



Considering the best interests of investors who want to align their portfolios with the Sustainable Development needs and might be interested in assess Chinese corporations, we suggest that the new ESG disclosure regulations issued by the China Securities Regulatory Commission include the following topics:

### **1) Location of operations:**

When considering environmental risks and impacts, information on the location of operational activities (of course this concept excludes offices and stores) is essential to understand the magnitude of the corporations' activities risks. The operations might be close to biodiversity hotspots, environmentally protected areas, tribal people or other vulnerable communities, areas subject to water scarcity, to climate physical risks and so on. So, the most essential information to be required is geo-referenced information on the companies environmentally-relevant operations – an information that could not be simpler to disclose.

### **2) Value-chain information:**

On many industries, such as food and beverages, pulp and paper (both with very high deforestation risks), metals manufacturing, the most relevant environmental risks and impacts come from the supply-chain, not from the company itself. Hence, it's essential to require that companies disclose how they manage supply-chain risks, or even customer risks, as in the case of traders that sell agriculture inputs to soy producers, such as Bunge and others. For the same reasons described above, geo-referenced information on the value-chain should be provided as much as possible.

### **3) Compliance information:**

The draft of the regulation requires the disclosure of administrative penalties applied to the corporation. However, with respect to **compliance information**, beyond the number and values of fines (or non-monetary penalties) for non-compliance with environmental regulations, it is necessary to disclose (as required, for example, in the newly issued Indian regulation), a brief description of the violation. Also, it's necessary to know the current state of pending investigations (there might be appeals or technical studies under developemnt) – and not only for environmental matters but any regulatory issues in which the company might be involved.



It's also essential to require, as done by the Indian regulator, the disclosure of lawsuits or other administrative procedures, not only the ones pending on regulatory agencies and the values involved as well. The corrective actions taken should also be disclosed (as required in India). The USA regulation (2010) gives clear guidance on environmental litigation cases that shall be considered material to the companies' business and therefore disclosed.

#### 4) Governance and integration into business strategy

In terms of environmental and social policies, investors might also be interested in:

- governance structure and responsibilities at Board level;
- impacts in the business strategy, if any;
- policies and procedures, extension or not to **value chain partners** (existence of independent assessment, topics covered by the policy);
- goals and targets and respective performance;
- certifications.
- sustainable sourcing criteria;
- CapEx investments, research and development on technologies to improve the environmental and social impacts of products and processes;
- grievance mechanisms: the Indian regulation (2021), for example, requires disclosures on **grievance mechanism**, including the topics of the complaints, the category of the stakeholder who complained, the number of complaints filed and the number of complaints pending resolution in the current and previous years.

#### 5) Data on production and environmental KPIs

Beyond compliance with environmental regulations and initiatives/investments in improving environmental performance, investors need objective data to assess the **environmental efficiency** of the companies in terms of use of energy, water and materials, waste management, air emissions, effluents emissions and management of hazardous materials – many of these data have direct financial impacts, hence their relevance.

So, first of all, corporations must be required to disclose data on their production – units produced, not only turnover. With this information, investors will also want to assess:

- energy (electricity and fuels) mix (percentage of coal produced, oil produced, water produced, solar, wind, biomass);
- GHG emissions (scopes 1, 2 and 3);
- energy use (which will lead to energy efficiency when compared to production);



- water use (which will lead to water efficiency when compared to production);
- percentage of water reused or recycled;
- percentage of renewable materials among raw materials;
- percentage of recycling and reuse of solid waste;
- destination of solid waste (amount destined to incineration, landfills and compostage);
- existence of life-cycle assessment and initiatives on final disposal of products (collected from end-consumers), including package;
- types and quantities of air pollutant emissions;
- types and quantities of water discharges and data on treatment;
- impacts on soil (if any);
- impacts on biodiversity (if any);
- environmental criteria adopted in the value-chain (suppliers and customers).

The German regulator (Environmental Ministry) provides specific guidance of environmental industry-specific KPIs <sup>1</sup>, which might be useful for the Chinese guidance as well.

## 6) Social Key-Performance Indicators

Social KPIs involve employees, community and consumers issues, as well as tax honesty and anti-corruption and bribery policies and data.

At least two topics are addressed in ESG disclosures regulations with regards to employees: **gender diversity** and **occupational health and safety**.

With regards to gender, the percentage of gender diversity in the whole workforce is the most common indicator, but gender diversity in the Boards and management is also very common and the most relevant. The gender diversity on trainings and the gender pay gap (this last one required in the UK) are other very relevant indicators.

