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CHINA, THE ENVIRONMENT, & THE GLOBAL GREEN FINANCE TRANSITION

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Although once seen as irrelevant to environmental protection, financial regulation has become a critical component of global climate change responses, as recognized by the Paris Agreement.¹ In addition, climate change and related environmental risks, such as threats to biodiversity and natural resources, are now recognized as potentially financially material to companies, investors, and entire economies, as well as to sustainable development.² For these reasons, China has joined the many other governments and international organizations worldwide who are actively engaged in promoting regulatory reforms and voluntary initiatives to advance a green finance transition.

I. THE GLOBAL GREEN FINANCE TRANSITION: AN OVERVIEW

‘Green’ or ‘sustainable’ finance encompasses the integration of sustainability factors, broadly defined, into investment decision-making and financial systems in order to support stable and climate-resilient markets and enable investors to direct capital to sustainable uses.³ Green

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1. Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12 2015, T.I.A.S. No. 16–1104, art. 2(1) (stating that the “[a]greement . . . aims to strengthen the global response to the threat of climate change . . . by [limiting temperature rise] and making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development”).

2. See *Mission*, Taskforce on Nature-Related Fin. Disclosures [TNFD], <https://tnfd.global/about/> [<https://perma.cc/GUE3-JJNK>] (last visited July 1, 2024).

3. Guanyu Goujian Jinrong Tixi de Zhidao Yijian (关于构建金融体系的指导意见) [Guiding Opinion on Establishing the Green Financial System] (promulgated by People’s Bank of China (PBOC), Ministry of Finance (MOF), National Development and Reform Commission (NDRC), Ministry of Environmental Protection (MEP), China Banking Regulatory Commission (CBRC), China Securities Regulatory Commission (CSRC), and China Insurance Regulatory Commission (CIRC), Guiding Opinion on Establishing the Green Financial System, Aug. 31, 2016) <http://www.pbc.gov.cn/english/130721/3133045/index.html> [<https://perma.cc/UV5P-ZH7S>]; *Communication from the Commission to the European Parliament, the European*

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finance policies may also facilitate the mitigation of corporate climate and environmental harms and indirectly promote sustainable development. Indeed, as discussed below, China is among the jurisdictions that are looking to green finance reforms to encourage financial institutions and companies to address their own climate and environmental impacts.⁴

Internationally, green finance has evolved from a system of voluntary standards, private innovation, and self-regulation driven by market demand into an area of increased regulation. These trends have been facilitated by international organizations and have generally been directed toward jurisdictions' common goals of international standardization, regulatory alignment with the Paris targets, and greater transparency and enforcement. The scope of these green finance reforms is also expanding, with attention increasingly focused on the need for 'transition' capital for high-emitting sectors, and for companies to assess their own financial risk from environmental degradation, declining biodiversity, unsustainable resource use, and threats to the natural world.

Green finance regulation is generally directed at improving climate and sustainability risk disclosure and risk management for corporations and their investors, setting standards for green financial products and investment activities, and ensuring that financial institutions actively monitor the climate and environmental risk of their investments. Other green finance mechanisms such as carbon taxes and carbon markets seek to price carbon externalities and use market mechanisms to encourage emissions reductions.

II. GREEN FINANCE DEVELOPMENTS IN CHINA

China has been an early leader in green finance for over a decade. In 2016, China made green finance a centerpiece of its policy platform during its leadership of the G20 and also became one of the first countries globally to adopt a national green finance strategy, engaging multiple central-level ministries and its central bank, the People's Bank of China (PBOC).⁵ China's high-level green finance strategies have continued to develop with strong backing from the Chinese Communist Party (CCP), which sees green finance as an essential pathway to supporting the sustainability, resilience, and inclusivity of the real economy.⁶ China's green

Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, Action Plan: Financing Sustainable Growth, COM (2018) 97 final (Aug. 3, 2018).

4. PBOC et al., *supra* note 3 at 1(1) (defining green finance as "financial services provided for economic activities that are supportive of environmental improvement, climate change mitigation, and more efficient resource utilization").

5. PBOC et al., *supra* note 3.

6. See Shengtai Huanjingbu, Guojia Fazhan He Gaige Weiyuanhui, Zhongguo Renmin Yinhang Deng Guanyu Cujin Yingdui Qihou Bianhua Tou Rongzi de Zhidao Yijian (生态环境部, 国家发展和改革委员会, 中国人民银行等关于促进应对气候变化投融资的指导意见) [Guiding Opinion of the MEE, NDRC, PBOC and Other Departments on Promoting Investment and Financing in Response to Climate

finance policies are grounded on its international commitments under the Paris Agreement and on its own sustainable development policy goals.⁷ These include targets for carbon emissions peaking in 2030 and for carbon neutrality to be achieved by 2060.⁸ In 2024, China's financial regulator, the National Financial Regulatory Administration (NFRA), also identified green finance and "inclusive finance" within its target priorities for the financial services sector.⁹

The PBOC and China's bank regulators, now succeeded by the NFRA,¹⁰ have spearheaded China's green finance initiatives. Other regulators, including the State-owned Assets Supervision and Administration Commission (SASAC), the Ministry of Finance (MOF), the National Development and Reform Commission (NDRC), and the Ministry of Ecology and Environment (MEE), have also introduced green finance standards and mechanisms in their respective areas of responsibility.

