Legal and Voluntary Sustainability Standards and Instruments

Alan S. Gutterman
Founding Director, Sustainable Entrepreneurship Project

§1 Introduction

Williams noted that since the late 1990s there has been a proliferation of transnational, voluntary standards for what constitutes responsible corporate action, including standards have been developed by states; public/private partnerships; multi-stakeholder negotiation processes; industries and companies; institutional investors; functional groups such as accountancy firms and social assurance consulting groups; NGOs; and non-financial ratings agencies.[1] Notable multi-sector standards initiatives have included Social Accountability 8000 and the Ethical Trading Institute, and influential multilateral initiatives have included the OECD's Guidelines for Multinational Enterprises, the ISO 26,000 Corporate Responsibility standards, the UN Global Compact and the "Protect, Respect and Remedy" framework in the UN's Guiding Principles on Business and Human Rights that articulates the human rights responsibilities of states and companies.[2]

According to Williams, most of the corporate responsibility standards are voluntary, although India passed legislation in 2014 that required companies to establish a corporate responsibility committee at the board level and contribute 2% of net profits to corporate responsibility initiatives.[3] It should not be forgotten, however, that many of the topics generally included within the general subject of corporate social responsibility ("CSR") have been addressed to some degree in domestic regulations covering labor rights, environmental and consumer protection, anti-discrimination and anti-bribery. Countries vary in the degree to which regulatory standards relating to corporate responsibility are relied upon and Williams noted that empirical evidence suggested that the underlying regulatory standards effectively shape the sustainability culture within countries, and have both a strong effect on how companies handle corporate responsibility issues and a strong effect on the sustainability.[4] For example, Williams pointed out that Matten and Moon have argued that "in countries with stakeholder corporate governance systems and more expansive social welfare arrangements, corporate responsibility is 'implicit' in

[1] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 7, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784.
[2] Id. at 8-9. See also the appendices to P. Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), which includes a list of national CSR guidance and suggestions for further reading.
[3] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 13, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784.
[4] Id.

doing business according to law, so companies do not need to be as "explicit" about taking on social responsibilities, as do leading companies in more shareholder-oriented countries".[5]

§2 CSR initiatives of governmental or intergovernmental bodies

Many companies have looked to CSR initiatives of governmental or intergovernmental bodies as the foundation for creating their own CSR commitments. Instruments developed and promoted by the United Nations and the other entities referenced below are widely-recognized as legitimate standards that have emerged from a careful process of deliberation and input from a wide range of stakeholders with substantial experience in identifying problems and assessing potential solutions.

United Nations Global Compact: The United Nations Global Compact (https://www.unglobalcompact.org/) is a voluntary initiative launched in 1999 based on CEO commitments to implement universal sustainability principles and to take steps to support United Nations goals. By encouraging companies to operate responsibly and take strategic actions that support society, the UN Global Compact works to ensure that business activity adds value not only to the bottom-line, but also to people, communities and the planet. The UN Global Compact is based on the proposition that companies should take a comprehensive approach to sustainability and must operate responsibly in alignment with universal principles, take strategic actions that support the society around them, commit to sustainability at the highest level, report annually on their efforts and engage locally where they have a presence. As of 2016, there were over 12,000 signatories to the UN Global Compact in 170 countries, both developed and developing, representing nearly every sector and size, making it the world's most popular multi-stakeholder CSR initiative. The UN Global Compact's Ten Principles are derived from: the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and the United Nations Convention Against Corruption. These Ten Principles are as follows:

Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
Principle 2: make sure that they are not complicit in human rights abuses.

Labor

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

[5] Id. (citing D. Matten and J. Moon, "Implicit" and "explicit" CSR: A conceptual framework for a comparative understanding of corporate social responsibility", Academy of Management Review, 33:2 (2008), 404).

Principle 4: the elimination of all forms of forced and compulsory labor;
Principle 5: the effective abolition of child labor; and
Principle 6: the elimination of discrimination in respect of employment and occupation.

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;
Principle 8: undertake initiatives to promote greater environmental responsibility; and
Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

OECD Guidelines for Multinational Enterprises: The OECD Guidelines for Multinational Enterprises (http://mneguidelines.oecd.org/) are the most comprehensive set of government-backed recommendations on responsible business conduct in existence today. The governments adhering to the Guidelines, all 34 OECD countries and 12 non-OECD countries, aim to encourage and maximize the positive impact multinational enterprises can make to sustainable development and enduring social progress. The Guidelines were first adopted in 1976 and have been reviewed 5 times since then to ensure that they remain a leading tool to promote responsible business conduct in the changing landscape of the global economy. The most recent update in 2011 took place with the active participation of business, labor, non-governmental organizations ("NGOs"), non-adhering countries and international organizations. The Guidelines are part of the OECD Declaration and Decisions on International Investment and Multinational Enterprises, and provide voluntary principles and standards for responsible business conduct in areas such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

Among other things, the OECD Guidelines call for enterprises to take fully into account established policies in the countries in which they operate and consider the views of other stakeholders. In this regard, the General Policies in Section II of Part I of the OECD Guidelines call for enterprises to:

- Contribute to economic, social and environmental progress with a view to achieving sustainable development;
- Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments;
- Encourage local capacity building through close cooperation with the local community, including business interests, as well as developing the enterprise's

activities in domestic and foreign markets, consistent with the need for sound commercial practice;

- Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees;
- Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labor, taxation, financial incentives, or other issues;
- Support and uphold good corporate governance principles and develop and apply good corporate governance practices;
- Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate;
- Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programs;
- Refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies;
- Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines; and
- Abstain from any improper involvement in local political activities;

G20/OECD Principles of Corporate Governance: Elements of CSR, including recognition of the rights of stakeholders along with shareholders and the need for regular and transparent reporting of the corporation's governance practices and performance, found their way into the G20/OECD Principles of Corporate Governance, which call on corporations to[6]:

- Distribute duties and responsibilities among different supervisory, regulatory and enforcement authorities;
- Protect and facilitate the exercise of shareholder rights and ensure equitable treatment of all shareholders, including minority and foreign shareholders;
- Recognize the rights of stakeholders established by law or through mutual agreements and ensure that where stakeholder interests are protected by law that stakeholders have the opportunity to obtain effective redress for violation of their rights;
- Encourage active cooperation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises;
- Permit mechanisms for employee participation to develop;
- Ensure that stakeholders participating in the corporate governance process have access to relevant, sufficient and reliable information on a timely and regular basis and are able to freely communicate their concerns about illegal or unethical practices

[6] Organisation for Economic Co-operation and Development, G20/OECD Principles of Corporate Governance, (Paris: OECD Publishing, 2015) http://dx.doi.org/10.1787/9789264236882-en

to the board and to the competent public authorities without compromising their rights;
- Publish regular and accurate disclosure concerning the company's financial situation, performance, ownership and governance that includes, among other things, company objectives and non-financial information in accordance with high quality standards including policies and performance relating to business ethics, the environment and, where material to the company, social issues, human rights and other public policy commitments; foreseeable risks factors including business conduct risks; and risks related to the environment; key issues relevant to employees and other stakeholders that may materially affect the performance of the company or that may have significant impacts upon them; and governance structures and policies, including the content of any corporate governance code or policy and the process by which it is implemented;
- Implement a corporate governance framework that ensures the strategic guidance of the company, the effective monitoring of management by the board, the board's accountability to the company and the shareholders and effective disclosures and communications to stakeholders; and
- Ensure that the board applies high ethical standards and takes into account the interests of stakeholders through the adoption, implementation and enforcement of company-wide codes of conduct that serve as a standard for conduct by both the board and key executives and set the framework for the exercise of judgement in dealing with varying and often conflicting constituencies.

International Labour Organization: The International Labour Organization ("ILO") (www.ilo.org) is the only tripartite United Nations agency and brings together governments, employers and workers representatives of 187 Member States, to set labor standards, develop policies and devise programs promoting decent work for all women and men. Since 1919, the ILO has maintained and developed a system of international labor standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity. Subjects covered by the standards include freedom of association, collective bargaining, forced and child labor, equality of opportunity and treatment, tripartite consultation, labor administration and inspection, employment policy, employment promotion, vocational guidance and training, employment security, wages, working time, occupational safety and health, social security, maternity protection, social policy, migrants workers, HIV/AIDS, seafarers and fishers, dock workers, indigenous and tribal peoples and other specific categories of workers. Other key ILO documents include the 2008 Declaration on Social Justice for a Fair Globalization, which expresses the universality of the Decent Work Agenda and calls for: all ILO members to pursue policies based on the strategic objectives that include employment, social protection, social dialogue, and rights at work; the 1998 Declaration on Fundamental Principles and Rights at Work, which commits ILO members to respect and promote principles and rights with respect to freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labor, the abolition of child labor and the elimination of discrimination in respect of employment and occupation; and the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, which sets out principles in the fields of employment, training, conditions of work and life and industrial relations which multinational enterprises, as well as governments, and employers' and workers' organizations are recommended to observe.

International Finance Corporation: The latest version of the International Finance Corporation ("IFC") Performance Standards on Environmental and Social Sustainability went into effect on January 1, 2012. The IFC (www.ifc.org) has a Sustainability Framework that articulates the IFC's strategic commitment to sustainable development, and is an integral part of IFC's approach to risk management. The Sustainability Framework comprises IFC's Policy and Performance Standards on Environmental and Social Sustainability, and IFC's Access to Information Policy. The Policy on Environmental and Social Sustainability describes IFC's commitments, roles, and responsibilities related to environmental and social sustainability. IFC's Access to Information Policy reflects IFC's commitment to transparency and good governance on its operations, and outlines the Corporation's institutional disclosure obligations regarding its investment and advisory services. The Performance Standards are directed towards clients, providing guidance on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way, including stakeholder engagement and disclosure obligations of the client in relation to project-level activities. In the case of its direct investments (including project and corporate finance provided through financial intermediaries), IFC requires its clients to apply the Performance Standards to manage environmental and social risks and impacts so that development opportunities are enhanced. IFC uses the Sustainability Framework along with other strategies, policies, and initiatives to direct the business activities of the Corporation in order to achieve its overall development objectives. The Performance Standards may also be applied by other financial institutions. Together, the eight Performance Standards establish standards that the client is to meet throughout the life of an investment by IFC and cover: assessment and management of environmental and social risks and impacts; labor and working conditions; resource efficiency and pollution prevention; community health, safety and security; land acquisition and involuntary resettlement; biodiversity conservation and sustainable management of living natural resources; indigenous peoples; and cultural heritage.