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<sup>1</sup> Ministry of Environment, Industry-specific KPIs for ESG disclosure, 2016: [https://www.sd-m.de/files/SD-KPI\\_Standard\\_2016-2021.pdf](https://www.sd-m.de/files/SD-KPI_Standard_2016-2021.pdf)



Concerning occupational health and safety, at least the percentage of labor accidents (injuries and fatalities) and diseases in the previous year might be required.

In terms of supply-chain management, child labor and forced labor are the two most relevant KPIs, together with occupational health and safety.

Ideally, many other social KPIs might be recommended, as more transparency is a factor that attracts investors. The list below indicates topics and capital markets regulations that require them:

- **number of employees that have been injured and later rehabilitated in suitable employment or whose family members have been placed in suitable employment in case of fatalities or impossibility of rehabilitation;** assessment of work health and safety conditions of suppliers employees (voluntary indicators - India);
- remuneration system (EU, Argentina); average wages at Board, managerial and other employees level (India);
- number of employees and average wages (Vietnam), minimum wages (India); types of benefits (Philippines, India);
- **policies for disabled employees and accessibility of workplaces** (India);
- programs for continued employability in case of termination (India – voluntary disclosure);
- retention rates of employees that took parental leave (India);
- training (EU, Vietnam, Philippines, Peru);
- employees turnover (Philippines, India; Chile requires information on the time employees have been in the job);
- **labor-management relations** (EU mentions consultations/participatory processes; Philippines refers the number of consultations conducted with employees concerning employee-related policies; Indian regulator mentions grievance mechanism and numbers of complaints related to working conditions, health and safety, as well as the numbers of complaints pending resolution; Peruvian mentions the workplace climate);
- social criteria in the selection of suppliers (Peru);
- forced labor (in the supply-chain – Philippines; number of complaints filed and pending resolution – India, who also includes as a voluntary indicator for supply-chain and for actions taken or underway as a result);
- child labor (in the supply-chain - Philippines; number of complaints filed and pending resolution – India, who also includes the topic as a voluntary indicator for supply-chain and for actions taken or underway as a result);
- **consumer relations** (EU regulation mentions impacts on vulnerable consumers, responsible marketing and research; Philippines' regulation mentions health and safety, marketing and labeling and customer privacy, requiring disclosure on number of complaints received and addressed on each and on existence of customer satisfaction study, as well as number of data breaches; the Indian regulator requires information on extended producer responsibility, if applicable to the company's products, grievance



mechanisms in place, number of consumer complaints filed and pending resolution on data privacy, advertising, cyber-security, delivery of essential services, restrictive trade practices, unfair trade practices, others, as well as corrective actions undertaken as a result; number of product recalls due to safety issues, existence of policy on cyber security and data privacy; as voluntary indicators, the Indian regulator includes consumer education initiatives, number of incidents of data breaches, surveys on consumer satisfaction, practices on information regarding the products and services of the corporation; Peruvian regulation mentions policy and governance on consumer relations, as well as grievance mechanisms);

- community relations and **impacts on local development** (EU, Vietnam, Philippines, Peru mentions community conflicts);

- **social impact assessments of projects undertaken** by the corporation (India); as a voluntary indicator, the Indian regulator also mentions: actions undertaken to address negative impacts; CSR projects (and number of people benefitted, vulnerable and marginalized groups that they are part of); any procurement policies addressed at marginalized/vulnerable groups (disclosing percentage of total procurement and which are the groups addressed); any benefit share from intellectual properties derived from traditional knowledge and any disputes related to the topic; the Peruvian regulator also mentions values spent on CSR projects (percentage of turnover);

- any projects for which ongoing rehabilitation and resettlement of people is being undertaken (India);

- percentage of input materials (by value) sourced by suppliers, separately per SMEs and per local area or neighbor areas (India);

- human rights (including grievance system in place – UK law also includes the topic; Indian regulator requires disclosure of the number of employees who had trainings on the topic, existence of a focal point to address human rights issues, grievance system in place and number of complaints filed and pending resolution);

- stakeholder engagement (the Indian regulator requires stakeholders mapping and frequency of engagement and, in a voluntary basis, disclosure of the processes for consultation and actions taken to address stakeholders concerns);

- **anti-corruption and bribery** (EU mentions criteria and actions taken to prevent or mitigate; Philippines mentions trainings on the topic and number of incidents where Directors were removed or disciplined, employees were dismissed or disciplined and contracts with business partners were terminated; UK law also mentions the topic; Indian regulation requires disclosure of the number of disciplinary actions on the topic, and also conflicts of interests of Directors and managers, and also any corrective actions taken by public bodies; as voluntary indicators, it mentions the awareness programmes held by the company and the processes in place to avoid/manage conflicts of interest);

- conflict minerals from conflict-affected and high-risk areas (EU);

- affiliations to business associations and the specific reach (national/State) of each one (India);



- any issues related to anti-competitive conduct of the entity, raised by regulatory authorities (India);
- any public policy positions advocated by the corporation (voluntary indicator included in the Indian regulation).

