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A Primer for Environmental & Social Disclosure



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Introduction

Investors who tend to have a longer investment time horizon increasingly examine business issues related to environmental and social factors. They consider the bottom line impacts that these factors can have on revenues, costs, product offerings, customer and employee loyalty, reputation and governmental and regulatory approvals, when making their investment decisions. They may look beyond the issuer, too, and consider how environmental and social issues might impact the issuer's supply chain and thereby potentially impact the issuer's reputation and/or ability to source needed inputs on a timely basis.

Many issuers, themselves, have environmental and social issues on their radar screens. Industry Canada suggests three factors are propelling this focus:

1. It's the right thing to do (corporate values),
2. You have to do it (compliance), and
3. You can make money¹ (competitive advantage).
A further incentive for issuers—
4. You reduce risk (risk management).

Knowledge about reporting the business impacts related to environmental and social matters varies widely among issuers. This primer is intended to help bridge the gap by providing a high level overview on several relevant issues. Senior management, particularly Chief Financial Officers, in-house counsel and members of audit committees of TSX issuers may find it most useful but much applies to TSX Venture Exchange issuers, too.

This primer begins by defining environmental, social and governance (ESG) information and discussing some business drivers for increased interest in this information. It discusses how capital providers and insurers are advancing the agenda and sets out some key principles for environmental and social business conduct. It discusses mandatory disclosure requirements, industry-specific key performance indicators and initiatives in other countries. It provides a discussion about voluntary reporting, including tips on award-winning sustainability reports, and sets out some initiatives for issuers to watch. It concludes with selected helpful references.

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What is environmental, social and governance information?

ESG describes three categories of factors that may affect an organization's performance, and therefore, its value. The table below provides examples of factors in each category.

¹ www.ic.gc.ca/eic/site/csr-rse.nsf/eng/rs00176.html

FACTOR	EXAMPLE
Environmental	Greenhouse gas emissions Water usage, scarcity and quality Energy usage Waste and waste management Air pollutants emitted
Social	Human rights Health & safety Community and other stakeholder relations Relations with indigenous peoples Corruption payments to foreign public officials
Governance	Processes and structures of the board of directors including <ul style="list-style-type: none"> • Knowledge and skills of directors • Independence of board members • Mandates and committees of the board • Compensation of directors and officers

This primer focuses on environmental and social issues only.²

ESG BY ANOTHER NAME

Investors tend to favour the term ESG; others, however, use different terms such as corporate social responsibility, sustainability or sustainable development, sustainable business, triple bottom line. While this primer offers definitions for these terms, no universally accepted definitions exist.

Corporate social responsibility (CSR) is “the way firms integrate social, environmental, and economic concerns into their values, culture, decision making, strategy and operations in a transparent and accountable manner and thereby establish better practices within the firm, create wealth and improve society”.³

Sustainability or sustainable development as defined by the Brundtland Commission refers to development that “meets the needs of the present without

compromising the ability of future generations to meet their own needs.”⁴

Sustainable business captures the idea that a business adopts “strategies and activities that meet the needs of the enterprise and its stakeholders today while protecting, sustaining and enhancing the human and natural resources that will be needed in the future”.⁵

Triple bottom line, sometimes abbreviated to TBL or 3BL consists of three pillars—people, planet, and profit. John Elkington, the founder of a consulting group SustainAbility, coined the term. It captures the idea that companies need to measure how they perform socially, environmentally and economically.⁶ It tends to be a controversial term for some who believe that only one bottom line exists.

² Corporate governance is considered the most well understood ‘prong’ of ESG. For a number of years Canadian reporting issuers have been required to disclose information about their corporate governance practices. Current disclosure requirements can be found in Canadian Securities Administrators’ National Instrument 58-101, Disclosure of Corporate Governance Practices.

³ Corporate Social Responsibility, an Implementation Guide for Business, 2007, p. 4, available at www.iisd.org/pdf/2007/csr_guide.pdf

⁴ Our Common Future, also known as the Brundtland Report, see What is Sustainable Development? available at www.iisd.org/sd

⁵ See Business strategies for sustainable development, available at www.iisd.org/business/pdf/business_strategy.pdf

⁶ www.johnelkington.com/activities/ideas.asp

Why are reporting issuers interested?

INTERNAL PRESSURES

Pressures to manage and disclose environmental and social issues material to the business may come from directors or trustees of issuers, senior management and/or employees. They see positive bottom line benefits—for example, cost savings, increased revenue streams through innovative products, an advantage in attracting, retaining and motivating employees, improved risk management, enhanced reputation and customer loyalty.

Selected recent research supports this viewpoint.

— A McKinsey & Company survey found that “more companies are managing sustainability to improve processes, pursue growth, and add value to their companies rather than focusing on reputation alone.”⁷

— Respondents to an MIT Sloan Management Review and Boston Consulting Group survey of global executives and managers reported that they believe that a sustainability strategy is a competitive necessity.⁸ A number of respondents to the survey reported that they have placed sustainability permanently on their management agendas; many having done so in the past few years.⁹

— An Ernst & Young survey¹⁰ found not only that the CFO’s role in sustainability was increasing but also that employees had emerged as an important stakeholder group. Survey respondents ranked employees second, after customers, and before shareholders, policy makers and non-governmental organizations, in terms of importance in driving sustainability initiatives.

— While not conclusive, some studies have found that companies that integrate environmental and social issues into their strategy outperform those that do not.¹¹

EXTERNAL PRESSURES

Investors, financial institutions, insurers, customers and supply chains, governments, communities, and non-governmental organizations increasingly want information and action on relevant environmental and social issues.