Principles for Responsible Investment: The Principles for Responsible Investment (www.unpri.org) calls itself the world's leading proponent of responsible investment and works to understand the investment implications of environmental, social and governance ("ESG") factors and to support its international network of investor signatories in integrating these factors into their investment and ownership decisions. The PRI is a non-profit organization that engages with global policy makers but is not associated with any government; it is supported by, but not part of, the United Nations. The PRI defines "responsible investment" as an approach to investing that aims to incorporate ESG factors into investment decisions, to better manage risk and generate sustainable, long-term returns. Environmental factors include climate change, greenhouse gas emissions, resource depletion (including water), waste and pollution and deforestation. Social factors include working conditions, including slavery and child labor; local communities, including indigenous communities; conflict; health and safety; and employee relations and diversity. Governance factors include executive pay, bribery and corruption, political lobbying and donations, board diversity and structure and tax strategy. Signatories agree to follow six principles: we will incorporate ESG issues into investment analysis and decision-making processes; we will be active owners and incorporate ESG issues into our ownership policies and practices; we will seek appropriate disclosure on ESG issues by the entities in which we invest; we will promote acceptance and implementation of the principles within the investment industry; we will work together to enhance our effectiveness in implementing the principles; and we will each report on our activities and progress towards implementing the principles.

The Principles for Responsible Investment

The Principles for Responsible Investment ("PRI"), which is supported by, but not part of, the United Nations, considers itself to be the world's leading proponent of responsible investment. The PRI has explained its work as understanding the investment implications of environmental, social and governance ("ESG") factors and supporting its international network of investor signatories in incorporating these factors into their investment and ownership decisions. Signatories to the PRI commit to the following six principles and the accompanying possible actions for incorporating ESG issues into their investment analysis and decision making processes and their relationships with portfolio companies:

Principle 1: We will incorporate ESG issues into investment analysis and decision-making processes.

Possible actions:

- Address ESG issues in investment policy statements.
- Support development of ESG-related tools, metrics, and analyses.
- Assess the capabilities of internal investment managers to incorporate ESG issues.
- Assess the capabilities of external investment managers to incorporate ESG issues.
- Ask investment service providers (such as financial analysts, consultants, brokers, research firms, or rating companies) to integrate ESG factors into evolving research and analysis.
- Encourage academic and other research on this theme.
- Advocate ESG training for investment professionals.

Principle 2: We will be active owners and incorporate ESG issues into our ownership policies and practices.

Possible actions:

- Develop and disclose an active ownership policy consistent with the Principles.
- Exercise voting rights or monitor compliance with voting policy (if outsourced).
- Develop an engagement capability (either directly or through outsourcing).
- Participate in the development of policy, regulation, and standard setting (such as promoting and protecting shareholder rights).
- File shareholder resolutions consistent with long-term ESG considerations.
- Engage with companies on ESG issues.
- Participate in collaborative engagement initiatives.
- Ask investment managers to undertake and report on ESG-related engagement.

Principle 3: We will seek appropriate disclosure on ESG issues by the entities in which we invest.

Possible actions:

- Ask for standardized reporting on ESG issues (using tools such as the Global Reporting Initiative).
- Ask for ESG issues to be integrated within annual financial reports.
- Ask for information from companies regarding adoption of/adherence to relevant norms, standards, codes of conduct or international initiatives (such as the UN Global Compact).
- Support shareholder initiatives and resolutions promoting ESG disclosure.

Principle 4: We will promote acceptance and implementation of the Principles within the investment industry.

Possible actions:

- Include Principles-related requirements in requests for proposals (RFPs).
- Align investment mandates, monitoring procedures, performance indicators and incentive structures accordingly (for example, ensure investment management processes reflect long-term time horizons when appropriate).
- Communicate ESG expectations to investment service providers.
- Revisit relationships with service providers that fail to meet ESG expectations.
- Support the development of tools for benchmarking ESG integration.
- Support regulatory or policy developments that enable implementation of the Principles.

Principle 5: We will work together to enhance our effectiveness in implementing the Principles.

Possible actions:

- Support/participate in networks and information platforms to share tools, pool resources, and make use of investor reporting as a source of learning.
- Collectively address relevant emerging issues.
- Develop or support appropriate collaborative initiatives.

Principle 6: We will each report on our activities and progress towards implementing the Principles.

Possible actions:

- Disclose how ESG issues are integrated within investment practices.
- Disclose active ownership activities (voting, engagement, and/or policy dialogue).
- Disclose what is required from service providers in relation to the Principles.
- Communicate with beneficiaries about ESG issues and the Principles.
- Report on progress and/or achievements relating to the Principles using a comply-or-explain approach.
- Seek to determine the impact of the Principles.
- Make use of reporting to raise awareness among a broader group of stakeholders.

Source: https://www.unpri.org/about/the-six-principles

United Nations Sustainable Development Goals: The 17 Sustainable Development Goals ("SDGs") of the 2030 Agenda for Sustainable Development were adopted by world leaders in September 2015 and went into effect on January 1, 2016. It was intended that over the fifteen year period running through 2030 the SDGs, and their accompanying 169 targets, would be universally applied to all and that countries would mobilize efforts to end all forms of poverty, fight inequalities and tackle climate change, while ensuring that no one is left behind. The UN website for the SDGs explained:

> "The SDGs, also known as Global Goals, build on the success of the Millennium Development Goals (MDGs) and aim to go further to end all forms of poverty. The new Goals are unique in that they call for action by all countries, poor, rich and middle-income to promote prosperity while protecting the planet. They recognize that ending poverty must go hand-in-hand with strategies that build economic growth and addresses a range of social needs including education, health, social protection, and job opportunities, while tackling climate change and environmental protection."[7]

While the SDGs are not legally binding, it is intended that national governments will be expected to take ownership and establish national frameworks for the achievement of the 17 SDGs and that countries will have the primary responsibility for follow-up and review of the progress made in implementing the SDGs. Provisions have also been made for monitoring and review of the SDGs using a set of global indicators developed by the UN Statistical Commission and adopted by the Economic and Social Council and the UN General Assembly will then adopt these indicators. The following is a brief summary of each of the SDGs[8]:

Goal 1—No Poverty: End poverty in all its forms, everywhere. Poverty is to be broadly construed to include not only lack of income or resources, but also the lack of basic services, such as education, hunger, social discrimination and exclusion, and the inability to meaningfully participate in decision making. Gender inequality plays a major role in the perpetuation of poverty and its associated risks, since many women face life-threatening risks from early pregnancies and then continue to struggle with little or no hope of getting an education that could lead to a better income.

Goal 2—Zero Hunger: End hunger, achieve food security and improved nutrition and promote sustainable agriculture. Undernourishment and poor nutrition are serious risks in many parts of the world and agriculture remains the single largest employer in the world. Targets for this goal include ending hunger and ensuring access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round; ending all forms of malnutrition; improving agricultural productivity and the incomes of small-scale food producers; ensuring sustainable food production systems and implementing resilient agricultural practices; maintaining the genetic diversity of seeds; increasing investment in rural infrastructure; and correcting and preventing trade restrictions and distortions in world agricultural markets and ensuring the proper functioning of food commodity markets.

Goal 3—Good Health and Wellbeing: Ensuring healthy lives and promoting wellbeing for all at all ages. Issues of concern for this goal include reducing the global maternal

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[7] http://www.un.org/sustainabledevelopment/sustainable-development-goals/

[8] Sources for the discussion of the Goals include http://www.un.org/sustainabledevelopment/sustainable-development-goals/ and https://en.wikipedia.org/wiki/Sustainable_Development_Goals

mortality ratio; ending preventable deaths of newborns and children under five years of age; end epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases; reducing premature mortality from non-communicable diseases through prevention and treatment; strengthening the prevention and treatment of substance abuse; drastically reducing the number of global death and injuries from road traffic accidents; ensuring universal access to sexual and reproductive health-care services, including for family planning, information and education; achieving universal health coverage; and substantially reducing the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination.

Goal 4—Quality Education: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. The key target for this goal is ensuring that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.

Goal 5—Gender Equality: Achieve gender equality and empower all women and girls. The focus of this goal is on providing women and girls with equal access to education, health care, decent work, and representation in political and economic decision-making processes in order to fuel sustainable economies and benefit societies and humanity at large. In many countries, gender discrimination remains difficult to overcome due to legal and social norms, a situation that makes it much more challenging to achieve the other social development goals. Targets for this goal include not only adopting and strengthening sound policies and enforceable legislation for the promotion of gender equality and empowerment of all women and girls but also eliminating violence such as trafficking and sexual exploitation, mandating compulsory completion of secondary education for girls, implementation and accessibility of sexual and reproductive health rights to women and girls globally, aiding and empowering women and girls through technology and consultation with women and girls about their needs.

Goal 6—Clean Water and Sanitation: Ensure availability and sustainable management of water and sanitation for all. Among the targets for this goal are achieving universal and equitable access to safe and affordable drinking water for all; achieving access to adequate and equitable sanitation and hygiene for all; and improving water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials; and substantially increasing recycling and safe reuse globally. Progress with respect to this goal is considered essential to achieving a number of the other goals including sustainable consumption and production, zero hunger, sustainable cities and communities, no poverty and decent work and economic growth.

Goal 7—Affordable and Clean Energy: Ensure access to affordable, reliable, sustainable and modern energy for all. Targets other than universal access for this goal include increasing substantially the share of renewable energy in the global energy mix; doubling the global rate of improvement in energy efficiency; and expanding infrastructure and upgrade technology for supplying modern and sustainable energy services for all in developing countries.

Goal 8—Decent Work and Economic Growth: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. The targets associated with this goal are extensive and diverse and include sustaining per capita economic growth in accordance with national circumstances; achieving higher and, in particular, at least 7% gross domestic product growth per annum in the least developed countries; achieving higher levels of economic productivity through diversification, technological upgrading and innovation; improving global resource efficiency in consumption and production; achieving full and productive employment and decent work for all women and men; substantially reducing the proportion of youth not in employment, education or training; taking immediate and effective measures to eradicate forced labor and end modern slavery and human trafficking; and various measures relating to training of youth and reducing youth unemployment.