### **References – capital market regulations in English with ESG disclosures requirements:**

- **Australia**

- Australian Securities and Investments Commission (ASIC), Regulatory Guide 247 (March 2013), p. 19:

An OFR (Operational and Financial Review – their annual report) should include a discussion of environmental and other sustainability risks where those risks could affect the entity's achievement of its *financial* performance or outcomes disclosed, taking into account the nature and business of the entity and its business strategy.

<https://asic.gov.au/media/1247147/rg247.pdf>

- Workplace Gender Equality Act, 2012:

[http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol\\_act/wgea2012265/](http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/wgea2012265/)

"Relevant employers" (private companies with more than 100 employees) shall report on gender equality indicators.

**"gender equality indicators" means the following:**

- (a) *gender composition of the workforce;*
- (b) *gender composition of governing bodies of [relevant employers](#);*
- (c) *equal remuneration between women and men;*
- (d) *availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities;*
- (e) *consultation with employees on issues concerning gender equality in the workplace;*
- (f) *any other matters specified in an instrument under [subsection](#) (1A)."*

- **Canada**

#### **Canadian Securities Administrators (CSA):**

- CSA Staff Notice 51-333: Environmental Reporting Guidance (2010):

[https://www.osc.ca/sites/default/files/pdfs/irps/csa\\_20101027\\_51-333\\_environmental-reporting.pdf](https://www.osc.ca/sites/default/files/pdfs/irps/csa_20101027_51-333_environmental-reporting.pdf)

- CSA Staff Notice 51-358: Reporting of Climate change-related Risks (2019):



[https://www.osc.ca/sites/default/files/pdfs/irps/csa\\_20190801\\_51-358\\_reporting-of-climate-change-related-risks.pdf](https://www.osc.ca/sites/default/files/pdfs/irps/csa_20190801_51-358_reporting-of-climate-change-related-risks.pdf)

- Ontario Securities Commission, National Instrument (NI) 51-102 – Continuous Disclosure Obligations, Annual Information Form

[https://www.bcsc.bc.ca/-/media/PWS/Resources/Securities\\_Law/Policies/Policy5/51102F2-F-June-30-2015pdf.pdf](https://www.bcsc.bc.ca/-/media/PWS/Resources/Securities_Law/Policies/Policy5/51102F2-F-June-30-2015pdf.pdf)

(unofficial consolidation – updated only until June 2015, see page 10)

- Business Corporations Act, Part XIV.1

<https://laws-lois.justice.gc.ca/eng/acts/c-44/page-29.html#h-1215060>

### **Disclosure Relating to Diversity**

#### **Diversity in corporations**

- **172.1 (1)** *The directors of a prescribed corporation shall place before the shareholders, at every annual meeting, the prescribed information respecting diversity among the directors and among the members of senior management as defined by regulation.*
- **Information to shareholders and Director**  
*(2) The corporation shall provide the information referred to in subsection (1) to each shareholder, except to a shareholder who has informed the corporation in writing that they do not want to receive that information, by sending the information along with the notice referred to in subsection 135(1) or by making the information available along with a proxy circular referred to in subsection 150(1).*
- **Information to Director**  
*(3) The corporation shall concurrently send the information referred to in subsection (1) to the Director.*

- AMF Quebec, Notice relating to modern slavery disclosure requirements (2018):

[https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-amf/2018/2018sept04-avis\\_esclavage\\_moderne-en.pdf](https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-amf/2018/2018sept04-avis_esclavage_moderne-en.pdf)

- **European Union**

- Directive 2014/95 – Non-financial Disclosure Reporting:



<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095>

- Communication from the European Commission 2017/C 215/01 – Guidelines on non-financial reporting (methodology for reporting non-financial information)

[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0705\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0705(01)&from=EN)

[https://ec.europa.eu/info/publications/non-financial-reporting-guidelines\\_en](https://ec.europa.eu/info/publications/non-financial-reporting-guidelines_en)

- European Commission, Guidelines on reporting climate-related information (2019):

