Conference on Standardized Sustainability (CSR) Reporting (Jan. 2022): Virginia Harper Ho Proposal

The immediate problem to be solved is the lack of standardization of sustainability information that is material to investors so that sustainability (i.e. ESG) information can be integrated into investment decision-making. This problem is not due to a lack of reporting standards but to their voluntary nature. Climate risk and certain other related sustainability risks (i.e. biodiversity, resource consumption) that present broader systemic threats justify disclosure mandates for all large firms, not just listed firms. The ultimate problem of business unsustainability therefore requires broader policy solutions to which mandatory disclosure can contribute but which it cannot solve.

The challenge is not how to encourage voluntary corporate social responsibility (although disclosure is the sole enforcement mechanism for voluntary corporate and investor regimes like the Global Compact and the UNPRI). For voluntary (i.e. CSR) reporting, international standards convergence has been achieved by the Global Reporting Initiative (GRI) standards, which the largest companies globally adopt; these "double-materiality" standards are also compatible with the International Sustainability Standards Board (ISSB) draft climate and sustainability standards and with the TCFD framework. Any mandatory stakeholder-oriented sustainability disclosure should build on these frameworks but only if it is authorized and aligned with federal sustainability policies (see below).

Proposed Solution. Mandatory corporate disclosure of financially material sustainability information is essential for investor protection and market efficiency and must be standardized internationally. It should be interoperable with the TCFD framework for reporting climate-related financial risk and with the forthcoming International Sustainability Standards Board (ISSB) climate and sustainability standards. Therefore, mandatory disclosure of material sustainability information should also be required based on the widely adopted SASB standards (incorporated into the ISSB) and a new federal taxonomy to be developed that is minimally aligned on climate with existing taxonomies (see below). In brief, as I have previously recommended, m*andatory ESG disclosure for U.S. listed companies should include: (i) TCFD-based climate disclosure for all large firms (perhaps implemented by multiple agencies); (ii) prescriptive human capital and environmental disclosures; and (iii) supplemental SASB-based environmental and social (human capital) comply-or-explain disclosure.* These rules should be accompanied by a transitional private litigation moratorium and expanded regulatory waivers where disclosure may cause competitive harm.

A federal climate action plan authorizing but going beyond disclosure reform is necessary to achieve the proposed standardized reporting solution and extend it to large private firms, at least for climate-related risk. A federal taxonomy is also needed to standardized corporate sustainability disclosure for investment products and activities. This definition, like the EU green taxonomy, should exclude activities that significantly harm federally identified sustainability goals (e.g. increasing GHG emissions). In addition, corporate behavioral change to achieve climate mitigation and adaptation, either to reduce systemic risk or to make business sustainable, is profit-sacrificing under present market conditions. It therefore represents a market failure requiring regulatory intervention that could include corporate disclosure; a broader (i.e. double materiality) use of disclosure should be bounded by and aligned with federal climate policy. Achieving these goals requires Congressional action, whether to eliminate regulatory silos and establish a sustainable finance regulatory framework; to ensure that all large firms operating in the U.S. (not just listed firms) have the same transparency (disclosure) and/or environmental protection (operational) obligations; to direct agency co-regulation toward climate mitigation and adaptation; and to give states incentives to encourage SME growth toward the same goals; or all the above (see Appendix).