Goal 9--Industry, Innovation and Infrastructure: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation. Targets for this goal include developing quality, reliable, sustainable and resilient infrastructure; promoting inclusive and sustainable industrialization; increasing the access of small-scale industrial and other enterprises, in particular in developing countries, to financial services, including affordable credit, and their integration into value chains and markets; upgrading infrastructure and retrofit industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes; enhancing scientific research; facilitating sustainable and resilient infrastructure development in developing countries; supporting domestic technology development, research and innovation in developing countries; and significantly increasing access to information and communications technology and striving to provide universal and affordable access to the Internet in least developed countries.

Goal 10--Reduced Inequalities: Reduce income inequality within and among countries. Targets for this goal include progressively achieving and sustaining income growth of the bottom 40% of the population at a rate higher than the national average; empowering and promoting the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; ensuring equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; adopting policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality; improving the regulation and monitoring of global financial markets and institutions and strengthening the implementation of such regulations; and ensuring enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions.

Goal 11--Sustainable Cities and Communities: Make cities and human settlements inclusive, safe, resilient and sustainable. Targets for this goal include ensuring access for all to adequate, safe and affordable housing and basic services and upgrade slums; providing access to safe, affordable, accessible and sustainable transport systems for all and improving road safety; enhancing inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries; strengthen efforts to protect and safeguard the world’s cultural and natural heritage; significantly reducing the number of deaths and the number of people affected and substantially decrease the direct economic losses relative to global gross domestic product caused by disasters, including water-related disasters; reducing the adverse per capita environmental impact of cities; and providing universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities.

Goal 12--Responsible Consumption and Production: Ensure sustainable consumption and production patterns. Targets for this goal include implementing a framework of programs on sustainable consumption; achieving the sustainable management and efficient us of natural resources; substantially reducing per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses; achieving the environmentally sound management of chemicals and all wastes throughout their life cycle; substantially reducing waste generation through prevention, reduction, recycling and reuse; and ensuring that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature.

Goal 13--Climate Action: Take urgent action to combat climate change and its impacts by regulating emissions and promoting developments in renewable energy. Targets for this goal include strengthening resilience and adaptive capacity to climate-related hazards and natural disasters in all countries; integrating climate change measures into national policies, strategies and planning; improving education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning; and implementing the commitments undertaken by the parties to the United Nations Framework Convention on Climate Change.

Goal 14—Life Below Water: Conserve and sustainably use the oceans, seas and marine resources for sustainable development. The targets associated with this goal include preventing and reducing marine pollution of all kinds; achieving and maintaining sustainable management and protection of the marine and costal ecosystem; minimizing acidification of the oceans; regulating overfishing; and increasing scientific knowledge on the area.

Goal 15—Life on Land: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss. There are numerous targets for this goals including ensuring the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements; promoting the implementation of sustainable management of all types of forests, haltomh deforestation, restoring degraded forests and substantially increasing afforestation and reforestation globally; and combatting desertification, restoring degraded land and soil, including land affected by desertification, drought and floods, and striving to achieve a land degradation-neutral world.

Goal 16--Peace, Justice and Strong Institutions: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Targets for this goal include significantly reducing all forms of violence and related death rates everywhere; ending abuse, exploitation, trafficking and all forms of violence against and torture of children; promoting the rule of law at the national and international levels and ensure equal access to justice for all; substantially reducing corruption and bribery in all their forms; and developing effective, accountable and transparent institutions at all levels.

Goal 17--Partnerships for the Goals: Strengthen the means of implementation and revitalize the global partnership for sustainable development. Targets for these goals a largely at the country level and cover a number of areas including finance, technology, capacity building, trade, policy and institutional coherence, multi-stakeholder partnerships and data, monitoring and accountability.

§3 CSR human rights instruments

Voluntary Principles on Security and Human Rights: The Voluntary Principles on Security and Human Rights (http://www.voluntaryprinciples.org/) are the only human rights guidelines designed specifically for extractive sector companies. Participants in the Voluntary Principles Initiative— including governments, companies and non-governmental organizations ("NGOs")—agree to proactively implement or assist in the implementation of the Voluntary Principles. The participants in the Initiative recognize the importance of the promotion and protection of human rights throughout the world and the constructive role business and civil society—including NGOs, labor and trade unions, and local communities—can play in advancing these goals. Through this dialogue, the participants developed Voluntary Principles to guide companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms.

United Nations Human Rights Instruments: The term "human rights" was mentioned seven times in the United Nation's founding Charter, making the promotion and protection of human rights a key purpose and guiding principle of the Organization. The Office of the UN High Commissioner for Human Rights ("OHCHR") (http://www.ohchr.org/) has lead responsibility in the UN system for the promotion and protection of human rights and supports the human rights components of peacekeeping missions in several countries, and has many country and regional offices and centers. The Human Rights Council, established in 2006, replaced the 60-year-old UN Commission on Human Rights as the key independent UN intergovernmental body responsible for human rights. The Universal Declaration of Human Rights (1948) was the first legal document protecting universal human rights. Together with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the three instruments form the so-called International Bill of Human Rights. A series of international human rights treaties and other instruments that have been adopted since 1945 have expanded the body of international human rights law.

§4 Sectoral CSR commitments

Sectoral CSR commitments emerge from collective CSR initiatives among companies and other stakeholders involved in particular business sectors and/or with a common interest in a specific social or environmental responsibility issue. Examples of sectoral CSR initiatives include the following:

The **International Council on Mining and Metals** has developed ten principles that serve as a best-practice framework for sustainable development in the mining and metals industry (http://www.icmm.com/en-gb/about-us/icmm-10-principles).
The **Sustainable Agriculture Initiative Platform** is the primary global food and drink value chain initiative for sustainable agriculture and has developed (or co-developed) tools and guidance to support global and local sustainable sourcing and agriculture practices (http://www.saiplatform.org/).
The **Prince of Wales's Corporate Leaders Group** is a select group of European business leaders working together under the patronage of His Royal Highness The Prince of Wales to advocate solutions on climate change to policymakers and business peers within the EU and globally (http://www.corporateleadersgroup.com/).

§5 International multi-stakeholder processes ("IMPs")

International multi-stakeholder processes ("IMPs") have become a popular strategy for discussing and resolving questions and conflict relating to issues of social and environmental responsibility. Multi-stakeholder processes have been described as decision-making bodies, voluntary or statutory, comprising two or more interest groups (i.e., stakeholders) who perceive a common problem and realize their interdependence in solving it and come together to share their views and agree on strategies and activities for collectively solving the problem. Some of the more well-known IMPs working in areas related to CSR include[9]:

AccountAbility: AccountAbility (http://www.accountability.org/) is a leading global organization formed in 1995 to provide innovative solutions to the most critical challenges in corporate responsibility and sustainable development and promote accountability for sustainable development. AccountAbility works with corporations, non-profits and governments to embed ethical, environmental, social, and governance accountability into their organizational DNA. AccountAbility provides assurance and accountability management tools and standards through its AA1000 series, which includes the AA1000 AccountAbility Principles Standard (AA1000APS) (a framework for an organization to identify, prioritize and respond to its sustainability challenges); the AA 1000 Assurance Standard (AA1000AS) (a methodology for assurance practitioners to evaluate the nature and extent to which an organization adheres to the AccountAbility Principles); and the AA1000 Stakeholder Engagement Standard (AA1000SES) (a framework to help organizations ensure stakeholder engagement processes are purpose driven, robust and deliver results). Each of these principles-based standards was developed through a multi-stakeholder consultation process to help organizations become more accountable, responsible and sustainable, and address issues affecting governance, business models and organizational strategy. The AA 1000 standards also provide operational guidance on sustainability assurance and stakeholder

[9] The discussion of ISPs in this paragraph is adapted from P...Hohnen (Author) and J. Potts (Editor), Corporate Social Responsibility: An Implementation Guide for Business (Winnipeg CAN: International Institute for Sustainable Development, 2007), 49-50.

engagement. AccountAbility also offers professional development and certification and undertakes research and related public policy advocacy.

CRT Principles for Business: One of the most interesting stakeholder-focused standards for corporate governance has been developed by the Caux Round Table ("CRT") (www.cauxroundtable.org), which describes itself as an international network of principled business leaders working to promote a moral capitalism. The CRT believes that the world business community should play an important role in improving economic and social conditions and, to that end, has developed the CRT Principles for Business to embody the aspiration of principled business leadership. The CRT has been proactively advocating implementation of the CRT Principles at the firm level and has created a specially designed process for incorporating the CRT Principles into the culture of a corporation and is also working on ethical training for corporate boards of directors and a new ethics curriculum for business schools. The CRT Principles are rooted in two basic ethical ideals: the Japanese concept of "kyosei", which means living and working together for the common good enabling cooperation and mutual prosperity to coexist with healthy and fair competition; and the "human dignity", which is described in the Introduction to the CRT Principles as referring to the sacredness or value of each person as an end, not simply as a mean to the fulfillment of others' purposes or even majority prescription.

The Preamble to the CRT Principles acknowledges that the mobility of employment, capital, products and technology is making business increasingly global in its transactions and its effects and argues that law and market forces are necessary but insufficient guides for conduct. Noting that businesses can be powerful agents of positive social change, the CRT Principals admonish businesses that they are expected to act responsibly and demonstrate respect for the dignity and interest of its stakeholders (i.e., customers, employees, owners/investors, suppliers, competitors and communities) in the policies and actions. The following General Principles in the CRT Principles were intended to serve as a foundation for dialogue and action by business leaders in search of business responsibility and a means implementing moral values into business decision making:

- Principle 1. The responsibilities of businesses extend beyond shareholders toward stakeholders
- Principle 2. The economic and social impact of business should be focused on innovation, justice and world community.
- Principle 3. Business behavior should extend beyond the letter of the law toward a spirit of trust
- Principle 4. Respect for rules
- Principle 5. Support for multilateral trade
- Principle 6. Respect for the environment
- Principle 7. Avoidance of illicit operations

Of particular interest are the various Stakeholder Principles in Section 3 of the CRT Principles:

Customers: We believe in treating all customers with dignity, irrespective of whether they purchase our products and services directly from us or otherwise acquire them in the market. We therefore have a responsibility to:

- Provide our customers with the highest quality products and services consistent with their requirements;
- Treat our customers fairly in all aspects of our business transactions, including a high level of service and remedies for their dissatisfaction;
- Make every effort to ensure that the health and safety of our customers, as well as the quality of their environment, will be sustained or enhanced by our products and services;
- Assure respect for human dignity in products offered, marketing, and advertising; and Respect the integrity of the culture of our customers.

