Action Required:

Sustainability and ESG-Related Regulations Are on the Rise Globally

BDO

Conversations surrounding sustainability continue to grow, and governments around the globe are increasingly weighing in by issuing regulations, guidance and incentives. As legislation related to sustainability and ESG — or environmental, social and governance — gains prominence, organizations worldwide need to closely monitor potential impacts on their strategies, operations, reporting, access to capital and more.

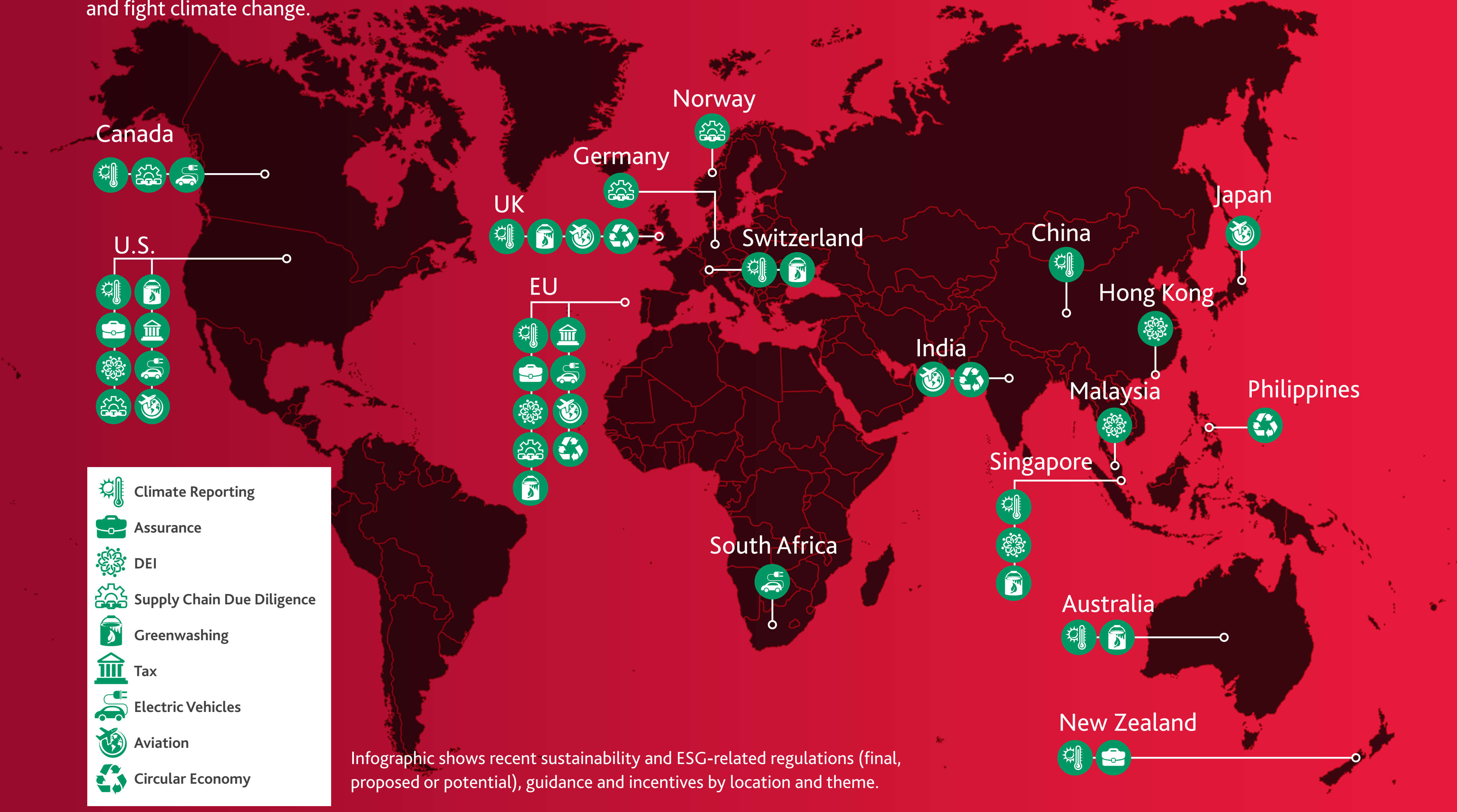
To help guide planning, we've highlighted key topics under focus from regulators worldwide and what those developments could mean for business. No matter where your organization is located, the global reach of operations, supply chains and financial markets means that taking ESG-related action may soon be required.