[https://ec.europa.eu/finance/docs/policy/190618-climate-related-information-reporting-guidelines\\_en.pdf](https://ec.europa.eu/finance/docs/policy/190618-climate-related-information-reporting-guidelines_en.pdf)

- **Germany**

- German Council for Sustainable Development, German Sustainability Code (ESG disclosure by corporations), 2017:

<https://www.nachhaltigkeitsrat.de/en/projects/the-sustainability-code/?cn-reloaded=1>

- Ministry of Environment, Industry-specific KPIs for ESG disclosure, 2016:

[https://www.sd-m.de/files/SD-KPI\\_Standard\\_2016-2021.pdf](https://www.sd-m.de/files/SD-KPI_Standard_2016-2021.pdf)

- **India**

- Securities and Exchange Board of India (SEBI), Circular 562/2021, Business responsibility and sustainability reporting by listed companies:

[https://www.sebi.gov.in/legal/circulars/may-2021/business-responsibility-and-sustainability-reporting-by-listed-entities\\_50096.html](https://www.sebi.gov.in/legal/circulars/may-2021/business-responsibility-and-sustainability-reporting-by-listed-entities_50096.html)

[https://www.sebi.gov.in/sebi\\_data/commondocs/may-2021/Business%20responsibility%20and%20sustainability%20reporting%20by%20listed%20entitiesAnnexure1\\_p.PDF](https://www.sebi.gov.in/sebi_data/commondocs/may-2021/Business%20responsibility%20and%20sustainability%20reporting%20by%20listed%20entitiesAnnexure1_p.PDF)

[https://www.sebi.gov.in/sebi\\_data/commondocs/may-2021/Business%20responsibility%20and%20sustainability%20reporting%20by%20listed%20entitiesAnnexure2\\_p.PDF](https://www.sebi.gov.in/sebi_data/commondocs/may-2021/Business%20responsibility%20and%20sustainability%20reporting%20by%20listed%20entitiesAnnexure2_p.PDF)

- Ministry of Corporate Affairs, National Guidelines on Responsible Business Conduct, 2018:





[https://www.mca.gov.in/Ministry/pdf/NationalGuideline\\_15032019.pdf](https://www.mca.gov.in/Ministry/pdf/NationalGuideline_15032019.pdf)

- **Japan**

- Ministry of Environment, Environmental Reporting Guidance, 2018:

[http://www.env.go.jp/policy/j-hiroba/kigyo/2018Guidelines\\_E20190412.pdf](http://www.env.go.jp/policy/j-hiroba/kigyo/2018Guidelines_E20190412.pdf)

- **Peru**

- Superintendencia de Mercado de Valores (SMV), December 2015:

<https://www.smv.gob.pe/sil/RGG0211199800000007.pdf>

- **Philippines**

- Securities and Exchange Commission, 2019, Sustainability Reporting Guidelines:

<https://www.sec.gov.ph/mc-2019/mc-no-04-s-2019-sustainability-reporting-guidelines-for-publicly-listed-companies/>

- **Spain**

- Ley 11/2018 (17989), as a consequence of the European Union Directive 2014/95, brings disclosures requirements on diversity, environment and policies of payment to suppliers

<https://www.boe.es/boe/dias/2018/12/29/pdfs/BOE-A-2018-17989.pdf>

- **UK**

- Companies Act (2006), Part 15, Chapter 4A, Strategic Report, Section 414C (change introduced in 2013), disclosure of environmental and social policies, **if** existent:

<https://www.legislation.gov.uk/ukpga/2006/46/section/414C>

- Companies Act (2006), Part 15, Chapter 4A, Strategic Report, Section 414CB (change introduced in 2016), minimal “non-financial” ESG information to be disclosed:

<https://www.legislation.gov.uk/ukpga/2006/46/section/414CB/data.pdf>

- Government Equalities Office, Gender Pay Gap Reporting, 2020:

<https://www.gov.uk/government/collections/gender-pay-gap-reporting>

- **USA**



SEC, Commission Guidance Regarding Disclosure Related to Climate Change, Release No. 33- 9106 (Feb. 8, 2010)

<https://www.sec.gov/rules/interp/2010/33-9106.pdf>

2020, SEC statement – TCFD:

<https://www.sec.gov/news/public-statement/clayton-mda-2020-01-30>

- **Vietnam**

- State Securities Commission “Environmental and Social Disclosure Guide”, 2014:

[https://sseinitiative.org/wp-content/uploads/2014/08/20161212\\_ES-Disclosure-Guideline-ENGLISH.pdf](https://sseinitiative.org/wp-content/uploads/2014/08/20161212_ES-Disclosure-Guideline-ENGLISH.pdf)