THE CLIMATE BOARD

TCB Digest for Executives: SEC on hold; US-EU ESG splits; SBTi & Scope 3

April 17th, 2024

Welcome to the 18th edition of our Digest for Executives – a summary of key climate-related events, publications, and insights for cross-functional corporate leaders.

Continuing a developing theme, regulatory initiatives in the emissions space are hitting turbulence. It took many months for Gary Gensler to finalize the SEC's signature climate rules, but just weeks for opposition to crystallize enough to put the regulations back on hold – or, perhaps, on life support.

On the central banking side, the Federal Reserve has reportedly blocked a European-led push to make climate risk a focus of global financial regulation. European banks are also unhappy with rules they say will make them less competitive against US rivals.

Meanwhile, the United Nations-backed SBTi opened the door for carbon credits to be used in the net zero standards it certifies for companies.

We invite you to read our reaction to the SEC's decision to stay its own rules. And in case you missed our memo on the "ESG backlash" from Rob Griffen, our executive chairman, we invite you to read it here. While there's no reason to overreact to the current political turbulence, he advises executives to keep aware of flashpoints and take the long view.

Government & Regulatory Updates

- SEC Pauses Climate Disclosure Rule, Cites Litigation 'Complexities' (E&E News by Politico, April 5) – The Securities and Exchange Commission temporarily paused a signature piece of regulation, announced in March after months of delays, that would have required certain companies to disclose climate risks. Due to the political and legal battles surrounding the new rules, the SEC said it wanted to provide "breathing room" for litigation to be resolved. The regulator is not backing away from the plan, reiterating its stance that these disclosure requirements are lawful and within the SEC's authority. **Read TCB's key takeaways from the SEC's move here.**
- Federal Reserve Blocks Tough Global Climate Rules for Wall Street Banks (Bloomberg, April 3) – Bloomberg News, citing people familiar with the matter, said the Fed thwarted a push to make climate risk a focus of the Basel Committee on Banking Supervision – the Swiss-based institution that sets global financial standards. US regulators reportedly said their European counterparts were pushing the Basel

Committee to overstep its purpose. Spokespeople for the BCBS, Fed and ECB declined to comment on the record. Fed Chair Jerome Powell has previously said publicly that the central bank will "not be a climate policymaker."

- EPA Awards $20 Billion in Grants to Mobilize Private Capital and Deliver Clean Energy and Climate Solutions (US Environmental Protection Agency, April 4) – These grants are being awarded via the Greenhouse Gas Reduction Fund (GGRF), established under the Inflation Reduction Act. The funding aims to leverage public and private investments in technologies such as solar panels and heat pumps, specifically focusing on low-income and disadvantaged communities. All eight nonprofit organizations that will administer the funding have committed to reducing or avoiding up to 40 million metric tons of CO2 equivalent per year. (Republican lawmakers, who are attempting to repeal the GGRF, criticized the grants.)
- SBTI's board addresses voluntary carbon markets and Scope 3 emissions (April 9) – The United Nations-backed Science-Based Targets Initiative, which certifies net zero claims, said it would extend recognition of "environmental attribute certificates," including carbon offsets, to abate emissions related to corporate supply chains. "While recognizing that there is an ongoing healthy debate on the subject matter, […] when properly supported by policies, standards and procedures based on scientific evidence, the use of environmental attribute certificates for abatement purposes on Scope 3 emissions could function as an additional tool to tackle climate change." A draft of the new rules is scheduled to be published in July. Debates continue over this decision, with opponents arguing that it weakens the requirements for companies to change and proponents arguing that it will increase demand in the voluntary carbon market. **Read TCB's detailed report on corporate engagement with the voluntary carbon market here.**

Corporate & Disclosure Updates

- New York is Suing the World's Biggest Meat Company. It Might Be a Tipping Point for Greenwashing (The Guardian, April 5) – The state's attorney general is suing Brazil-based JBS Foods for alleged greenwashing and misleading its customers about its "net zero" climate commitments. Experts cited by the Guardian believe that New York has a strong chance of winning the case. This would be an important precedent for other companies as consumers become more interested in the sustainability of their purchases – especially meat.
- Bank Valuations at Stake as EU Splits with US Over ESG Risk (Bloomberg, April 7) – The European Banking Federation said its members will face difficulties competing with US lenders because of ESG reporting standards (including loan-loss risks) that are increasingly being ramped up in Europe. This highlights how differently the US and EU view disclosure requirements; while Gensler was softening the SEC's rules, the EBA regulator – which is running a consultation on how banks should manage ESG

risks, including when calculating capital requirements – said in January that European efforts to manage ESG risks were still only at an "early" stage.

- West Virginia Treasurer Adds Four Finance Firms to ESG Blacklist (Reuters, April 8) - As the partisan tension around ESG issues continues, West Virginia added Citigroup, HSBC, TD Bank and Northern Trust Co. to a list of companies that may be prohibited from some state business because of their energy-finance policies. These financial firms maintain that they do not participate in a boycott of energy companies.
- Banks Made Big Climate Promises. A New Study Doubts They Work. (New York Times, April 9) - A study published by the European Central Bank cast doubt on the effectiveness of the $130 trillion in emission-reduction and energy-transition-financing investment promises made by the financial sector at COP26 in 2021. It found that firms aligned with the Net-Zero Banking Alliance (NZBA) reduced lending to targeted high-emissions sectors at the same rate as non-NZBA banks. (The NZBA responded that it was too early to judge the alliance's effectiveness.) The study also raised doubt about the ability of voluntary climate commitments to bring about the large-scale change needed to achieve a net-zero economy.

Climate Updates

- European Court Rules Human Rights Violated by Climate Inaction (BBC, April 9) - In its first ruling on climate change, the ECHR said Switzerland's efforts to meet emissions reductions targets have been insufficient. A climate litigation expert noted that this ruling will open the door to further legal challenges and has the potential to influence laws in Council of Europe member states.
- Boom and Bust Coal 2024 (Global Energy Monitor, April 2024) – The world added the most coal-fired power capacity since 2016, with China responsible for more than two-thirds of that increase, according to this annual survey.

More Must-Reads

- Bloomberg Law, March 28 – ESG Litigation: Greenwashing and Other Risks
- Bloomberg, April 3 – How Hertz's Bet on Teslas Went Horribly Sideways
- The New York Times, April 9 – EPA Limits Pollution from Chemical Plants
- The Wall Street Journal, April 9 – Marketers Are Still Juggling ESG and Scrutiny

Thank you,

The TCB Team

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