2022-2023 Key Sustainability and ESG Regulatory Themes

- Climate Disclosure
- Assurance
- Diversity, Equity and Inclusion
- Supply Chain Due Diligence
- Greenwashing
- Tax
- Electric Vehicles
- Aviation
- Circular Economy

2022-2023 Global Regulatory Movers

Climate change is the catalyst for many ESG-related actions undertaken by regulators, policymakers and international standards developers around the globe. These important actions are driven by the economic impacts of climate change, demand for more transparency, increased expectations for corporate accountability and climate-related risk management, and the ambitious targets set by countries to reduce emissions and fight climate change.



Infographic shows recent sustainability and ESG-related regulations (final, proposed or potential), guidance and incentives by location and theme.

Climate Disclosure

WHAT'S TRENDING: Mandatory climate disclosures is a prominent topic for regulators worldwide. The demand for mandatory climate disclosures is requiring organizations to share specific climate-related information such as greenhouse gas (GHG) emissions with their stakeholders.

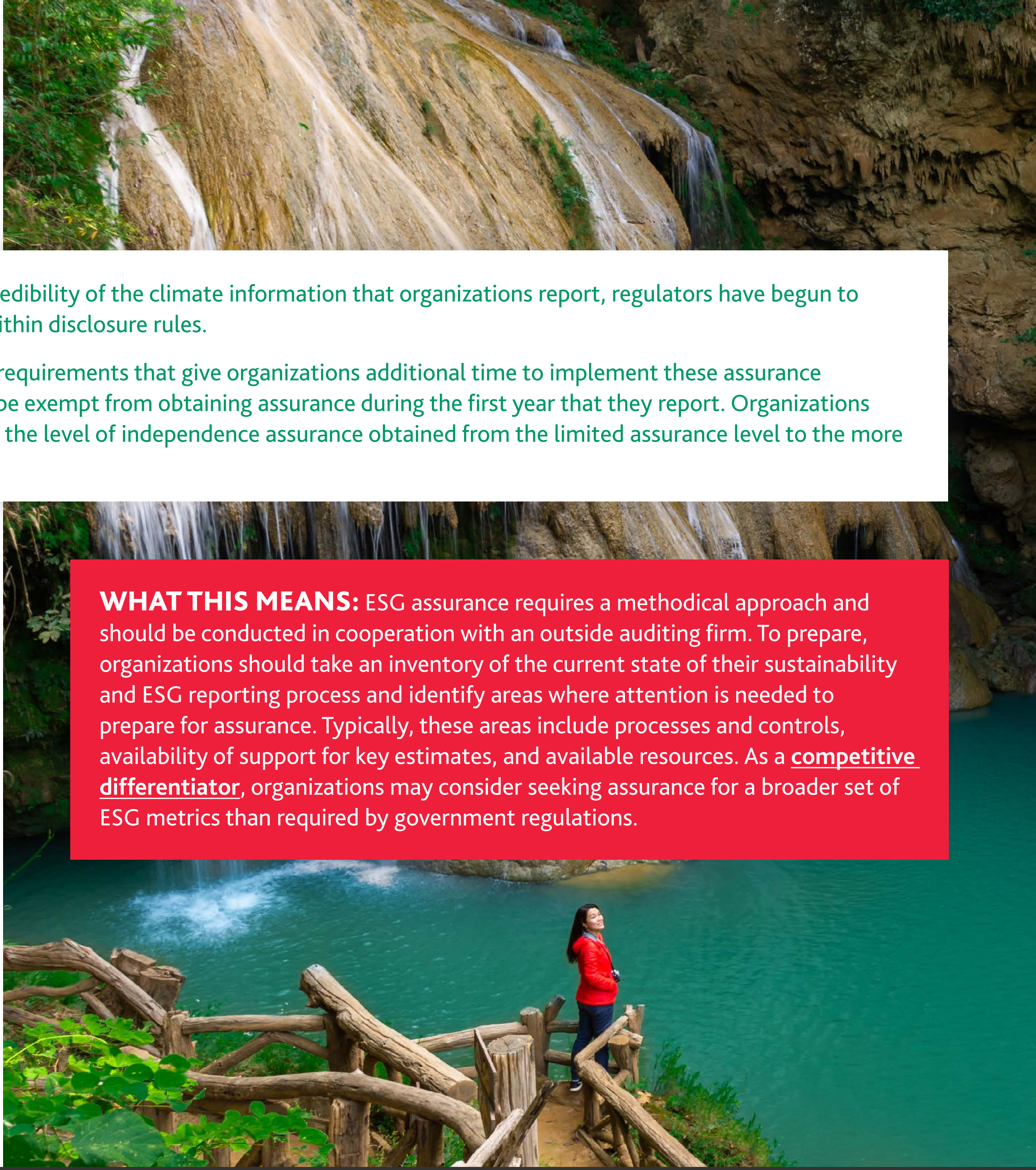
Many jurisdictions' disclosure requirements are closely aligned with the Task Force on Climate-Related Financial Disclosures (TCFD), a voluntary framework that since its introduction in 2017 has become the de facto standard for climate-related reporting. TCFD recommends organizations make climate-related financial disclosures in four core areas: governance, strategy, risk management, and metrics and targets.