Investors with a longer-term perspective face more exposure to an investment’s risk profile. They want to know how well issuers are managing risks, including environmental and social ones. On the up-side, they also want to understand if the issuer has business opportunities and competitive advantages related to environmental and social issues.

⁷ McKinsey & Company. The business of sustainability. 2011. The survey was conducted in the summer of 2011.

⁸ MIT Sloan Management Review in Collaboration with The Boston Consulting Group. Sustainability Nears a Tipping Point. MIT Sloan Management Review Research Report Winter 2012.

⁹ MIT Sloan Management Review and The Boston Consulting Group. Sustainability Nears a Tipping Point. MIT Sloan Management Review Research Report. Winter 2012.

¹⁰ Ernst and Young in cooperation with GreenBiz Group. Six growing trends in corporate sustainability. 2012

¹¹ For example, Eccles, R.G., Ioannou, I. & Serafeim, G. The Impact of a Culture of Corporate Sustainability on Corporate Behavior and Performance. Working paper 12-035, Harvard Business School. 2011.

How are capital providers and insurers advancing the agenda?

THE FRESHFIELDS REPORT

In the past, some institutional investors, pension fund trustees, asset managers and investment advisors asserted that, as fiduciaries, they could only legally address financial issues and could not factor environmental and social issues into their investment decision-making.

The Asset Management Working Group of the United Nations Environment Programme Finance Initiative sought an expert legal opinion on the question.

The resulting 2005 report called the Freshfields Report¹², covering 9 jurisdictions¹³ including Canada, concluded that:

“Integrating ESG considerations into an investment analysis so as to more reliably predict financial performance is clearly permissible and is arguably required in all jurisdictions”.

Accepting that environmental and social issues should be considered in decision-making, some like-minded capital providers and insurers have developed principles and frameworks on how to conduct their businesses. Some recognized initiatives are set out below.

INVESTORS: UNITED NATIONS PRINCIPLES OF RESPONSIBLE INVESTING (UN PRI)

www.unpri.org

The UN PRI “aims to help investors integrate the consideration of environmental, social and governance (ESG) issues into investment decision-

making and ownership practices, and thereby improve long-term returns to beneficiaries.” The PRI has over 1100 signatories representing over US\$32 trillion in assets under management.¹⁴

Signatories to the PRI commit to the following six (6) principles:

1. We will incorporate ESG issues into investment analysis and decision-making processes.
2. We will be active owners and incorporate ESG issues into our ownership policies and practices.
3. We will seek appropriate disclosure on ESG issues by the entities in which we invest.
4. We will promote acceptance and implementation of the Principles within the Investment Industry.
5. We will work together to enhance our effectiveness in implementing the Principles.
6. We will each report on our activities and progress towards implementing the Principles.

INVESTORS: CARBON DISCLOSURE PROJECT (CDP)

www.cdproject.net

As discussed in the section “Where else is information about environmental and social issues reported?”, CDP seeks climate change and water information from companies on behalf of hundreds of institutional investors and financial institutions with assets in the trillions of dollars.

FINANCIAL INSTITUTIONS: THE EQUATOR PRINCIPLES

www.equator-principles.com

The Equator Principles (EPs) are a credit risk management framework for determining, assessing, and managing environmental and social risk in project finance. They are applied where total project

¹² www.unepfi.org/fileadmin/documents/freshfields_legal_resp_20051123.pdf

The 2009 follow up report can be found at www.unepfi.org/fileadmin/documents/fiduciaryII.pdf

¹³ Jurisdictions covered included Australia, Canada, France, Germany, Italy, Japan, Spain, the UK and the US.

¹⁴ See www.unpri.org/files/Annual%20report%202012.pdf and www.unpri.org/signatories/signatories/

capital costs exceed US\$10 million. Equator Principle Financial Institutions commit to only provide loans to projects where the borrower will comply with social and environmental policies and procedures that implement the EPs.

The third version of the EPs extends the reach of the Equator Principles to include project-related corporate and bridge loans. Among other things, it places more emphasis on human rights and climate change and requires enhanced monitoring and reporting for lenders and borrowers. EP III is effective from June 4, 2013.

INSURERS: PRINCIPLES FOR SUSTAINABLE INSURANCE

www.unepfi.org/psi

The Principles for Sustainable Insurance provides a framework for the global insurance industry to address ESG risks and opportunities.

The four principles are:

1. We will embed in our decision-making environmental, social and governance issues relevant to our insurance business.
2. We will work together with our clients and business partners to raise awareness of environmental, social and governance issues, manage risk and develop solutions.
3. We will work together with governments, regulators and other key stakeholders to promote widespread action across society on environmental, social and governance issues.
4. We will demonstrate accountability and transparency in regularly disclosing publicly our progress in implementing the Principles.

THE CANADIAN CONNECTION

Some large Canadian institutions actively support these global initiatives. Reporting issuers who do business with them or count them as investors may face questions about environmental and social policies and practices.

UN PRI Signatories

- Alberta Investment Management Corporation;
- British Columbia Investment Management Corporation;
- Caisse de dépôt et placement du Québec;
- Canada Pension Plan Investment Board;
- Healthcare of Ontario Pension Plan;
- Ontario Teachers' Pension Plan; and
- TD Asset Management

Equator Principles Signatories

- Bank of Montreal
- Bank of Nova Scotia
- Canadian Imperial Bank of Commerce
- Export Development Canada
- Manulife Financial
- Royal Bank of Canada
- TD Bank Financial Group

UN Principles for Sustainable Insurance Signatories

- The Co-operators Group
- There are over 30 international signatories including Aviva, ING, Munich Re, and Swiss Re.

What principles do issuers need to consider for their business operations?