Employees: We believe in the dignity of every employee and in taking employee interests seriously. We therefore have a responsibility to:

- Provide jobs and compensation that improve workers' living conditions;
- Provide working conditions that respect each employee's health and dignity;
- Be honest in communications with employees and open in sharing information, limited only by legal and competitive constraints;
- Listen to and, where possible, act on employee suggestions, ideas, requests and complaints;
- Engage in good faith negotiations when conflict arises;
- Avoid discriminatory practices and guarantee equal treatment and opportunity in areas such as gender, age, race, and religion;
- Promote in the business itself the employment of differently abled people in places of work where they can be genuinely useful;
- Protect employees from avoidable injury and illness in the workplace;
- Encourage and assist employees in developing relevant and transferable skills and knowledge; and
- Be sensitive to the serious unemployment problems frequently associated with business decisions, and work with governments, employee groups, other agencies and each other in addressing these dislocations.

Owners/Investors: We believe in honoring the trust our investors place in us. We therefore have a responsibility to:

- Apply professional and diligent management in order to secure a fair and competitive return on our owners' investment;
- Disclose relevant information to owners/investors subject to legal requirements and competitive constraints;
- Conserve, protect, and increase the owners/investors' assets; and
- Respect owners/investors' requests, suggestions, complaints, and formal resolutions.

Suppliers: Our relationship with suppliers and subcontractors must be based on mutual respect. We therefore have a responsibility to:

- Seek fairness and truthfulness in all our activities, including pricing, licensing, and rights to sell;
- Ensure that our business activities are free from coercion and unnecessary litigation;
- Foster long-term stability in the supplier relationship in return for value, quality, competitiveness and reliability;
- Share information with suppliers and integrate them into our planning processes;
- Pay suppliers on time and in accordance with agreed terms of trade; and
- Seek, encourage and prefer suppliers and subcontractors whose employment practices respect human dignity.

Competitors: We believe that fair economic competition is one of the basic requirements for increasing the wealth of nations and ultimately for making possible the just distribution of goods and services. We therefore have a responsibility to:

- Foster open markets for trade and investment;
- Promote competitive behavior that is socially and environmentally beneficial and demonstrates mutual respect among competitors;
- Refrain from either seeking or participating in questionable payments or favors to secure competitive advantages;
- Respect both tangible and intellectual property rights; and
- Refuse to acquire commercial information by dishonest or unethical means, such as industrial espionage.

Communities: We believe that as global corporate citizens we can contribute to such forces of reform and human rights as are at work in the communities in which we operate. We therefore have a responsibility in those communities to:

- Respect human rights and democratic institutions, and promote them wherever practicable;
- Recognize government's legitimate obligation to the society at large and support public policies and practices that promote human development through harmonious relations between business and other segments of society;
- Collaborate with those forces in the community dedicated to raising standards of health, education, workplace safety and economic well-being;
- Promote and stimulate sustainable development and play a leading role in preserving and enhancing the physical environment and conserving the earth's resources;
- Support peace, security, diversity and social integration;
- Respect the integrity of local cultures; and
- Be a good corporate citizen through charitable donations, educational and cultural contributions, and employee participation in community and civic affairs.

Extractive Industries Transparency Initiative: The Extractive Industries Transparency Initiative (eiti.org) is a multi-stakeholder initiative involving governments, businesses and civil society that has developed a global standard to promote the open and accountable management of natural resources and address the key governance issues of the oil, gas and mining sectors.

Forest Stewardship Council: The Forest Stewardship Council ("FSC") (ic.fsc.org) is a multi-stakeholder initiative formed to promote environmentally appropriate, socially beneficial, and economically viable management of the world's forests. The FSC claims to be the world's strongest certification system, in terms of global reach, robustness of certification criteria and number of businesses involved in the system. The FSC has developed regionally appropriate guidelines and standards for sustainable forest management and FSC certification is frequently required as a condition to contracting with governmental agencies.

Marine Stewardship Council: The Marine Stewardship Council ("MSC") (msc.org) is an international, independent, multi-stakeholder non-profit organization established to address the problem of unsustainable fishing and safeguard seafood supplies for the future. The MSC works with scientists, fisheries, seafood producers and brands and sets credible standards for sustainable fishing and supply chain traceability. Organizations meet these standards in order to demonstrate the sustainability of their products and the blue MSC label makes it easy for everyone to choose seafood which has been caught by fisheries which care for the environment.

Social Accountability International: Social Accountability International ("SAI") (www.sa-intl.org) is a non-profit organization that seeks to advance human rights at work, driven by diverse perspectives to navigating evolving labor issues. SAI works to protect the integrity of workers around the world by building local capacity and developing systems of accountability through socially responsible standards. SAI established one of the world's preeminent social standards—the SA8000® Standard for decent work, a tool for implementing international labor standards that is based on the principles of international human rights norms and is being used in over 3,700 factories, across 69 countries and 65 industrial sectors. SAI is also one of the world's leading social compliance training organizations, having provided training to over 30,000 people, including factory and farm managers, workers, brand compliance officers, auditors, labor inspectors, trade union representatives and other worker rights advocates.

Roundtable on Sustainable Palm Oil: The Roundtable on Sustainable Palm Oil (www.rspo.org) is a multi-stakeholder learning and criteria development process formed to advance the production, procurement, finance and use of sustainable palm oil products; develop, implement, verify, assure and periodically review credible global standards for the entire supply chain of sustainable palm oil; monitor and evaluate the economic, environmental and social impacts of the uptake of sustainable palm oil in the market; and engage and commit all stakeholders throughout the supply chain, including governments and consumers.

§6 International management and reporting standards

Global Reporting Initiative: The Global Reporting Initiative ("GRI") (www.globalreporting.org) is a multi-stakeholder developed international independent organization that helps businesses, governments and other organizations understand and communicate the impact of business on critical sustainability issues such as climate change, human rights, corruption and many others. GRI has pioneered sustainability reporting since the late 1990s, transforming it from a niche practice to one now adopted by a growing majority of organizations. GRI's Sustainability Reporting Standards are the world's most widely used standards on sustainability reporting and disclosure and available for use by public agencies, firms and other organizations wishing to understand and communicate aspects of their economic, social and environmental performance.[10]

International Integrated Reporting Framework: The International Integrated Reporting Council, or "IIRC" (integratedreporting.org), which was founded in August 2010, released its International Integrated Reporting Framework in December 2013 as a guide that companies could use to describe how their governance structure creates value in the short, medium and long term; supports decision making that takes into account risks and includes mechanisms for addressing ethical issues; exceeds legal requirements; and ensures that the culture, ethics and values of the company are reflected in its use of and effects on the company's "capitals" (described to include financial, manufactured, intellectual, human, social and relationship, and natural (i.e., the environment and natural resources) forms of value) and stakeholder relationships.[11] Guiding principles for preparation of integrated reports include strategic focus and future orientation, connectivity of information, stakeholder relationships, materiality, conciseness, reliability and completeness and consistency and comparability, and integrated reports prepared using the Framework are expected to include the following common elements[12]:

- Organizational overview and external environment: What does the organization do and what are the circumstances under which it operates?
- Governance: How does the organization's governance structure support its ability to create value in the short, medium and long term?
- Business model: What is the organization's business model?
- Risks and opportunities: What are the specific risks and opportunities that affect the organization's ability to create value over the short, medium and long term, and how is the organization dealing with them?
- Strategy and resource allocation: Where does the organization want to go and how

[10] For detailed discussion of the GRI Standards, see "Sustainability Reporting and Auditing" in "Corporate Social Responsibility: A Library of Resources for Sustainable Entrepreneurs" prepared and distributed by the Sustainable Entrepreneurship Project (www.seproject.org).
[11] P. DeSimone, Board Oversight of Sustainability Issues: A Study of the S&P 500 (IRRC Institute, March 2014), 7.
[12] The International <IR> Framework (London: The International Integrated Reporting Council, December 2013), 5. For detailed discussion of the International Integrated Reporting Framework, see "Sustainability Reporting and Auditing" in "Corporate Social Responsibility: A Library of Resources for Sustainable Entrepreneurs" prepared and distributed by the Sustainable Entrepreneurship Project (www.seproject.org).

does it intend to get there?

- Performance: To what extent has the organization achieved its strategic objectives for the period and what are its outcomes in terms of effects on the capitals?
- Outlook: What challenges and uncertainties is the organization likely to encounter in pursuing its strategy, and what are the potential implications for its business model and future performance?
- Basis of presentation: How does the organization determine what matters to include in the integrated report and how are such matters quantified or evaluated?

Sustainability Accounting Standards Board: The Sustainability Accounting Standards Board (www.sasb.org) publishes the SASB Implementation Guide for Companies that provides the structure and the key considerations for companies seeking to implement sustainability accounting standards within their existing business functions and processes.[13] The Guide helps companies to select sustainability topics; assess the current state of disclosure and management; embed SASB standards into financial reporting and management processes; support disclosure and management with internal control; and present information for disclosure. The SASB's online resource library also includes annual reports on the state of disclosure, industry briefs and standards and guidance on stakeholder engagement. Companies should monitor CSR disclosures by their peers and the SASB library has examples of disclosures made by companies in annual reports filed with the SEC on Form 10-K.

International Standards of Accounting and Reporting: The Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting ("ISAR"), which is hosted by the United Nations Conference on Trade and Development ("UNCTAD"), has issued a series of reports relating to non-financing reporting that provide guidance to companies on environmental accounting and reporting, corporate governance disclosure and corporate responsibility reporting in annual reports. ISAR assists developing countries and economies in transition in the implementation of best practices for accounting and corporate governance with the goal of enhancing the investment climate in those countries and economies and promoting sustainable development.