NEW RULES: Since the beginning of 2022, climate reporting rules have gone into effect in Singapore, China, the United Kingdom and New Zealand, among other jurisdictions. The EU adopted the **Corporate Sustainability Reporting Directive (CSRD)**, a large-scale ESG disclosure law that will require organizations that meet specified criteria to submit detailed climate disclosures. The Swiss Federal Council also adopted climate reporting rules that will go into effect in 2024.

PROPOSED RULES: Also during 2022, the United States Securities and Exchange Commission (SEC) proposed **climate reporting requirements**, Canada announced it was revisiting its proposed climate reporting rules, and Australia launched a consultation on what its climate reporting rules could look like.

WHAT THIS MEANS: Organizations need to closely monitor climate disclosure requirements and assess their ESG strategy and program development to determine gaps that that will impede their compliance with the new rules. This engagement is necessary not only to ensure that reporting processes support the disclosure requirements, but also to understand current and future climate-related impact on their business.

Assurance



WHAT'S TRENDING: To strengthen the credibility of the climate information that organizations report, regulators have begun to include independent assurance requirements within disclosure rules.

Regulations often include phased-in assurance requirements that give organizations additional time to implement these assurance requirements. For example, organizations may be exempt from obtaining assurance during the first year that they report. Organizations will also likely have additional time to heighten the level of independence assurance obtained from the limited assurance level to the more extensive reasonable assurance level.

NEW RULES: The EU's CSRD introduces a gradual approach from limited assurance requirements for sustainability reporting by 2026 to reasonable levels of assurance by 2028.

New Zealand's climate law will require organizations to obtain limited assurance of their Scope 1, 2 and 3 GHG emissions and GHG accounting processes beginning in 2024.

PROPOSED RULES: The proposed SEC climate rules would require certain public companies to obtain limited assurance of their Scope 1 and 2 emissions data as early as 2024 and reasonable assurance beginning in 2026.

WHAT THIS MEANS: ESG assurance requires a methodical approach and should be conducted in cooperation with an outside auditing firm. To prepare, organizations should take an inventory of the current state of their sustainability and ESG reporting process and identify areas where attention is needed to prepare for assurance. Typically, these areas include processes and controls, availability of support for key estimates, and available resources. As a **competitive differentiator**, organizations may consider seeking assurance for a broader set of ESG metrics than required by government regulations.