The United Nations Global Compact (UN Global Compact), UN Guiding Principles on Business and Human Rights, ISO 26000 Guidance Standard on Social Responsibility, and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises offer key principles for business conduct.

Core to these principles are issues related to human rights, anti-corruption, the environment, and labour.

UN GLOBAL COMPACT

www.unglobalcompact.org

The UN Global Compact, a voluntary framework, helps businesses align their operations and strategies with ten principles in the areas of human rights, labour, environment and anti-corruption.

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.

Labour

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

- *Principle 4:* the elimination of all forms of forced and compulsory labour;
- *Principle 5:* the effective abolition of child labour; 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.

Begun in 2000, the UN Global Compact now has over 10,000 participants, including over 7,000 businesses from 145 countries around the world who commit to following the principles.

Forty-eight Canadian companies are business participants.¹⁵

The UN Global Compact does not assess performance. It can, however, remove companies when it substantiates an external complaint or when a participating company fails to submit a progress report within two years.

¹⁵ See www.unglobalcompact.org/ParticipantsAndStakeholders/index.html Canadian participants include Agrium Inc., Barrick Gold Corporation, Bell Canada Enterprises, Bombardier Inc. Catalyst Paper Corporation, Hudson's Bay Company, Inmet Mining Corporation, Mountain Equipment Co-op, Scotiabank, Semafo Inc., Suncor Energy Inc. Talisman Energy Inc., Teck Resources, TELUS

UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

The United Nations Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights in June 2011. The principles set the first global business-human rights standard and are organized around three pillars:

- the state duty to protect human rights,
- corporate responsibility to respect human rights, and
- access to remedy.

They set out the responsibility of business enterprises to respect internationally recognized human rights defined “at a minimum, as those expressed in the International Bill of Human Rights¹⁶ and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.”¹⁷

ISO 26000 – GUIDANCE STANDARD ON SOCIAL RESPONSIBILITY

www.iso.org/iso/social_responsibility

ISO 26000 Guidance Standard on Social Responsibility (Guidance Standard) provides voluntary guidance to help businesses operate in a socially responsible manner.

This Guidance Standard addresses seven core subjects of social responsibility. These subjects are:

- Organizational governance
- Human rights
- Labour practices
- The environment
- Fair operating practices
- Consumer issues
- Community involvement and development

This Guidance Standard is not a prescriptive standard against which businesses can be certified.

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

www.oecd.org/daf/internationalinvestment/guidelinesformultinationalenterprises/oecdguidelinesformultinationalenterprises.htm

Canada and other governments developed and promote the OECD Guidelines for Multinational Enterprises.

The guidelines offer voluntary principles and standards for responsible business conduct for multinational enterprises. Areas covered include employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

Canada’s National Contact Point¹⁸, an interdepartmental federal government committee, promotes awareness and aims to ensure that the guidelines are implemented effectively.

¹⁶ www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf

¹⁷ www.ilo.org/declaration/thedeclaration/lang--en/index.htm

¹⁸ See www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/index.aspx?view=d

Do Canadian reporting issuers need to disclose information about environmental and social issues?

Under securities rules, reporting issuers must disclose all material information, including material information about environmental and social issues. Issuers may have additional/further disclosure obligations under the Exchange's timely disclosure policies.

While the Staff Notice did not specifically address social information, it can be interpreted to include material social information, since disclosure requirements in the Annual Information Form (AIF) and Management's Discussion & Analysis (MD&A) cover all material issues.

CSA STAFF NOTICE 51-333 ENVIRONMENTAL REPORTING GUIDANCE (STAFF NOTICE)

www.osc.gov.on.ca/en/29620.htm

In October 2010, the CSA published Staff Notice 51-333, Environmental Reporting Guidance to help issuers understand their reporting requirements for environmental issues. This guidance identifies where requirements for disclosure exist, discusses materiality and provides examples of "entity-specific" disclosure.

We have briefly summarized certain issues discussed in the Staff Notice below.

Staff Notice 51-333 cites several securities law requirements under which companies may need to make disclosure.

A. Annual Information Form – Form 51-102F2

National Instrument 51-102 *Continuous Disclosure Obligations*

www.osc.gov.on.ca/en/13342.htm

B. Management's Discussion & Analysis ("MD&A")– Form 51-102F1

National Instrument 51-102 *Continuous Disclosure Obligations*

www.osc.gov.on.ca/en/13342.htm

C. Corporate Governance Disclosure

National Instrument 58-101 *Disclosure of Corporate Governance Practices*

www.osc.gov.on.ca/en/14198.htm

D. Audit Committees

National Instrument 52-110 *Audit Committees*

www.osc.gov.on.ca/en/13550.htm

Disclosure may be required concerning:

- risks
- environmental trends and uncertainties
- environmental liabilities
- asset retirement obligations, and financial and operational effects of environmental protection requirements and
- risk oversight and management.

The Staff Notice also highlighted disclosure requirements related to forward-looking information. Reporting issuers need to follow these requirements to be eligible for a legal defense from civil liability for misrepresentation in forward-looking information.

Materiality

Materiality is the filter used to decide what an issuer must report in its mandatory filings.

The Staff Notice noted “information relating to environmental matters is likely material if a reasonable investor’s decision whether or not to buy, sell or hold securities of the issuer would likely be influenced or changed if the information was omitted or misstated.”¹⁹ Material information could relate to social issues.

So who is the reasonable investor? A lawyer participating in a TSX Environmental and Social Disclosure workshop provided the following description.

Briefly, the reasonable investor is a notional investor, broadly representing investors generally and guided by reason. The reasonable investor is considered to be a retail investor not a professional investor. The disclosure in documents must enable a retail investor to decide about investing in the company for the long term, without having to look elsewhere for information.