British Standard on Sustainability Management, BS 8900: The British Standard on Sustainability Management, referred to as "BS 8900", was first published in May 2006 by BSI (www.bsigroup.com) for use in independently auditing, verifying and certifying an organization's sustainable development strategy and a fully revised version was issued in August 2013. Part I of BS 8900 contains guidance on principles of sustainable development such as inclusivity, integrity, stewardship and transparency and how those principles can be embedded in organizations. Part II of BS 8900 sets out the framework for assessing an organization's approach to sustainable development. The drafters of BS 8900 emphasized that it was not designed to duplicate existing management systems

[13] For detailed discussion of the activities of the SASB, see "Sustainability Reporting and Auditing" in "Corporate Social Responsibility: A Library of Resources for Sustainable Entrepreneurs" prepared and distributed by the Sustainable Entrepreneurship Project (www.seproject.org).

specifications, such as ISO 9001 or ISO 14001, but was intended to optimize the value of existing approaches. BS 8900 was developed for the consultants and managers responsible for sustainability within an organization, including the CEO and senior executives responsible for sustainability, compliance, corporate social responsibility, and environment.

ISO 14001: ISO 14001 is an internationally agreed standard developed by the International Organization for Standardization ("ISO") that sets out the requirements for a structure (i.e., an environmental management system ("EMS")) to help organizations manage and minimize their environmental impacts, conform to applicable legal requirements and improve their environmental performance through more efficient use of resources and reduction of waste, thereby gaining a competitive advantage and the trust of stakeholders. ISO 14001, which was recently revised effective in 2015, is suitable for organizations of all types and sizes, be they private, not-for-profit or governmental, and requires that an organization consider all environmental issues relevant to its operations, such as air pollution, water and sewage issues, waste management, soil contamination, climate change mitigation and adaptation, and resource use and efficiency. While an EMS may be adopted as a standalone system, it is often added to an existing management system (e.g., a system based on quality, such as ISO 9001 described below).

ISO 9001: ISO 9001 is one of the best known and widely used standards of the ISO and provides a structure (i.e., a "quality management system" ("QMS")) to help organizations develop products and services that consistently ensure customer satisfaction and continuously improve their products, services and process. Quality refers to all those features of a product or service which are required by the customer. Quality management means what an organization does to ensure that its products or services satisfy the customer's quality requirements and comply with any regulations applicable to those products or services. Quality management also means what the organization does to enhance customer satisfaction and achieve continual improvement of its performance. ISO 9001 gives the requirements for what the organization must do to manage processes affecting the quality of its final products and services; however, ISO 9001 is not a product or service standard, nor does it specify what the objectives of the organization should be with respect to "quality" or "meeting customer requirements", each of which must be defined by organizations on their own.

ISO 26000: ISO 26000:2010 provides guidance to all types of organizations, regardless of their size or location, on concepts, terms and definitions related to social responsibility; the background, trends and characteristics of social responsibility; principles and practices relating to social responsibility; the core subjects and issues of social responsibility; integrating, implementing and promoting socially responsible behavior throughout the organization and, through its policies and practices, within its sphere of influence; identifying and engaging with stakeholders; and communicating commitments, performance and other information related to social responsibility. ISO 26000:2010 is intended to assist organizations in contributing to sustainable development; however, it is not a management system standard and is not intended or appropriate for certification purposes or regulatory or contractual use.[14]

OHSAS 18001: Occupational Health and Safety Management: BS OHSAS 18001 sets out the minimum requirements for occupational health and safety management best practice and provides a framework for an occupational health and safety management system that can be used to put in place the policies, procedures and controls needed for an organization to achieve the best possible working conditions and workplace health and safety, aligned to internationally recognized best practice.

§7 Securities exchanges and regulatory authorities

Governments play a variety of roles in the financial system including enforcing disclosure rules and norms that facilitate the transfer of information by those in need of capital to those will to provide capital in order to ensure that capital providers are able to make informed decisions about whether to invest or lend. One of the ways in which regulators intervene in the capital raising process is through the imposition of rules relating to corporate governance. While corporate governance has traditionally focused on the creation of value for the owners an enterprise, the emergence of CSR has expanded the scope of the corporate governance framework to include consideration of the interests of a wider group of stakeholders. These changes in the conceptualization of corporate governance are beginning to impact expectations regarding operations and disclosures that are imposed on companies that seek funding in capital markets and continuous attention must be paid to standards and rules adopted by securities exchanges and the governmental bodies that regulate them.[15]

While the public securities markets in the US remain the largest and deepest in the world, there is clearly competition from other markets that are achieving extremely high levels of growth including capital markets in the Eurozone, the Asia-Pacific region and in emerging markets such as China and India, and securities exchanges and regulatory authorities in these jurisdictions have often shown global leadership in integrating

[14] See International Organization for Standardization, ISO 26000 Guidance on Social Responsibility: Discovering ISO 26000 (2014) and Handbook for Implementers of ISO 26000, Global Guidance Standard on Social Responsibility by Small and Medium Sized Businesses (Middlebury VT: ECOLOGIA, 2011).

[15] In some countries, notably in Europe, companies may also be guided in their governance activities by voluntary codes of conduct relating to corporate governance that are actually reviewed and formally endorsed by governments in those countries. In some cases, the governance provisions are made mandatory through incorporation into national company laws. CSR is fundamentally a corporate governance topic and the OECD has explained that in dealing with corporate governance issues, countries use various combinations of legal and regulatory instruments on the one hand, and codes and principles on the other. For example, in all OECD jurisdictions, corporate governance standards are included in company law and securities law. Company laws set forth the default option concerning corporate structures whose detailed framework is determined by the company's articles and bylaws, and securities laws set forth binding requirements, making shareholder protection enforceable for regulators. A few jurisdictions (e.g. India and the US) do not have national codes or principles under the "comply or explain" framework and instead rely on laws and regulations (including listing rules) as the main framework for addressing corporate governance issues. See OECD Corporate Governance Fact Book (2017).

corporate governance and CSR. In general, regulation has focused on disclosure rather than compliance with explicit standards relating to environmental and/or social actions. According to a report issued by the Hauser Center, as of 2015 23 countries had enacted legislation since 2000 to require companies to issue reports that included environmental and/or social information.[16] A 2016 report compiled by KPMG, GRI, UNEP and the Centre for Corporate Governance in Africa noted that governments around the world had introduced a number of mandatory reporting instruments and that as a result of the level of activity in ESG reporting over 80% of the world's top economies by GDP in 2016 mandated ESG reporting in some form.[17]

United States: In the US the process of raising capital through the offer and sale of securities is strictly controlled at the federal level through the regulatory framework laid out in the provisions of the Securities Act of 1933, as amended ("Securities Act") and the Exchange Act of 1934, as amended ("Exchange Act"). The focus of the Securities Act is the disclosures and liabilities involved in the offer and sale of securities to the investment community, in both private and public offerings. Under Section 5 of the Securities Act, offers and sales of securities must be registered with the Securities and Exchange Commission ("SEC") unless one of the exemptions from registration included in Sections 3 and 4 of the Securities Act is available. Disclosures in the registration statement are intended to include all of the material information regarding the issuer and the terms of the offering and the Securities Act contains provisions designed to insure that the information is widely disseminated to the members of the investment community before the offering is completed.

The basic purposes of the Exchange Act are to regulate securities exchanges and the securities market; to make available to persons who buy and sell securities information relating to the issuers of such securities; to prevent fraud in securities trading and manipulation of markets; and to control the amount of credit which may be used in the securities market. The provisions of the Exchange Act relate primarily to the activities of issuers and their affiliates after their securities have been distributed into the public market; however, the Exchange Act also establishes a number of rules relating to the creation and operation of the securities markets, including requirements applicable to stock exchanges and their listing standards. Many of rules that regulate the corporate governance practices of companies subject to Exchange Act requirements are effectively imposed through the listing standards of the major US national securities exchanges—the New York Stock Exchange ("NYSE") and The Nasdaq Stock Market ("Nasdaq")—with

[16] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 15-16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf and noting that countries included Argentina, China, Denmark, the EU, Ecuador, Finland, France, Germany Greece, Hungary, India, Indonesia, Ireland, Italy, Japan, Malaysia, The Netherlands, Norway, South Africa, Spain, Sweden, Taiwan and the UK).

[17] The 2016 "Carrots & Sticks" Report, https://assets.kpmg.com/ content/dam/kpmg/pdf/2016/05/ carrots-and-sticks-may-2016.pdf

respect to disclosure and protection of shareholder rights.[18] The requirements of the two exchanges differ in some respects; however, each has adopted both quantitative and qualitative standards. Corporate governance-related listing criteria include the independence of directors, audit committee requirements, requirements for compensation and nominating committees to minimize or resolve conflicts of interest, and voting rights and shareholder approval requirements.[19]

In contrast to Europe, the US has been slower in using formal regulation to incorporate CSR into the business strategies and operations of corporations, an approach that is consistent with the preference in the US for minimal legislative control of business, and has instead emphasized developing specialized organizations that set rules and standards, and provide enforcement regimes, for certain aspects of CSR including the Occupational Safety and Health Administration, Equal Employment Opportunity Commission, Consumer Product Safety Commission and the Environmental Protection Agency.[20] Areas in which the SEC has engaged in rule-making, often with middling success due to legal challenges, or issuance of guidance on disclosures have included disclosures of environmental litigation against any government agency where a penalty of $100,000 is sought; explanation of climate risks to their future profitability, either from physical changes associated with climate change, or from regulatory initiatives designed to mitigate climate risk; disclosure of the ratio of the CEO's total pay to the median employee pay; mine safety disclosure; "conflict minerals" disclosure where tin; tantalum, tungsten or gold from the Democratic Republic of the Congo or neighboring countries were incorporated into listed companies' products; and "publish what you pay" transparency disclosure for extractive company payments to host countries.[21]

United Kingdom: Many aspects of securities regulation in the UK are overseen by the Financial Conduct Authority (www.fca.org.uk) and the London Stock Exchange ("LSE") (www.londonstockexchange.com) is the main securities exchange in the UK and one of the leading global markets. The UK established a post of CSR Minister to encourage greater social responsibility in UK companies and the UK's Companies Act of 2006

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[18] For further discussion of the "corporate governance" duties and obligations imposed on public companies and their directors, officers and principal shareholders, see "Governance: A Library of Resources for Sustainable Entrepreneurs" prepared and distributed by the Sustainable Entrepreneurship Project (www.seproject.org).