Diversity, Equity and Inclusion

WHAT'S TRENDING: Diversity, equity and inclusion (DEI) is critical to a sustainable future, and many recent regulations focus on gender equity. The economic case for gender equity is well established—a McKinsey Global Institute study found workplace gender equity could add $28 trillion to the global economy by 2025.

NEW RULES: The EU recently adopted rules related to gender diversity. One requires listed companies to report on the gender composition of their board of directors and to achieve quotas for the underrepresented gender. The other requires many companies to report gender pay gaps. The EU CSRD will also require companies to report on diversity topics such as gender equality.

In Malaysia, recent rules require listed companies to have at least one female director. The Hong Kong Stock Exchange set gender diversity disclosure rules and will prohibit single-gender boards. Board diversity rules went into effect in Singapore last year. In the U.S., the NASDAQ requires companies listed on its exchange to disclose board-level diversity information and to either have at least two diverse directors or explain why they do not.

POTENTIAL RULES: The SEC is considering enhancing broader human capital management disclosures and is expected to propose an additional rule to enhance corporate board diversity disclosures.

WHAT THIS MEANS: To create more diverse and inclusive work environments, organizations must be willing to acknowledge existing gaps and commit to improvements. Action may involve setting organization-wide DEI goals and communicating progress. Organizations must also assess candidate attraction and selection processes and foster safe spaces for employees to excel. Executive support, in-house DEI teams, inclusion groups and mentorship programs are also important factors.

Supply Chain Due Diligence

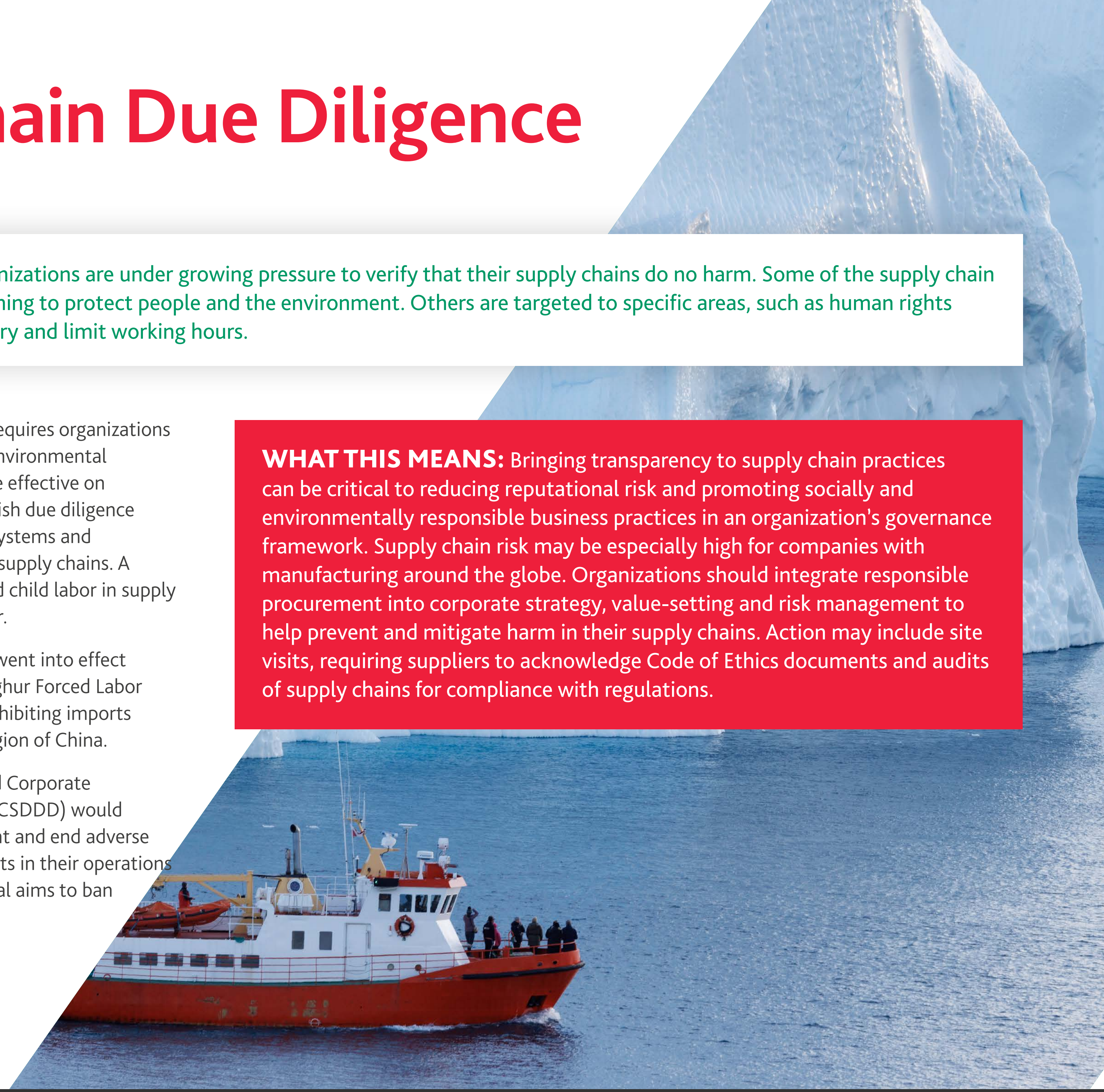
WHAT'S TRENDING: Organizations are under growing pressure to verify that their supply chains do no harm. Some of the supply chain due diligence laws are broad, aiming to protect people and the environment. Others are targeted to specific areas, such as human rights protections to end modern slavery and limit working hours.