Disclosure in an issuer’s financial reporting, including MD&A and AIF, therefore needs to include more than just the facts that would significantly move the stock price today. The reasonable investor needs all the relevant information in order to make an informed decision about whether to make a long-term investment in the issuer.

You may wish to consult external legal counsel for a more extensive discussion.

The following excerpts from the Staff Notice may help issuers assess whether information is material.

No bright-line test

Information does not always become material at a uniform or quantitative level. Materiality can vary among industries and among companies in the same industry. In addition, information can become material for qualitative reasons as well as quantitative ones.

Context specific

Some information is material on its own. Information that is not material by itself may be material in the context of other information. Companies must not assess materiality on a piecemeal basis and lose sight of the forest for the trees.

Timing

Materiality is dynamic. Information that was not material before may be material today. Information that is not material today may become material in the future. Early disclosure might be important to reasonable investors.

Trends, demands, commitments, events and uncertainties

In deciding whether a known trend, demand, commitment, event or uncertainty is material, consider the probability that it will occur, and its magnitude if it occurs.

¹⁹ CSA Staff Notice 51-333 Environmental Reporting Guidance, page 5.

Err on the side of materiality

When in doubt, disclose. If you are struggling to decide if a particular piece of environmental or social information is material, include it.²⁰

Controls and Procedures

Issuers need sufficient controls and procedures to ensure complete, accurate and reliable information, which may include environmental and social information. These controls and procedures may not be sufficiently developed because information may have originated in non-finance departments.

Issuers need to ensure that information “bubbles up” to senior management to enable them to make materiality decisions on a timely basis. As stated in the Staff Notice, “While materiality determinations may limit what is actually disclosed by the issuer, they

should not limit the information that management considers in making its determinations.”

Governance

Three levels of oversight for disclosures exist – CEO/ CFO certifications, audit committee review and board of directors’ approval.

Regarding certifications, CEOs and CFOs certify, among other things, that disclosures contain no misrepresentations (no untrue statement of a material fact or failure to state a material fact). They also certify that financial statements together with the other financial information included in the filings fairly present in all material respects the financial condition, financial performance, and cash flows of the issuer.

CSA Staff Notice 51-333 identified certain publications including some of those listed below that may provide additional guidance on materiality and disclosure.

Sustainability: Environmental and Social Issues Briefing (2011)

www.cica.ca/focus-on-practice-areas/governance-strategy-and-risk/directors-series/director-briefings/item52853.pdf

This briefing for directors poses 23 questions that directors may wish to ask management or themselves to assess whether an issuer is adequately addressing environmental and social risks and exploiting opportunities in these areas. Answering these questions may assist issuers in developing their disclosures.

Environmental, Social and Governance (ESG) Issues in Institutional Investor Decision Making (2010)

www.cica.ca/publications/list-of-publications/manual/item41881.pdf

This Discussion Brief provides findings from a qualitative study of 15 institutional investors and 2 service providers about the ESG information they want, how they use it and their satisfaction with it. It reviews current regulatory disclosure requirements and offers options to address ESG information gaps identified by the institutional investors and improve the use of ESG information in decision making.

SEC Guidance Regarding Disclosure Related to Climate Change (2010)

www.sec.gov/rules/interp/2010/33-9106.pdf

This interpretive guidance is designed to help issuers better understand the disclosure requirements currently in place, as they pertain to climate change. It provides a good discussion on materiality.

²⁰ For reporting issuers reluctant to disclose information due to confidentiality concerns, Chartered Professional Accountants of Canada’s Management’s Discussion and Analysis Guidance on Preparation and Disclosure notes “management should carefully consider who already has access to the information. It is unlikely to be confidential when groups such as the workforce, customers, suppliers, or competitors are already aware of it.”

Climate Change Briefing (2009)

www.cica.ca/focus-on-practice-areas/governance-strategy-and-risk/directors-series/director-briefings/item28951.pdf

This Briefing offers 20 questions that directors may wish to pose to improve “their understanding of:

- the business issues arising from climate change;
- how these business issues influence a company’s risk management and strategy;
- the impact of these issues on the company’s financial performance;
- the external communications necessary to inform investors about these matters;
- the adequacy of the company’s information systems and related internal controls for managing climate change issues”.

Building A Better MD&A: Climate Change Disclosures (2008)

www.cica.ca/focus-on-practice-areas/reporting-and-capital-markets/performance-reporting-resource-centre/item12846.pdf

This publication assists companies in providing useful and relevant MD&A disclosures concerning the business and financial impacts of climate change issues to meet investors’ information needs.

ESG Reporting Guide for Australian Companies (June 2011)

www.acsi.org.au/images/stories/ACSIDocuments/esg_reporting_guide.pdf

This publication developed by investment managers and asset owners provides guidance on what ESG information companies should consider and disclose. The Guide divides environmental issues into four themes—climate change, environmental management systems and compliance, efficiency (waste, water, energy), and other environmental issues (e.g. toxics, biodiversity). It also divides social issues into four themes—workplace health and safety, human capital management, corporate conduct (e.g. bribery and corruption), and stakeholder management/license to operate.

POLICY STATEMENTS ON TIMELY DISCLOSURE

Toronto Stock Exchange

tmx.complinet.com/en/display/display_viewall.html?rbid=2072&element_id=110&record_id=110

TSX Venture Exchange

www.tmx.com/en/pdf/Policy3-3.pdf

If any environmental or social information is deemed ‘material information’, it must be immediately disclosed by news release as required by the Exchanges’ Timely Disclosure Policies. The Exchanges

define material information as any information about the company or its securities that may materially impact the market price or value of a listed security.²¹

In addition to issuing a news release, the issuer must file a material change report on SEDAR if the material information is a material change. For full details see National Instrument 51-102 Continuous Disclosure Obligations, Part 7 Material Change Reports—www.osc.gov.on.ca/en/13342.htm.

