted to ensure the feasibility and suitability for retail investors of the proposed measures.

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9. *The entry into force of the CSDDD*

On 5 July 2024, [Directive \(EU\) 2024/1760](#) of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (Corporate Sustainability Due Diligence Directive or “CSDDD”), was published in the Official Journal of the European Union.

The CSDDD entered into force on the twentieth day following its publication, i.e. on 25 July 2024, thus completing a complex, multi-year legislative process that was extensively reported on in [Issues 3, 4](#) and [5](#) of the Observatory.

In particular, a description of the main features of the CSDDD are provided in Section 3 of [Issue 5](#), which deals with the final text of the CSDDD as subsequently published in the Official Journal of the European Union.

The CSDD must be transposed by the EU Member States by 26 July 2026, while the national transposition measures will apply from 26 July 2027, 26 July 2028 or 26 July 2029, depending on the size of the companies or groups concerned, as specifically provided for by Article 37 of the CSDDD.

10. *The Net Zero Emission Technologies Regulation (EU) 2024/1735*

On 28 June 2024, [Regulation \(EU\) 2024/1735](#) of the European Parliament and of the Council of 13 June 2024 establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 (the “**Zero Emission Regulation**”) was published in the Official Journal of the European Union. The Zero Emission Regulation entered into force on 29 June 2024.

The Zero Emission Regulation, as part of the [European Green Deal](#), establishes a framework of measures to ensure the EU Member States’ access to a secure and sustainable supply of net-zero technologies⁴, in terms of both end-products and specific components and machinery for their production.

To this end, within a broader framework of measures to support the evolution and resilience of the internal market⁵, in order to ensure the EU’s reduction of strategic dependencies in the supply chains of net-zero technologies, the Zero Emission Regulation includes measures directly aimed

⁴ The following are net zero emission technologies falling under the scope of the Zero Emission Regulation (a) solar technologies, including photovoltaic, solar thermal electric and solar thermal technologies; (b) onshore wind and offshore renewable technologies; (c) battery and energy storage technologies; (d) heat pumps and geothermal energy technologies; (e) hydrogen technologies, including electrolysers and fuel cells; (f) sustainable biogas and biomethane technologies; (g) carbon capture and storage technologies; (h) electricity grid technologies, including electric charging technologies for transport and technologies to digitalise the grid; (i) nuclear fission energy technologies, including nuclear fuel cycle technologies (j) sustainable alternative fuels technologies; (k) hydropower technologies; (l) renewable energy technologies not covered under the previous categories; (m) energy system-related energy efficiency technologies, including heat network technologies; (n) renewable fuel of non-biological origin technologies; (o) biotech climate and energy solutions; (p) transformative industrial technologies for decarbonisation not covered under the previous categories; (q) CO2 transport and utilisation technologies; (r) wind propulsion and electric propulsion technologies for transport; and (s) nuclear technologies not covered under previous categories.

⁵ In fact, the Zero Emission Regulation, without claiming to be exhaustive, establishes further measures aimed at: (a) coordinate at EU level the market for carbon dioxide storage services; (b) enhance skills and quality of the job market through the support of academies; (c) support innovation through the creation of net-zero regulatory sandboxes; and (d) coordinate research and innovation activities through a dedicated steering group.

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at increasing the production capacities of net-zero technologies in the European Union, through auctions, public procurement (including pre-commercial and for innovative solutions), financing and other forms of support, including financial support from the European Commission and Member States to production and research and development projects.

II. The report “Global trends in climate change litigation” by the Grantham Research Institute on Climate Change and the Environment

On 27 June 2024, the [Grantham Research Institute on Climate Change and the Environment](#) at the London School of Economics published the 2024 edition of its report [Global trends in climate change litigation](#), produced in collaboration with the [Sabin Center for Climate Change Law](#) at Columbia University.

The report provides, on an annual basis, an overview of the most recent developments and trends in so-called climate-related litigation, and was also analysed in [Issue 4](#) of the Observatory.

A particularly interesting trend that emerges from the 2024 report, as previously discussed in [Issue 4](#) of the Observatory, is the rapid increase, especially in the United States, in the number of so-called ESG backlash litigations, i.e. litigations directly or indirectly designed to counter, rather than encourage, the pursuit of ESG objectives by private individuals or public administrations. In particular, the report considers this category of litigation to account for just over 20% (50 out of around 230) of the new climate-related litigations surveyed in 2023.

It should be noted, however, that this trend is accompanied by another reverse trend, i.e. litigations against strong anti-ESG public measures, as in the US case of an environmental association that, since August 2023, has been pursuing a declaration of unconstitutionality in relation to a Texas federal law that precludes certain State entities from investing through intermediaries that “*boycott energy companies*”⁶.

Other points of particular interest in the report are the increasingly widespread inclusion of climate-related litigation claims into more traditional environmental damage cases, and the impact that could derive from the more substantial framework of restorative and compensatory penalties set forth in [Directive \(EU\) 2024/1203](#) of the European Parliament and of the Council on the protection of the environment through criminal law, to be transposed by the EU Member States by 21 May 2026.

⁶ [American Sustainable Business Council v. Hegar](#).

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contact the practitioners listed above or send an e-mail to

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The previous issues of the Observatory are available at the following links:

[Issue 1 \(March 2021\)](#)

[Issue 2 \(November 2023\)](#)

[Issue 3 \(December 2023\)](#)

[Issue 4 \(March 2024\)](#)

[Issue 5 \(June 2024\)](#)

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