NEW RULES: In Germany, a rule that requires organizations to prevent and end human rights and environmental violations in their supply chains became effective on Jan. 1, 2023. Organizations must establish due diligence procedures, such as risk management systems and complaints processes throughout their supply chains. A Canadian law targeting forced labor and child labor in supply chains begins to go into effect next year.

A human rights due diligence rule also went into effect in Norway last year. In the U.S., the Uyghur Forced Labor Prevention Act was signed into law, prohibiting imports made by forced labor in the Xinjiang region of China.

PROPOSED RULES: The EU's proposed Corporate Sustainability Due Diligence Directive (CSDDD) would require organizations to identify, prevent and end adverse human rights and environmental impacts in their operations and value chains. A separate EU proposal aims to ban products made with forced labor.

WHAT THIS MEANS: Bringing transparency to supply chain practices can be critical to reducing reputational risk and promoting socially and environmentally responsible business practices in an organization's governance framework. Supply chain risk may be especially high for companies with manufacturing around the globe. Organizations should integrate responsible procurement into corporate strategy, value-setting and risk management to help prevent and mitigate harm in their supply chains. Action may include site visits, requiring suppliers to acknowledge Code of Ethics documents and audits of supply chains for compliance with regulations.



Greenwashing

WHAT'S TRENDING: Concerns about greenwashing—creating the perception that an activity, product, brand or investment is more sustainable than it is—have risen in step with pressures to communicate ESG practices and operate sustainably.

Jurisdictions around the world are combatting greenwashing with disclosure legislation that requires organizations to report more consistent, transparent and comparable ESG information. Regulators are also targeting greenwashing with rules focused on misleading labeling and naming.

NEW RULES: Investment funds are the focus of much of the targeted greenwashing legislation from regulators around the globe. Singapore set disclosure and reporting guidelines for ESG funds that went into effect Jan. 1, 2023. Australian regulators issued an information sheet providing detailed guidance to managed funds on how to avoid greenwashing when offering or promoting sustainability-related products. In the U.S., the SEC expanded the requirements of the Names Rule. Now funds with labels that suggest investments incorporate ESG factors — such as ‘green’ or ‘sustainable’ — will be required to invest at least 80% of assets in accordance with such characteristics.

PROPOSED RULES: The EU, Switzerland, the U.K. and the U.S. have all issued proposals to prevent greenwashing of the sustainability attributes of financial products and services. An SEC proposal would require many fund managers and advisors to disclose more specific information about their ESG investment strategies.