²¹ The TSXV Timely Disclosure Policy goes on to say that material information includes both material facts and material changes.

Do industry-specific key performance indicators exist?

Work is underway, on a number of fronts, to develop industry-specific key performance indicators.

Whether these indicators apply to your company or not, is something you must assess.

Some examples of this work include:

- The German Federal Environment Ministry with the participation of a number of institutional investors produced in 2010 an extensive list of key performance indicators by industry – see www.sd-m.de/files/SD-KPI_Standard_2010-2014_V12e.pdf
- The Global Reporting Initiative has produced supplements that set out environmental and social issues relevant to various sectors – see www.globalreporting.org/reporting/sector-guidance/Pages/default.aspx The Sustainability Accounting Standards Board (SASB), a US based organization, is working to develop key metrics for 89 industries. You can read more about SASB in ‘Initiatives to Watch’.
- Industry associations may have developed key performance metrics.

What reporting requirements do other countries have for issuers?

We have provided a sample of other jurisdictions’ disclosure requirements for their issuers.

United States and Australia

The United States and Australia have similar disclosure requirements as Canada. If an environmental or social issue is material, that is if there is a substantial likelihood that a reasonable investor would consider it important in deciding how to vote or make an investment decision, it must be disclosed.

The US Securities and Exchange Commission (SEC) requires that material information be disclosed in issuers’ securities filings. For example, issuers must disclose the material effects of compliance with environmental laws on their capital expenditures, earnings and competitive position. They must disclose material pending legal proceedings. Companies must disclose in their Management Discussion and Analysis of Financial Condition and Results of Operations (MD&A) reports known trends, events, or uncertainties that may have a material effect on the company’s financial condition. The SEC issued in February 2010 Commission Guidance Regarding Disclosure Related to Climate Change.²²

²² See www.sec.gov/rules/interp/2010/33-9106.pdf

The Corporations Act in Australia requires listed entities to prepare an Operating and Financial Review (OFR), similar to an MD&A. Listed entities are to provide an analysis and narrative discussion of operations, financial position and strategies and future direction. Listed entities must disclose information that would likely influence a reasonable person who commonly invests in securities.

Some jurisdictions have been more prescriptive, legislating specific reporting on sustainability matters. Some examples follow.

United Kingdom (UK)

Under the UK Companies Act 2006, directors must prepare an annual report that includes a business review. The business review of a quoted company²³ must “to the extent necessary for an understanding of the development, performance or position of the company’s business, include:

A. The main trends and factors likely to affect the future development, performance and position of the company’s business; and

B. information about:

- i. environmental matters (including the impact of the company’s business on the environment)
- ii. the company’s employees and
- iii. social and community issues, including information about any policies of the company in relation to those matters and the effectiveness of those policies; and

C. Subject to subsection (11), information about persons with whom the company has contractual or other arrangements which are essential to the business of the company.

If the review does not contain information of each kind mentioned in paragraphs (b)(i), (ii) and (iii) and (c), it must state which of those kinds of information it does not contain.”²⁴

Hong Kong

The Stock Exchange of Hong Kong (HKSE) published “Consultation Conclusions on Environmental, Social and Governance Reporting Guide” that applies to issuers with financial years ending after December 31, 2012.

While currently a recommended practice, the HKSE plans to require companies to report on some of the disclosures on a “comply or explain” basis by 2015. ESG disclosures can be made in annual reports or in separate reports.

The Guide has four ESG subject areas: workplace quality, environmental protection, operating practices and community involvement. For each subject area, the Guide sets out aspects and key performance indicators (KPIs). Issuers are encouraged to identify and report on material ESG subject areas, aspects and KPIs. As part of this process, they are urged to engage with stakeholders.

See Appendix 27 at www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201112cc.pdf for the Guide.

²³ Quoted companies as defined in Section 385 of the Act are those whose equity share capital “(a) has been included in the official list (as defined in section 103(i) of the Financial Services and Markets Act 2000) in accordance with the provision of Part 6 of the Financial Services and Markets Act 2000 (c. 8), or (b) is officially listed in an EEA State, or (c) is admitted to dealing on either the New York Stock Exchange or the exchange known as Nasdaq.”

²⁴ Companies Act 2006, Chapter 46, Part 15 Accounts and Reports, Chapter 5 Directors’ Report, Section 417.

Denmark

Denmark in 2008 passed a bill requiring that, effective 2010, the largest Danish companies, investors and state-owned companies include the following information on corporate social responsibility in their annual financial reports:

- information on the companies' policies for corporate social responsibility or socially responsible investments;
- information on how such policies are implemented in practice;
- information on what results have been obtained so far and managements' expectations for the future.

If a company has no policy, they must explicitly state this. Sweden has adopted a similar approach for reporting by its state-owned companies.

South Africa

In South Africa, the King Report on Corporate Governance for South Africa 2009 has been in effect since in 2010. It is based on principles found in the Code of Governance Principles for South Africa 2009. Together they are known as "King III".

See www.saica.co.za/Technical/LegalandGovernance/King/tabid/2938/language/en-ZA/Default.aspx

Issuers must "apply or explain" whether they have adopted an integrated report, called for by King III. The King III Code on Governance defines an integrated report as "a holistic and integrated representation of the company's performance in terms of both its finance and its sustainability".

The Johannesburg Stock Exchange requires its listed companies to comply with King III.

France

The Grenelle II Act in France, passed in 2012, requires that all public and private companies with more than 500 employees report on the social and environmental consequences of its activities in their annual management reports. These reports are approved by the Board of Directors and verified by a third party. Implementation of this new legislation begins for fiscal year end 2012 for some companies, extending to 2017 for others.