[19] For further discussion of listing standards and requirements, see "Governance: A Library of Resources for Sustainable Entrepreneurs" prepared and distributed by the Sustainable Entrepreneurship Project (www.seproject.org).

[20] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 38-39.

[21] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 17-18, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784. Several of the topics were placed on the agenda as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; however, the rules relating to "conflict minerals" disclosure and "publish what you pay" drew strong challenges from the National Association of Manufacturers and the American Petroleum Institute and, in fact, attempts to enforce "publish what you pay" have effectively been abandoned by the SEC.

includes specific reporting requirements on environmental and social issues.[22] The LSE is one of a growing number of stock exchanges that now requires social and/or environmental disclosure as part of its listing requirements.[23] Premium companies listed on the LSE's Main Market, its highest level, have been required to subscribe to the principles laid down in the UK Corporate Governance Code, which sets out methods for best practice corporate governance, or must provide an explanation of why they do not, and rules changes adopted by the LSE to take effect at the end of September 2018 require companies traded on its AIM Market for smaller growth companies to adopt a recognized corporate governance code. While AIM-traded companies are free to follow the UK Corporate Governance Code in full or in part, the new rules provide flexibility by allowing boards to choose any "recognized" code including the Quoted Companies Alliance ("QCA") Corporate Governance Code[24] or an overseas code (e.g., when a company is admitted to another market it may be easier and more appropriate for it to comply to standards imposed in its home jurisdiction). AIM-traded companies will be expected to ensure that they provide meaningful information so that investors can understand their approach to corporate governance.

LSE has issued guidance setting out recommendations for good practice in Environmental, Social and Governance ("ESG") reporting.[25] LSE noted that the governance and reporting framework in the UK encourages reporting of ESG and non-financial matters through the Guidance on the Strategic Report and Corporate Governance Code requirements for disclosure of principal risks and uncertainties and a viability statement, and pointed out 2013 updates to the UK Companies Act 2006 included a number of ESG reporting provisions. For example, companies incorporated in the UK that have listed securities (i.e., those with equity shares listed on LSE Main Market, EEA regulated, NYSE or NASDAQ) are expected to explain how they are managing issues such as environmental performance, human rights, social and community involvement and diversity, and are also expected to report on certain statistics (e.g., Scope 1 and 2 CO2 emissions and gender diversity at board, senior management

[22] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 34-38; C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 14-15, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784..

[23] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 15-16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[24] A variety of publications for small- and medium-sized companies listed on the LSE are available on the QCA website (http://www.theqca.com/shop/guides/) including guides to reporting and the operations of the audit and various other board committees.

[25] Revealing the Full Picture: Your Guide to ESG Reporting (London Stock Exchange Group, January 2018), https://www.lseg.com/sites/default/files/content/images/Green_Finance/ESG/2018/February/LSEG_ESG_report_January_2018.pdf

and whole-company levels). Requirements differ for companies of different sizes and listed status.[26]

European Union: Global companies in Europe have been guided by the EU Commission's Green Paper on Promoting a Framework for CSR and the European Code of Conduct Regarding the Activities of Transnational Corporations Operating in Developing Economies.[27] Since 2003 EU accounting rules as stated in the EU Accounts Modernization Directive have required companies to report on environmental and labor issues "to the extent necessary" to provide investors with an accurate view of the company's financial position and the risks to that position.[28] An EU Directive that entered into force on December 6, 2014 attempted to establish a minimum standard for ESG reporting throughout the EU by requiring new national legislation to be adopted by the Member States within two years that obligates approximately 6,000 large companies and "public interest organizations," such as banks and insurance companies, to "prepare a nonfinancial statement containing information relating to at least environmental matters, social and employee-related matters, respect for human rights, anti-corruption and bribery matters."[29] There is a further requirement for quoted companies to either include a description of their diversity policy and how it has been implemented or to explain why one is not relevant.[30]

A number of individual countries in Europe have also taken action driven, at least in part, by a series of resolutions adopted by the European Parliament to facilitate the development of the incorporation of CSR principles in its member economies such as, for example, requiring that companies adopt "triple bottom line" reporting on their environmental and social performance: Belgium passed legislation requiring pension fund managers to disclose the extent to which they consider ethical, social and environmental criteria in their investment policies and legislation requiring companies to report on social performance, although companies have not been forced to adhere to and comply with specific ILO conventions; France requires listed companies to disclose their impact on social and environmental issues in their annual reports and accounts; Germany requires public companies to issue reports including environmental and/or social information; and each of the Scandinavian countries have mandated publication of sustainability reports by public companies that are consistent with widely-recognized frameworks such as the GRI and the UN Global Compact and which are expected to address labor issues, human rights concerns, gender equality, antidiscrimination and

[26] Id at 34-35.
[27] For further information, see http://ec.europa.eu/growth/industry/corporate-social-responsibility_en
[28] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 14, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784.
[29] See Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014, amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, Official Journal of the European Union L330/1-330/9.
[30] Revealing the Full Picture: Your Guide to ESG Reporting (London Stock Exchange Group, January 2018), 34-35, https://www.lseg.com/sites/default/files/content/images/Green_Finance/ESG/2018/February/LSEG_ESG_report_January_2018.pdf

environmental issues.[31]

Various countries in Europe, in the course of making recommendation in their national corporate governance codes, have recommended that companies adopt policies on CSR that include a determination and statement of the company's values and ethical guidelines to be followed in accordance with such values; include information about the environment and its impact on financial performance in their financial reports; disclose various risk factors, including environmental risks; establish risk management systems that cover ethical risks; disclose information to and about stakeholders and enable communications between stakeholders and the company's supervisory body; involve stakeholders in the development and implementation of CSR practices; establish requirements that candidates for board membership should have adequate personal integrity and business ethics; and adopt ethical policies and continuously train employees on the principles in those policies.[32] There have also been a number of important quasi-legal initiatives for the promotion of CSR at the national level throughout Europe including the International Business Leaders Forum, the Ethical Trading Initiative and Partnership for Global Responsibility.[33]

Germany: Securities markets in Germany are separated by law into two different markets which differ in terms of their approach to regulation of trading, listing and ongoing obligations.[34] The first market is the "Regulated Market", which is the most regulated market in terms of listing requirements and ongoing obligations, and the second market is the "Regulated Unofficial Market". The segmentation into two markets applies to all of the stock exchanges in Germany, which include multiple stock exchanges based in various financial centers (the Frankfurt Stock Exchange is the main stock exchange in Germany), the electronic stock exchange "Eurex" for futures transactions, a commodities exchange in Hannover and energy exchanges in Frankfurt and Leipzig. National oversight of all German securities markets and providers of financial and securities trading services is provided by the Federal Financial Supervisory Authority ("BaFin"). The operation of securities markets in Germany is subject to a wide range of laws and regulations including the Stock Exchange Act, which sets out basic principles regarding

[31] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 34-38; C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 14-15, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784..

[32] D. Szabó and K. Sørensen, "Integrating Corporate Social Responsibility in Corporate Governance Codes in the EU", European Business Law Review, 2013(6), 1, 20-32. Only 10 of the codes expressly referred to CSR or social responsibility and only a few of the codes attempted to clarify or define the term. Definitions were usually quite general, such as the company's responsibility for the manner in which its activities affect people, society and the environment. Norway's code offered examples of issues that might be covered by CSR such as human rights, prevention of corruption, employee rights, health and safety and the working environment, and discrimination, as well as environmental issues.

[33] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 34-38.

[34] Portions of the discussion of the discussion of securities regulation in Germany in this section are adapted from M. Kurth and O. Rothley, "Securities Law in Germany" in International Securities Law Handbook (3rd Edition) (The Netherlands: Kluwer Law International, 2010).

the organization of stock exchanges and other securities markets and the trading and list of securities; the Stock Exchange Admission Regulation, which sets out listing requirements, listing procedures and disclosure obligations for securities for which an application for admission to the Regulated Market has been filed or will be filed; and the Securities Trading Act, which focuses on the regulation of trading with securities, financial instruments, futures, derivatives and similar financial products and addresses a number of important areas such as disclosure of changes of interests in stock of listed corporations, preparation and distribution of annual and quarterly financial reports, proxy and voting procedures and insider trading. Germany was one of the first countries in which legislation was enacted requiring public companies to issue reports including environmental and/or social information and the new EU requirements have been adopted and implemented in Germany through the German CSR Directive Implementation Act.[35] The German Sustainability Code, an initiative driven by the German Council for Sustainable Development, provides a comprehensive framework for reporting non-financial information that addresses topics in areas such as strategy, process management, environmental matters and society.

France: Securities regulation in France falls to the Autorite des Marches Financiers ("AMF"), which was established in 2003 under France's Financial Security Act of 1 August 2003.[36] The AMF is intended to be an independent public authority that is responsible for regulating and policing French financial markets in order to protect savings and investment. The AMF has statutory responsibility for safeguarding investment in financial products, ensuring that investors receive material information and maintaining orderly markets. Corporate financing is an important area of responsibility for the AMF and all listed firms are required to inform the public regularly regarding their business activities and results and about major transactions such as capital increases and rights issues, tender and exchange offers and takeovers and mergers. The AMF oversees the preparation and disclosure of financial and other business information regarding listed firms to ensure that such information is accurate, true, fair and timely and properly disseminated throughout the entire financial community. France was the first country in Europe to enact legislation requiring public companies to issue reports including environmental and/or social information, beginning in 2002 with a requirement that listed companies report data on 40 labor and social criteria and then expanding requirements in 2009 to mandate publication of greenhouse gas emission by companies with more than 500 employees in high-emitting sectors.[37] Hosting the Paris Climate

[35] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 15-16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[36] Portions of the discussion of the Autorite des Marches Financiers in this section are adapted from material found at www.amf-france.org.

[37] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 15-16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and

Conference in 2015 has been a source of great pride for environmental and social activists in France and it has been predicted that France will continue to move forward aggressively toward become the world leader in "green financing" and nurturing the development of "best practices" sustainable companies.