The EU also proposed amendments to a consumer protection rule that would help fight greenwashing. The proposal would add the environmental and social impact of a product, as well as its durability and reparability, to the list of characteristics that a seller specifically cannot misrepresent. It would also prohibit additional misleading communications such as displaying a sustainability label that is not backed by the government or third-party verification.

WHAT THIS MEANS: Organizations should establish internal controls for ESG data and reporting to ensure that they avoid misleading or deceptive practices and can stand behind their disclosures. These internal control systems, policies and processes should cover the full cycle of ESG data management, accumulation, evaluation and reporting. Third-party assurance may also be a necessary safeguard.

Tax

WHAT'S TRENDING: Government use of tax incentives to promote sustainable activity, and opportunities for organizations to participate in these programs, is widespread. Tax credits have long helped to drive renewable energy projects and to support quality of life in communities through affordable housing and economic development. We expect tax law's integral connection to sustainability and ESG will only continue to grow.

NEW RULES: The Inflation Reduction Act (IRA) is a recent U.S. example. Last year's climate legislation extends, enhances and introduces many energy transition-related tax credits. It also introduces new monetization options in the form of direct pay and transferability to make clean energy and emissions reduction projects economically attractive to more organizations.

The EU adopted a carbon tax on imported iron, steel, cement, fertilizers, aluminum, electricity and hydrogen. The EU Carbon Border Adjustment Mechanism requires companies that import these goods to buy certificates to cover embedded CO_2 emissions.

PROPOSED RULES: The EU proposed a plan that would use tax benefits and other incentives to accelerate technology and products to help Europe achieve its net zero ambition.

WHAT THIS MEANS: Tax has a critical — but often underutilized — role to play in developing an organization's ESG strategy. Increased demand from shareholders and other stakeholders for total tax transparency from organizations has made it critical for organizations to ensure their tax and ESG strategies align. Creating an ESG-driven tax strategy will improve decision-making, build stakeholder trust, manage risk, and create increased transparency and accountability. An aligned ESG tax strategy will also help capitalize on ESG opportunities and mitigate liabilities. Due to the variety of sustainability credits and incentives available and frequent change in regulations and program requirements, organizations may discover the most value by enlisting the assistance of credentialed tax professionals.

Electric Vehicles

WHAT'S TRENDING: Cars and vans were responsible for approximately 10% of energy-related CO2 emissions worldwide in 2022, according to the International Energy Agency (IEA). In many jurisdictions, the focus on reducing vehicle emissions supports efforts to achieve CO2 reduction targets under the Paris Agreement and to respond to the urgent need for action to fight climate change. As part of these plans, policymakers are using mandates and incentives to facilitate electric vehicle adoption.

NEW RULES: Electric vehicle incentives continued in the U.S., notably at the federal level through the IRA. Among its incentives, the IRA includes tax credits to promote consumer and commercial adoption of clean vehicles and for electric charging stations and alternative refueling infrastructure in low-income and rural areas.

Many state and local governments and utility providers across the U.S. offer a wide variety of incentive opportunities, such as cash grants, rebates, or tax credits, to encourage businesses and consumers to invest in electric or hybrid cars and EV infrastructure.

For example, in California, the recently launched second phase of the Golden State Priority Project provides companies with an opportunity to offset up to $100,000 of the cost for purchasing and installing eligible direct current fast chargers. Last summer California also adopted additional rules that require all new passenger vehicles sold in the state to be zero emissions by 2035.