Where else is information about environmental and social issues reported?

SEPARATE SUSTAINABILITY REPORTS

A number of TSX listed issuers voluntarily publish reports about their ESG efforts. These reports are commonly called corporate social responsibility reports or sustainability reports.

The audience for such reports is often broader than just investors and may include communities in which the issuer operates, non-governmental organizations (NGOs), customers and employees. The reports contain material information for stakeholders. Be reminded, that if information is material to investors it must also be disclosed in securities filings.

Global Reporting Initiative

A popular global framework to help structure disclosures in sustainability reports is the Global Reporting Initiative (GRI) - www.globalreporting.org/Pages/default.aspx

The reporting framework sets out the principles and performance indicators organizations can use to measure and report their economic, environmental, and social performance. In addition, the GRI has sector supplements tailored to certain industries including :

- Airport Operators
- Construction & Real Estate
- Electric Utilities
- Event Organizers
- Financial Services
- Food Processing
- Media
- Mining & Metals
- Non-Governmental Organizations
- Oil and gas

Pilot versions of sector supplements are available for the following industries:

- Automotive
- Logistics and transportation
- Public agency
- Telecommunications and
- Apparel and footwear sectors

The GRI launched the fourth version of its guidelines, G4, in May 2013.

Award-winning sustainability reports

Issuers often seek examples of good disclosures.

Chartered Professional Accountants of Canada (CPA Canada)²⁵ has an annual corporate reporting awards program—see www.cica.ca/about-cica/corporate-reporting-awards/item19917.aspx – which includes a category for Sustainability Reporting. Issuers submit their reports for assessment.

For the past five years, Suncor Energy Inc. (Suncor), TELUS Corporation (TELUS) and Potash Corporation of Saskatchewan Inc. (PotashCorp) have consistently ranked as top reporters.

Over the years judges have noted that leading reporters:

1. use the GRI framework in their reporting
2. describe the governance they exercise over sustainability
3. provide web-based material to supplement or be part of their sustainability reporting, ensuring that consistent messaging is delivered
4. clearly identify those environmental and social issues that are material to the company and fully describe their processes for identifying and assessing materiality and the issues
5. provide detailed disclosure about the practices and management systems for supporting accurate sustainability data
6. include some level of assurance to support the reliability of data.

Judges have identified the following areas where issuers can improve:

1. disclose future goals and strategy and link current year's performance with previously disclosed goals and strategy
2. integrate key CSR issues into the annual report and other media
3. disclose more about key stakeholders including why these stakeholders were important, what their concerns were and how the company engaged with stakeholders, including frequency
4. provide balanced reporting, including a discussion about challenges not just successes, and how issuers are addressing them.

²⁵ The Canadian Institute of Chartered Accountants (CICA) and the Certified Management Accountants of Canada (CMA Canada) joined together January 1, 2013, to create Chartered Professional Accountants of Canada (CPA Canada) as the national organization to support unification of the Canadian accounting profession under the CPA banner.

SURVEY/QUESTIONNAIRE RESPONSES

Issuers may receive questionnaires from multiple sources seeking ESG information. For example, companies such as Bloomberg, Sustainalytics and Dow Jones may request ESG information for a variety of purposes, including assessing or rating performance.

Carbon Disclosure Project

A well-known survey initiated by investors is the Carbon Disclosure Project (CDP).

CDP surveys seek information from companies and cities about how they measure, disclose, manage and share climate change information. CDP operates various major programs, including CDP Investor, CDP Supply Chain and CDP Water Disclosure.

CDP Investor

CDP Investor surveys companies about their climate change strategies, greenhouse gas emissions and energy use, on behalf of signatory investors. In 2012, signatories represented 655 financial institutions from around the world with assets of US\$78 trillion. Canadian signatories included mainstream banks, significant pension plans, and investment management companies. Over 4,000 organizations in 60 countries worldwide responded to the survey in 2012.

With the data collected, the CDP Investor produced a variety of reports including a CDP Canada 200 Climate Change Report – www.cdproject.net/en-US/WhatWeDo/Pages/Canada.aspx

The 2012 CDP Canada Report reflected 107 responses (200 information requests were sent out to the largest companies by market capitalization listed on TSX), representing 79% of the CDP Canada 200 by market capitalization. Key findings included:

1. Canadian companies identified more climate change risks with a direct short-term impact on their business.
2. Companies prioritized climate change on their corporate agenda finding value and profitability in emissions reduction initiatives and in appealing to customers.
3. Companies improved their transparency on climate change but lagged on disclosing targets and verifying emissions data.

The majority of respondents (77%) reported that they are integrating climate change into their overall business strategy.

CDP Supply Chain

www.cdproject.net/en-US/Programmes/Pages/CDP-Supply-Chain.aspx

Over 50 companies²⁶ are members of CDP Supply Chain. CDP Supply Chain is intended to help companies understand the impact of climate change across the supply chain. Through collective purchasing power, suppliers are encouraged to disclose climate change information, targets and progress.

²⁶ Companies include Bank of America, Dell, Domtar, Ford Motor Company, Johnson & Johnson, L'Oreal, Microsoft Corporation, National Grid, Nestle, Nokia-Siemens Networks, PepsiCo Inc., Phillips Electronic N.V., S.C. Johnson & Son Inc., Starwood Hotels & Resorts Worldwide, Inc, The Coca-Cola Company, Unilever, Vodafone Group and Wal-Mart Stores, Inc.

CDP Water Disclosure

www.cdproject.net/water

CDP Water Disclosure seeks information on the risks and opportunities companies face around water. In 2012, CDP acted on behalf of signatories from 470 institutional investors with assets of US\$50 trillion.