Japan: Principles of CSR have been important in Japan since the post-war reconstruction period, during which the resolution "Awareness and Practice of the Social Responsibility of Business" was adopted and stated the fundamental principal that businesses should not simply pursue corporate profit, but must seek harmony between the economy and society, combining factors of products and services, and that social responsibility is a better way to pursue this goal.[38] Various cabinet ministries have undertaken initiatives to promote and achieve CSR including the Cabinet Office; the Ministry of Agriculture, Forestry, and Fisheries; the Ministry of Health, Labor, and Welfare; and the Ministry of Environment. For example, the Cabinet Office issued its "Corporate Code of Conduct" in 2002 to build consumer confidence in businesses and set guidelines to promote the establishment and implementation of corporate codes of conduct.[39] The influential Ministry of Economy, Trade and Industry collaborated with the Japanese Standards Association on the creation of a working group to develop CSR standards in Japan and Japan has been an active participant in the development of intergovernmental initiatives relating to CSR. The result of all this activity has been that Japanese companies have been global leaders in disclosures of CSR activities, investment in internal resources to oversee CSR commitments and adoption of codes of conduct based on international standards.[40]

The Financial Instruments and Exchange Law ("FIEL") regulates stocks and securities in Japan and requires registration for "sales and solicitation" operations of securities and derivative transactions. Among other things, the FIEL mandate quarterly reporting for listed companies, who are subject to audits by certified public accountants or auditing firms and subject to criminal or civil penalties for submitting false quarterly reports; mandate internal control reports to ensure appropriate disclosure of financial and corporate information; and require submissions of certifications by management of listed companies stating that the descriptions in their financial statements are appropriate and in compliance with laws and regulations.

Japan is one of the countries in which legislation has been enacted requiring public companies to issue reports including environmental and/or social information; however, the emphasis among Japanese companies has traditionally leaned toward environmental

Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[38] M. Rahim, Legal Regulation of Corporate Social Responsibility: A Meta-Regulation Approach of Law for Raising CSR in a Weak Economy (Berlin: Springer, 2013), 13, 40 (citing M. Kawamura, The Evolution of Corporate Social Responsibility in Japan (Part 1)—Parallels with the History of Corporate Reform (NLI Research institute, 2004), 156).

[39] Id. (citing Asian Productivity Organisation, Policies to Promote Corporate Social Responsibility (Report of the Asian Productivity Organisation Top Management Forum, 2006)).

[40] Id. at 41-42.

matters with social issues being considered as less important.[41] Japan has been slowly moving forward with corporate governance reforms intended to make Japanese companies and markets more competitive globally. The Council of Experts Concerning the Corporate Governance Code – Japan Financial Services Agency stated on March 5, 2015: "It is important the companies operate themselves with the full recognition of responsibilities to a range of stakeholders, starting with fiduciary responsibility to shareholders who have entrusted the management. The Code seeks 'growth-oriented governance promoting timely and decisive decision-making based upon transparent and fair decision-making through the fulfillment of companies' accountability in relating to responsibilities to shareholders and stakeholders."[42] In 2015 Japan's governance code was amended to require a minimum of two independent directors and encourage companies to consider at least one-third independent boards and boost the number of female directors. Japan has a long way to go on those subjects with surveys showing that Nikkei 225 companies have the lowest median proportion of independent directors and female directors and the oldest average age among developed-market peers.[43]

China: China's stock market is comprised of two stock exchanges, the Shanghai Stock Exchange (www.sse.com.cn) ("SSE"), established in 1990, and the Shenzhen Stock Exchange (www.szse.cn) ("SZSE"), established in 1991, and responsibility for regulatory oversight is vested in the China Securities Regulatory Commission (www.csrc.gov.cn). China is one of the countries in which legislation has been enacted requiring public companies to issue reports including environmental and/or social information.[44] In 2006, the SZSE released the Guidelines on Social Responsibilities of Companies Listed at the Shenzhen Stock Exchange, under which listed companies were required to actively protect the legitimate rights and interests of debtors and employees while pursuing economic benefits and protecting shareholder interests; treat suppliers, customers and consumers with good faith; take an active part in environmental protection, community development and other public causes; and develop a balanced and harmonious relationship with the communities. Listed companies were encouraged to develop social responsibility systems, conduct regular inspection and assessment of the progress made in implementing the systems and issues to be addressed, and regularly draft and release reports on social responsibilities. In 2008 the SSE issued the Notice on Enhancing CSR

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[41] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 15-16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[42] Japan's Corporate Governance Overhaul (Bloomberg Intelligence, January 6, 2017), https://www.bloomberg.com/professional/blog/japans-corporate-governance-overhaul-2/

[43] Id.

[44] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 15-16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

Requirements for Listed Companies which emphasized the non-commercial contribution by stakeholders, society, environmental protection and resource uses, and encouraged listed companies to disclose its special practices and achievements in CSR delivery and release its annual CSR report along with its annual report.[45] However, while sustainability transparency is a worthy goal, investors and other stakeholders in Chinese listed companies are still confronted with significant corporate governance uncertainties given state control over many enterprises, which carries the right to appoint directors, and the murky role of state-controlled financial institutions that provide significant amounts of debt financing to listed companies.

India: As opposed to other developing countries, such as China, India has a sophisticated legal system underlying its capital markets, including application of the rule of law and guaranteed property rights. Indian capital markets, including public securities exchanges such as the National Stock Exchange of India Limited (www.nseindia.com) and the Bombay Stock Exchange Limited (www.bseindia.com), have grown rapidly in recent years—they are now the world's fourth and fifth largest stock exchanges, respectively, in terms of volume of transactions although much smaller in terms of market capitalization when compared to other large exchanges around the world and have become one of the most popular global venues for initial public offerings; however, critics still complain about a lack of broad liquidity. The Indian securities regulator—the Securities and Exchange Board of India (www.sebt.gov.in)—has attempted to enforce corporate governance by imposing a rigorous regulatory regime to ensure fairness, transparency and good practice and, in fact, is one of a growing number of securities exchange regulators that now requires that exchanges include social and/or environmental disclosure as part of their listing requirements, which means that listed companies must issue reports including social and/or environmental information.[46] A number of corporate governance-related changes were made in 2014 to the Companies Act of India[47]:

- One or more women directors were recommended for certain classes of companies
- Every company in India must have a resident directory
- The maximum permissible directors cannot exceed 15 in a public limited company unless approved by a special resolution of the shareholders
- Independent directors were introduced as a new concept under the Act and the Act now includes functions and duties for such directors (e.g., independent directors must attend at least one meeting a year) and a requirement for a code of conduct

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[45] Corporate Governance of Listed Companies in China (OECD, 2011), 99-100 https://www.oecd.org/corporate/ca/corporategovernanceprinciples/48444985.pdf

[46] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[47] Corporate Governance in India (May 12, 2015), https://www.corpgov.net/2015/05/corporate-governance-in-india/

- Every company must appoint an individual or firm as an auditor and the responsibilities of the board-level audit committee have been expanded
- Top management is required to recognize the rights of the shareholders and ensure strong co-operation between the company and its stakeholders
- Every company has to make accurate disclosure of financial situations, performance, material matter, ownership and governance

Executive compensation is an issue in India, as it is in many countries; however, Indian law does require that a nomination and remuneration committee, which must have a majority of independent directors, frame a policy on remuneration of key employees and that the annual remuneration paid to key executives be made public. In addition, boards of Indian companies are required to include a statement in the board's report to the shareholders indicating development and implementation of risk management policy for the company and the independent directors are mandated to assess the risk management systems of the company.[48]

In spite of all of the changes that have been made to the letter of corporate governance law in India over the last decade, real progress has been slow. For example, most companies in India tend to only comply on paper; board appointments are still by way of "word of mouth" or fellow board member recommendations and "true independence" of directors and performance evaluation of directors are still relatively new concepts within the Indian corporate governance framework. In fact, it is common for independent directors to be dismissed by promoters when the independent directors oppose actions proposed by the promoters. In addition, while changes in the law have mandated that directors owe duties not only towards the company and shareholders but also towards the employees, community and for the protection of environment, progress has been slow and little in the way of sanctions has occurred and boards are still a long way away from full-scale engagement with stakeholders.[49]

India notably passed legislation in 2014 that required companies that had reached a certain size to establish a corporate responsibility committee at the board level and contribute at least 2% of their average net profits over the last three financial years to corporate responsibility initiatives.[50] The corporate responsibility committee is charged with framing a CSR policy for the company and making recommendations for spending on CSR initiatives based on the policy. If a company fails to meet the minimum thresholds for CSR spending the board's report must include disclosures regarding the reasons for such failure and will also likely receive a notice from India's Ministry of Corporate Affairs asking for an explanation. In some cases, the Ministry has gone further and proactively challenged companies when the Ministry felt that the reasons given were not sufficient.

[48] K. Unadkat, Top 10 Issues in Corporate Governance Practices in India (Association of Corporate Counsel, October 9, 2017), http://www.acc.com/legalresources/publications/topten/tticgpi.cfm
[49] Id.
[50] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 13, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784.