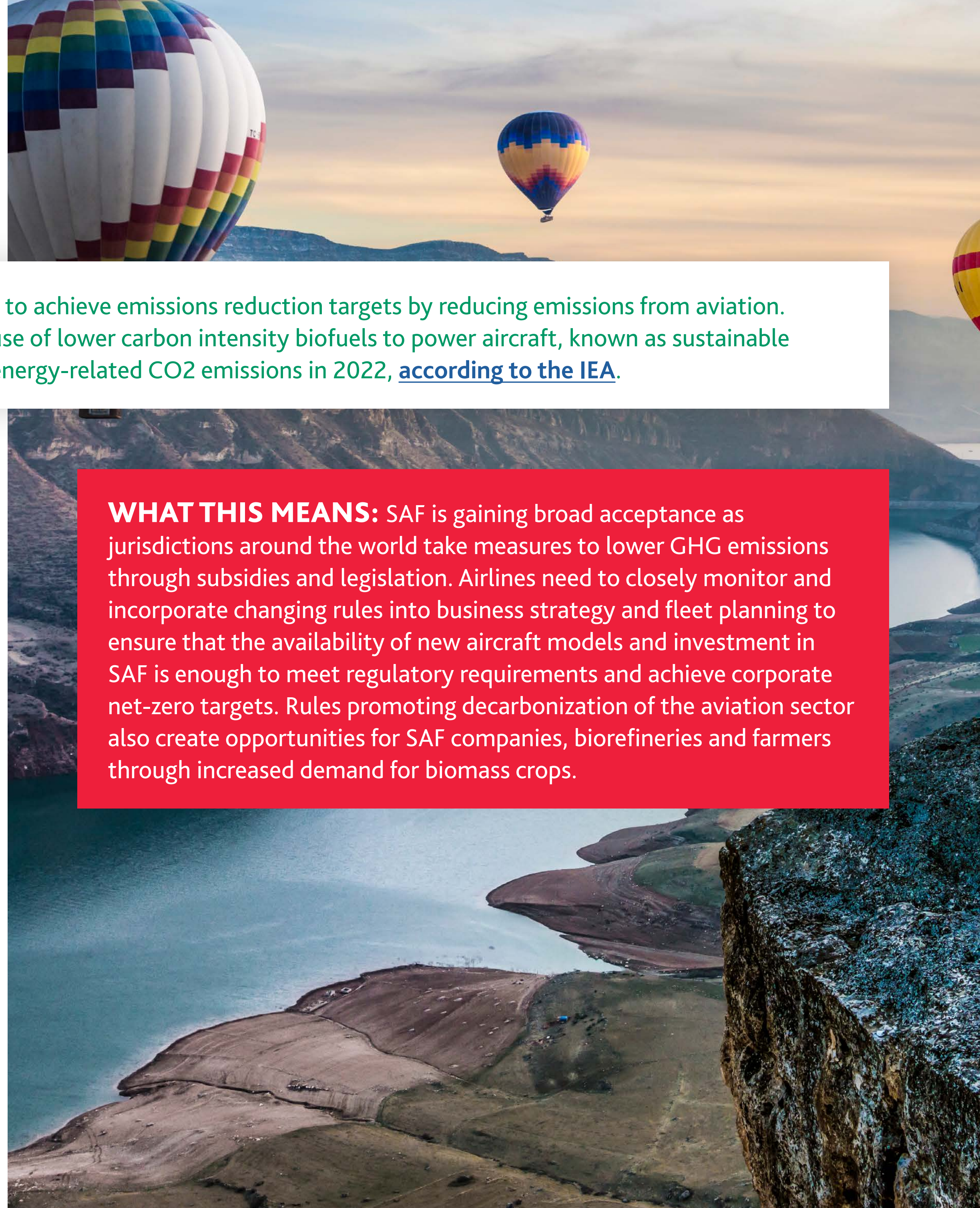
South Africa adopted an $8.5 billion energy transition package that includes electric vehicle market development. The EU adopted a regulation that requires all new cars and vans sold to be zero CO2 emissions by 2035.

PROPOSED RULES: Canada proposed regulations that would require all new passenger cars, SUVs and pickup trucks to be zero emissions by 2035.

WHAT THIS MEANS: The auto industry must analyze costs, tax incentives and operational capacity to maximize return on investment in their transition to the production and sale of electric vehicles. To address uncertainties, organizations should develop business strategies, shift their operating models and prioritize opportunities to create a roadmap to guide transition. Advisors can help provide reliable, data-driven insights to take advantage of emerging trends and set a strategic course forward. Advisors can also help organizations across industries identify incentive programs for electric vehicles and charging infrastructure and apply for those programs.