Many of the Canadian signatories to the Investor report were signatories of the CDP Water Disclosure report.

For the CDP Global Water Report, 191 companies responded out of the 318 FTSE Global 500 companies invited to respond. For the CDP US Water Report, 141 companies responded out of the 345 S&P 500 companies invited to respond. For both reports, CDP targeted those companies that operated in sectors that were water-intensive or exposed to water-related risks.

ADDITIONAL INFORMATION POSTED TO WEBSITES

Companies may disclose considerable information about environmental and social issues on their websites. As with other voluntary reporting, any material information disclosed on websites must be included in securities filings and/or press releases.

As stated in CSA Staff Notice 51-333:

“It is not sufficient for issuers to discuss material environmental matters required by securities legislation solely on their website, or in voluntary reports and responses to surveys.”

Initiatives to Watch

CORRUPTION OF FOREIGN PUBLIC OFFICIALS ACT (CFPOA)

www.laws-lois.justice.gc.ca/eng/acts/C-45.2/index.html

Under the CFPOA, which came into force in 1999, individuals and companies commit an offence if they

1. directly or indirectly, give, offer or agree to give or offer a loan, reward, advantage or benefit of any kind to a foreign public official (or to someone else for the benefit of the official), either as consideration for an act or omission on the part of the official in connection with the performance of his or her duties, or to induce the official to use his influence to affect any acts or decisions of his government or employer²⁷ or
2. knowingly possess or launder any property or proceeds of property derived from bribery.

In 2013, the federal government proposed significant amendments to the CFPOA to strengthen the legislation. A new books and records provision would make it an offence to conceal or fail to record bribery in company financial records. In addition, facilitation payments, small payments to lower level officials to expedite acts of a routine nature, would be illegal. The Act would have broader jurisdiction and would attract higher fines and jail terms.

Many companies who conduct business internationally now dedicate significant resources to establishing appropriate anti-corruption policies and procedures.

²⁷ Stikeman Elliott Corruption of Foreign Public Officials Act FAQ

EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE (EITI)

www.eiti.org

EITI is a coalition of governments, companies, civil society groups, investors and international organizations, including Barrick Gold, Teck, Caisse de dépôt et placement, BC Investment Management Corporation and CPP Investment Board from Canada. The EITI standard requires governments to disclose the revenues they receive from companies, and companies to disclose the payments they make to governments in an EITI Report. EITI assists companies and investors in mitigating political and reputational risks.

EXTRACTIVE RESOURCE REVENUE TRANSPARENCY WORKING GROUP

www.revenuewatch.org/news/background-qa-canadian-extractive-resource-revenue-transparency-working-group

In September 2012, Publish What You Pay Canada, the Mining Association of Canada, Prospectors and Developers Association of Canada and Revenue Watch, a UN non-governmental organization, announced the establishment of the Extractive Resource Revenue Transparency Working Group.

It is working to establish a framework for Canadian companies in the extractive industry to disclose payments made to governments where these Canadian companies operate.

The final framework containing recommendations for policymakers was delivered in June 2013. The federal government is expected to introduce legislation for mandatory reporting in early 2014.

GLOBAL INITIATIVE FOR SUSTAINABILITY RATINGS (GISR)

www.ratesustainability.org/about/

The GISR's mission is to create a global standard for sustainability ratings, rankings and indexes and an associated process for accreditation of ratings relative to the standard. Companies often receive requests and complete multiple questionnaires from various ratings organizations. This can create both questionnaire fatigue and inconsistent ratings outcomes.

In May 2013, the GISR issued its Beta Version of Standard and Accreditation Process Component 1 Principles – see www.ratesustainability.org/pdfs/GISR_Principles_Beta_Public_Consultation_050213_FINAL.pdf

INTERNATIONAL INTEGRATED REPORTING COUNCIL (IIRC)

www.theiirc.org

The IIRC is a group of international leaders from the corporate, investment, accounting, securities, regulatory, academic, standard-setting and civil society areas with a mission to create the Integrated Reporting framework (the Framework). The Framework will provide material information about an organization's strategy, governance, performance and prospects in a concise and comparable format, a fundamental shift in corporate reporting.

In September 2011, the IIRC issued a discussion paper:

Towards Integrated Reporting – Communicating Value in the 21st Century – www.theiirc.org/the-integrated-reporting-discussion-paper

The IIRC issued its Framework version 1.0 in December 2013 after reviewing comments received on its April 2013 Consultation Draft of the Framework.

The IIRC has over 80 companies worldwide, including Teck Resources and VanCity from Canada, participating as pilot companies to develop the Framework. The IIRC has published a Pilot Programme 2012 Yearbook – see www.theiirc.org/resources-2/other-publications/2012-yearbook

SUSTAINABILITY ACCOUNTING STANDARDS BOARD (SASB)

www.sasb.org

SASB, a non-profit US based organization, has a mission to create and disseminate accounting standards that reporting issuers can use to disclose material sustainability issues in filings with the Securities and Exchange Commission.

It intends to create standards for 89 industries in 10 sectors by the second quarter of 2015. Work began with identifying material ESG issues in the health care sector, the first sector selected. SASB issued for public comment the set of proposed sustainability accounting standards for the health care sector in March 2013.

For those looking for more information on materiality considerations, the SASB website offers information that you may find helpful.