Korea: The principal stock market is the Korea Exchange (www.krx.co.kr) (“KRX”), which was created in 2004 under the Korea Stock and Futures Exchange Act as an integration of three existing Korean spot and future exchanges. The instruments traded on the KRX include stocks, bonds, Exchange Traded Funds, Real Estate Investment Trusts and derivatives. The principal source of securities regulation in Korea is the Financial Investment Services and Capital Market Consolidation Act (“FCA”). Securities regulation in Korea is carried out through the Financial Services Commission (www.fsc.go.kr). The principal means for regulating corporate governance in Korea is the Commercial Code, which is enforced by the Ministry of Justice, and there is no standalone corporate governance code in Korea. Listed companies must have a quarter or more of the board comprised of outside directors and a large scale listed company must have three or more outside directors, and those outside directors must form the majority of the board. Unless otherwise provided for in the articles of incorporation, there are no requirements relating to the independence of directors, excluding outside directors. Korean companies are not subject to any single legal requirement or non-binding guidance solely focused on CSR and it is not yet common for Korean companies to report on environmental, social or ethical issues.[51]

Mexico: The Mexican Stock Exchange (Bolsa Mexicana de Valores or “BMV”) (www.bmv.com.mx) is Mexico's only stock exchange and is primarily regulated by the Mexican Securities Market Law (“SML”) and circulars issued by the National Banking and Securities Commission (www.cnbv.gob.mx) (“NCSB”). Mexico has a Best Corporate Practices Code, which generally follows the structure and contents of the OECD Principles of Corporate Governance. Observance of the Code is currently voluntary; however, adherence to many of its principles has been made mandatory by their incorporation into the SML and listed companies in Mexico are required to annually disclose their degree of compliance with the Code. Governance practices formerly limited to listed companies and specially regulated entities, such as having independent directors and creating special board committees for audits and governance practices, are slowly being adopted by non-listed and non-regulated entities. The lack of significant representation of women in boardrooms is being addressed by governmental initiatives to require more disclosures about the number of women on boards and implementation of gender equality policies at the board level. While CSR is not a specified legal requirement in Mexico, it is increasingly common for companies to establish CSR project policies, engage in CSR-related projects on a voluntary basis and issue annual CSR reports. It is also possible for companies to be designated as a “Socially Responsible Enterprise” by the Mexican Philanthropy Centre if they “promote a culture of responsible competitiveness that enables the success of the business while also contributing to the welfare of its community” and “reject corruption and be governed by a code of ethics, contribute to the conservation of the environment and identify and work towards the social needs of its community”.[52]

[51] H. Lee and Y. Kim, Corporate Governance and Directors’ Duties in South Korea (Thomson Reuters Practical Law, 2017),

[52] F. Garcia-Naranjo, Corporate Governance and Directors' Duties in Mexico (Thomson Reuters Practical Law, 2017).

Singapore: The Monetary Authority of Singapore (www.mas.gov.sg) ("MAS") oversees securities regulation in Singapore, where the main exchange is the Singapore Exchange Limited (www.sgx.com) ("SGX"). Aspects of corporate governance for listed companies in Singapore are driven by the country's Code of Corporate Governance and the listing standards of the SGX. Key practices encouraged under the Code include having an effective board which is aware of its roles and responsibilities and which is provided with access to the necessary information to perform these responsibilities; having a strong independent element on the board with no concentration of power in any one person; having formal and transparent processes for board appointments, board performance and board and executive remuneration, all of which is to be facilitated by the appointment of nomination and remuneration committees to oversee these matters; emphasizing the importance of accountability and audit and requiring the establishment of audit committees and the internal audit function; having strong internal control processes in place; and promoting greater disclosure for, and communication with, shareholders.[53]

Commentary on the country report for Singapore included in the Asean Corporate Governance Scorecard 2018 argued that the development of corporate governance practices in Singapore has "essentially flatlined" with a widening gap between large cap companies and the rest of the field and glaring needs for improvements in disclosure and transparency, attendance at annual general meetings and diversity practices (i.e., disclosing a detailed diversity policy and having female directors on board).[54]

The SGX has stated that "combined financial and sustainability reports enable a better assessment of the issuer's financial prospects and quality of management" and listed companies are required to publish a sustainability report under the SGX's Sustainability Reporting Guide that is based on an assessment of what the most important ESG issues are facing the business and its stakeholders and which should address the following primary components: companies should disclose what their material factors are, why they are material and how this has been determined; the report should disclose the related policies, practices and performance of the company in relation to each of the material ESG factors identified, in both descriptive and quantitative terms; the report should set out the company's targets for the forthcoming year in relation to each material ESG factor identified; the company should select a sustainability reporting framework (or frameworks) to guide its reporting and disclosure; and the report should contain a statement from the board on how ESG factors are considered as part of strategy formulation, and provide detail on its oversight of the identification, management and monitoring of material ESG factors.

Australia: Securities regulation in Australia is the responsibility of the Australian

[53] V. Yeo, Corporate Governance in Singapore (ACCA, February 2018), http://www.accaglobal.com/us/en/student/exam-support-resources/fundamentals-exams-study-resources/f4/technical-articles/corporate-governance-singapore.html

[54] M. Quah, Corporate Governance Progress Flatlines for Singapore Companies (The Business Times, April 4, 2018), https://www.businesstimes.com.sg/companies-markets/corporate-governance-progress-flatlines-for-singapore-companies

Securities and Investments Commission (www.asic.gov.au) ("ASIC") and the Australian Securities Exchange (www.asx.com.au) ("ASX") is one of a growing number of stock exchanges that now requires social and/or environmental disclosure as part of its listing requirements.[55] Australia is one of the countries that require pension funds to disclose the extent to which the fund incorporates social and environmental information into its investment decisions.[56] The ASIC has issued extensive guidance on corporate governance and the specific duties and responsibilities of corporate directors.[57] Sustainability reporting has improved significantly among the largest companies on the ASX according to annual assessments issued by Australian Council of Superannuation Investors (www.acsi.org.au).

Canada: Securities regulation in Canada is overseen by the Canadian Securities Administrators (www.csa-acvm.ca) (CSA) and the largest securities exchange in Canada is the Toronto Stock Exchange and TSX Venture Exchange (www.tmx.com). Canada is one of the countries that require pension funds to disclose the extent to which the fund incorporates social and environmental information into its investment decisions.[58] Canada's system of corporate governance has been aptly described as follows:

> "Canada's system of corporate governance is derived from the British common law model and strongly influenced by developments in the United States. While corporate governance practices in the United Kingdom and the United States are similar in many respects, where there are differences Canadian practice usually falls somewhere in between. For example, a Canadian corporation is more likely than a US corporation to have a chair who is not the CEO, and typically has fewer executives on the board than a UK corporation."[59]

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[55] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[56] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[57] https://asic.gov.au/regulatory-resources/corporate-governance/

[58] C. Williams, "Corporate Social Responsibility and Corporate Governance" in J. Gordon and G. Ringe (Eds.), Oxford Handbook of Corporate Law and Governance (Oxford: Oxford University Press, 2016), 16, available at http://digitalcommons.osgoode.yorku.ca/scholarly_works/1784 (citing Initiative for Responsible Investment, Corporate Social Responsibility Disclosure Efforts by National Governments and Stock Exchanges (March 12, 2015), available at http://hausercenter.org/iri/wpcontent/uploads/2011/08/CR-3-12-15.pdf).

[59] A. MacDougall, R. Yalden and J. Valley, "Canada", in W. Calkoen (Ed.), The Corporate Governance Review (Seventh Edition), 72.

As in the US, Canadian corporations must contend with regulation of corporate and securities matters at both the federal and provincial levels; however, the federal government and the provinces are continuously collaborating on developing and maintaining a cooperative and consistent governance framework. Also relevant are legal rules and best practices promoted by institutional shareholder groups, the media and professional director associations such as the Institute of Corporate Directors.[60] Dominant and emerging issues in corporate governance in recent years have included shareholder engagement and activism; diversity in corporate leadership positions and board renewal; takeover bids and defensive tactics; proxy adviser initiatives; and risk management.[61] Like in the US, corporate governance practices regarding ESG matters in Canada have been the focus of regulators and members of the investment community and the role of corporate directors in the area will be substantially impacted by the interpretation of the directors' duty of loyalty by the Supreme Court of Canada to require consideration of a wide range of stakeholders and a broadening range of risks. It is expected that in the near future updated guidance will be released by the CSA calling for enhanced disclosures of risks relating to climate change and more regulatory focus on cyber security is expected.[62]

[60] Id.
[61] R. Andreone and C. Ortved, Corporate Governance and Directors' Duties in Canada (Thomson Reuters Practical Law, May 2018).
[62] Id.

About the Author

Dr. Alan S. Gutterman is the Founding Director of the Sustainable Entrepreneurship Project (www.seproject.org). In addition, Alan's prolific output of practical guidance and tools for legal and financial professionals, managers, entrepreneurs and investors has made him one of the best-selling individual authors in the global legal publishing marketplace. His cornerstone work, *Business Transactions Solution*, is on online-only product available and featured on Thomson Reuters' Westlaw, the world's largest legal content platform, which includes almost 200 book-length modules covering the entire lifecycle of a business. Alan has also authored or edited over 40 books on sustainable entrepreneurship, management, business law and transactions, international law business and technology management for a number of publishers including Thomson Reuters, Kluwer, Aspatore, Oxford, Quorum, ABA Press, Aspen, Sweet & Maxwell, Euromoney, CCH and BNA. Alan has over three decades of experience as a partner and senior counsel with internationally recognized law firms counseling small and large business enterprises in the areas of general corporate and securities matters, venture capital, mergers and acquisitions, international law and transactions, strategic business alliances, technology transfers and intellectual property, and has also held senior management positions with several technology-based businesses including service as the chief legal officer of a leading international distributor of IT products headquartered in Silicon Valley and as the chief operating officer of an emerging broadband media company. He has been an adjunct faculty member at several colleges and universities, including Boalt Hall, Golden Gate University, Hastings College of Law, Santa Clara University and the University of San Francisco, teaching classes on a diverse range of topics including corporate finance, venture capital, corporate law, Japanese business law and law and economic development, He received his A.B., M.B.A., and J.D. from the University of California at Berkeley, a D.B.A. from Golden Gate University, and a Ph. D. from the University of Cambridge. For more information about Alan, his publications or the Sustainable Entrepreneurship Project, please contact him directly at alangutterman@gmail.com, and follow him on LinkedIn (https://www.linkedin.com/in/alangutterman/).

About the Project

The Sustainable Entrepreneurship Project (www.seproject.org) engages in and promotes research, education and training activities relating to entrepreneurial ventures launched with the aspiration to create sustainable enterprises that achieve significant growth in scale and value creation through the development of innovative products or services which form the basis for a successful international business. In furtherance of its mission the Project is involved in the preparation and distribution of Libraries of Resources for Sustainable Entrepreneurs covering Entrepreneurship, Leadership, Management, Organizational Design, Organizational Culture, Strategic Planning, Governance, Corporate Social Responsibility, Compliance and Risk Management, Finance, Human Resources, Product Development and Commercialization, Technology Management, Globalization, and Managing Growth and Change. Each of the Libraries include various Project publications such as handbooks, guides, briefings, articles, checklists, forms, forms, videos and audio works and other resources; management tools such as checklists and questionnaires, forms and training materials; books; chapters or articles in books; articles in journals, newspapers and magazines; theses and dissertations; papers; government and other public domain publications; online articles and databases; blogs; websites; and webinars and podcasts.

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