Aviation

WHAT'S TRENDING: Governments are also seeking to achieve emissions reduction targets by reducing emissions from aviation. Regulators are pushing for more efficient planes and for use of lower carbon intensity biofuels to power aircraft, known as sustainable aviation fuel (SAF). Aviation accounted for 2% of global energy-related CO_2 emissions in 2022, according to the IEA.



NEW RULES: IRA incentives include grants to accelerate SAF projects and technologies, and a tax credit for SAF produced, blended and used in the U.S. that reduces GHG emissions at least 50% compared to traditional aviation fuels. The U.S. also launched the Sustainable Aviation Fuel Grand Challenge to spur innovation in development of SAF. The EU revised emissions trading rules for aviation that increase the industry's responsibility to pay for its carbon footprint and increase SAF. The EU revised emissions trading rules for aviation that increase the industry's responsibility to pay for its carbon footprint and increase SAF. The EU also adopted a regulation that defines which fuels can be considered to be SAF and sets blending requirements.

PROPOSED RULES: The U.S. Federal Aviation Administration proposed rules to require new commercial and other types of aircraft to meet higher fuel efficiency standards. A proposal to decarbonize Japan's aviation industry includes SAF use.

WHAT THIS MEANS: SAF is gaining broad acceptance as jurisdictions around the world take measures to lower GHG emissions through subsidies and legislation. Airlines need to closely monitor and incorporate changing rules into business strategy and fleet planning to ensure that the availability of new aircraft models and investment in SAF is enough to meet regulatory requirements and achieve corporate net-zero targets. Rules promoting decarbonization of the aviation sector also create opportunities for SAF companies, biorefineries and farmers through increased demand for biomass crops.

Circular Economy

WHAT'S TRENDING: Regulators continue to introduce rules that aim to reduce waste and promote reuse, both important components of a circular economy. Many of these initiatives focus on plastics and packaging and take the form of bans, recycling requirements and extended producer responsibility (EPR) obligations. EPR rules tax companies for the waste they produce and may use the funds to build recycling infrastructure.

NEW RULES: In 2022, California adopted the Plastic Pollution Prevention and Packaging Producer Responsibility Act. The law requires all single-use packaging and plastic single-use food service ware to be recyclable or compostable by 2032. It also establishes the California Plastic Pollution Mitigation Fund and mandates future funding requirements be implemented for producers. Last year Colorado also adopted EPR legislation that covers packaging materials and paper products.

In the last year, EPR rules for plastics producers went into effect in the Philippines; India published guidelines on EPR for plastic packaging; and a plastic packaging tax and a separate EPR for packaging waste went into effect in the U.K.

PROPOSED RULES: As part of its Circular Economy Action Plan, the EU proposed revisions to its Packaging and Packaging Waste law that would require all packaging to be recyclable by 2030 and would put in place targets for minimum recycled content in plastic packaging that increase over time. Among other requirements, the proposal would set mandatory rates of recycled content in new plastic packaging and would establish additional EPR requirements.

WHAT THIS MEANS: The shift to a circular economy can make a significant contribution toward preserving the environment and mitigating the effects of climate change. The market for reusable and recyclable packaging and products will continue to increase. Manufacturers, retailers and consumer products businesses will need to implement processes to avoid waste and keep materials in use for longer periods, adjust operations to capitalize on new opportunities, and ensure they comply with new laws and EPR fees where they sell and supply products.

Global regulatory action on sustainability and ESG is unlikely to slow anytime soon. It is imperative that organizations stay informed of these rapid changes in order to remain compliant and unlock opportunities to build a more sustainable future. BDO's ESG Center of Excellence will continue to monitor regulatory changes and share updates to help organizations navigate impact.

BDO's **ESG Center of Excellence** offers ESG **strategy and program development**, **assurance**, **tax** and **community resilience** services to help unlock ESG opportunity and mitigate risk. Contact us to learn more.

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