SUSTAINABLE STOCK EXCHANGES INITIATIVE

www.sseinitiative.org

This initiative, organized by the UN Global Compact, the UN PRI, the UN Conference on Trade and Development (UNCTAD) and the UN Environment Programme Finance Initiative aims to explore “how exchanges can work together with investors, regulators, and companies to enhance corporate transparency, and ultimately performance, on ESG issues and encourage responsible long-term approaches to investment”.²⁸

To date, six exchanges, NASDAQ OMX, Johannesburg (JSE), Istanbul (ISE), Egyptian (EGX), Brazilian (BM&FBOVESPA), Bombay (BSE) and the Multi Commodity Exchange of India (MCX), have signed voluntary commitments to “promote long term sustainable investment and improved ESG disclosure and performance among companies listed on their exchanges”.

²⁸ www.sseinitiative.org/about/

Other Information Sources and Toolkits

CHARTERED PROFESSIONAL ACCOUNTANTS OF CANADA

www.cpacanada.ca/sustainability

The Chartered Professional Accountants of Canada has dedicated a webpage to sustainability. It provides information on relevant publications, research, links and events.

ESG REPORTING GUIDE FOR AUSTRALIAN COMPANIES (JUNE 2011)

www.acsi.org.au/images/stories/ACSIDocuments/esg_reporting_guide.pdf

This publication developed by investment managers and asset owners provides guidance on what ESG information companies should consider and disclose.

EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

www.eiti.org

EITI created a methodology, the EITI Standard, to increase transparency over payments to governments and government-related entities. The EITI Standard establishes the methodology under which EITI publishes all material oil, gas and mining payments by companies to governments and all material revenues received by governments from oil, gas and mining companies.

GOVERNMENT: INDUSTRY CANADA

www.ic.gc.ca/eic/site/csr-rse.nsf/eng/home

Industry Canada promotes CSR principles and practices to Canadian businesses. It offers a CSR toolkit with themes that include governance, decision-making, human resources, purchasing, and marketing. It also offers a sustainability roadmap for small and medium sized enterprises (SME) and has a practical SME sustainability toolkit that smaller and medium sized businesses may find helpful.

INDUSTRY ASSOCIATIONS

Some industry associations have voluntarily developed environmental and social principles, standards, performance measures and protocols for their members. As examples, the Mining Association of Canada developed Towards Responsible Mining²⁹, the Prospectors and Developers Association of Canada (PDAC) developed a framework for responsible exploration entitled e3 Plus³⁰, the Canadian Electricity Association developed its Sustainable Electricity program³¹, the Chemistry Industry Association of Canada offers its Responsible Care program³².

INTERNATIONAL INSTITUTE FOR SUSTAINABLE DEVELOPMENT (IISD)

www.iisd.org

The IISD, a Canadian based public policy research institute, offers a variety of publications that you may find useful.

²⁹ www.sseinitiative.org/about/

³⁰ www.pdac.ca/e3plus/English/misc/about.aspx

³¹ www.electricity.ca/industry-issues/sustainable-development.php

³² www.canadianchemistry.ca/ResponsibleCareHome.aspx

MINING ASSOCIATION OF CANADA TOWARDS SUSTAINABLE MINING

www.mining.ca/site/index.php/en/towards-sustainable-mining.html

In 2004, the Mining Association of Canada (MAC) launched the program Towards Sustainable Mining. This is a set of guiding principles and performance elements for companies in all sectors of the mining and mineral-processing industry who wish to maintain their social licenses to operate. Members of MAC must measure and report annually on their performance in six areas: tailings management, energy and greenhouse gas emissions management, Aboriginal and community outreach, crisis management planning, safety and health, and biodiversity conservation.

OFFICE OF THE EXTRACTIVE SECTOR CORPORATE SOCIAL RESPONSIBILITY COUNSELLOR

www.international.gc.ca/csr_counsellor-conseiller_rse/index.aspx?view=d

This office, established in 2011, provides both advisory and dispute resolution services on matters related to environmental and social issues between project-affected communities outside of Canada and Canadian mining, oil and gas companies.

PROSPECTORS AND DEVELOPERS ASSOCIATION OF CANADA (PDAC)

www.pdac.ca/e3plus/index.aspx

PDAC developed e3 Plus—A Framework for Responsible Exploration to help exploration companies continuously improve their social, environmental and health and safety performance and to comprehensively integrate these three aspects into all their exploration programs. It is a voluntary guideline designed to help inform explorers in their decision-making while

engaged in exploration projects around the world. The first phase of e3 Plus includes principles, guidance and three internet-based toolkits that cover the areas of social responsibility, environmental stewardship, and health and safety.³³

TRANSPARENCY INTERNATIONAL CANADA

www.transparency.ca

Transparency International Canada is an organization dedicated to promoting anti-corruption practices and transparency in Canada's governments, businesses and society at large. It aims to educate companies who are confronted with demands for bribes to secure contracts or otherwise conduct business.

Its website offers a helpful Anti-Corruption Compliance Checklist.

WORLD BUSINESS COUNCIL FOR SUSTAINABLE DEVELOPMENT (WBCSD)

www.wbcSD.org

The WBCSD, a CEO led organization of leading member companies, has a mission to create a sustainable future for business, society and the environment. Its Vision 2050: The new agenda for business report takes a "production-centric view on sustainable development".³⁴ It also has streams of work programs for a variety of topics. Suncor Energy is currently the only Canadian member.

WORLD RESOURCES INSTITUTE (WRI)

www.wri.org/publications

The World Resources Institute states its mission as "to move human society to live in ways that protect Earth's environment and its capacity to provide for the needs and aspirations of current and future generations"³⁵ Its website contains publications that you may find useful.

³³ www.pdac.ca/programs/e3-plus/about-e3-plus

³⁴ www.wbcSD.org/Pages/EDocument/EDocumentDetails.aspx?ID=13718&NoSearchContextKey=true

³⁵ www.wri.org/about/strategic-plan