Change] (promulgated by the Ministry of Ecology and Environment of the People's Republic of China, Oct. 20, 2020). On the Party's support, *see, e.g.* Tongchou Tuijin Puhui Jinrong, Lüse Jinrong, Kechuang Jinrong, Gongyinglian Jinrong Fazhan, Tigao Fuwu Shiti Jingji Zhiliang Shengji de Jingzhunxing He Kejixing (统筹推进普惠金融、绿色金融、科创金融、供应链金融发展, 提高服务实体经济质量升级的精准性和可及性) [Outline for Building a Strong Country with Quality] (promulgated by the Communist Party of China Central Committee (CPCCC) & PRC State Council, Feb. 6, 2023) ("We will promote the development of inclusive finance, green finance, science and innovation finance, and supply chain finance . . . to upgrade the quality of the real economy"), www.news.cn/2023-02/06/c_1129342462.htm [<https://perma.cc/P6KJ-J3WX>].

7. These goals have been emphasized anew in China's current Five-Year Plan. *See* Zhonghua Renmin Gongheguo Guomin Jingji He Shehui Fazhan de Shisige Wunian Guihua He 2035 Nian Yuanjing Mubiao Gangyao (中华人民共和国国民经济和社会发展第十四个五年规划和2035年远景目标纲要) [Outline of the 14th Five-Year Plan for National Economic and Social Development of the PRC and the Long-Term Objectives for 2035] (promulgated on Mar. 13, 2021), http://www.xinhuanet.com/fortune/2021-03/13/c_1127205564.htm [<https://perma.cc/C2QT-JCM4>].

8. Zhonggong Zhongyang Guowuyuan Guanyu Wanzheng Zhunque Quanmian Guanche Xin Fazhan Linian Zuohao Tan Dafeng Tan Zhonghe Gongzuo de Yijian (中共中央 国务院关于完整准确全面贯彻新发展理念做好碳达峰碳中和工作的意见) [Working Guidance for Carbon Dioxide Peaking and Carbon Neutrality in Full and Faithful Implementation of the New Development Philosophy] (promulgated by CPCCC & PRC State Council, Oct. 25, 2021), https://english.www.gov.cn/policies/latestreleases/202110/25/content_WS61760047c6d0df57f98e3c21.html [<https://perma.cc/2KJF-GVVQ>].

9. NFRA, *NFRA Convenes the 2024 Work Conference* (Jan. 30, 2024), <https://www.cbirc.gov.cn/en/view/pages/ItemDetail.html?docId=1152094> [<https://perma.cc/8UBE-EUH3>].

10. In 2023, the Chinese Banking and Insurance Regulatory Commission (CBIRC), which succeeded the CBRC, was dissolved and replaced by the National Financial Regulatory Administration (NFRA). NFRA, *Premier Li Qiang Signs the State Council Decree to Promulgate the Decision of the State Council on Amending Some Administrative Regulations and the State Council's Decision* (Jan. 18, 2024), <https://www.cbirc.gov.cn/en/view/pages/ItemDetail.html?docId=1149719> [<https://perma.cc/X2HB-574H>].

China's green finance initiatives have been developed so rapidly over the past decade that it is not possible to survey them comprehensively here. The following discussion therefore focuses on major green finance developments in the three areas outlined above that have also been at the core of green finance reforms in other economies worldwide: (i) the integration of climate and sustainability factors into the regulation of banks and other financial institutions; (ii) the development of standards (i.e. "taxonomies") for investment products and activities; and (iii) corporate climate and sustainability disclosure mandates.¹¹ China is also active in the introduction of carbon markets and established a national carbon emission trading market in July 2021,¹² although a more complete discussion of its development is beyond the scope of this essay.

A. Bank Regulation

Bank regulation has played a central role in China's green finance reforms because of the policy entrepreneurship and leadership of the PBOC and other bank regulators, reflecting the importance of debt capital as a source of finance in the Chinese economy.¹³ The PBOC has also played an active role in key international organizations for green finance innovation, such as the G20's Financial Stability Board (FSB) and the Bank for International Settlements (BIS).¹⁴ It has also taken the lead in advancing biodiversity concerns through its participation in the Network for Greening the Financial System (NGFS), a network of 114 central banks and financial supervisors that develops recommendations for central banks on climate change responses.¹⁵

A major green finance innovation by China's bank regulators over the past decade is a series of measures that encourage banks and other financial institutions to expand commercial lending in green sectors or for green projects, to incorporate environmental risk into their credit risk assessment policies and procedures, and to engage in pre-loan due

11. For further detail on the developments discussed here and China's role in the green finance transition internationally, *see generally* Virginia Harper Ho, *China & Transnational Green Finance: Diverse Influences in an Unsettled Field*, in *The Impact of China on the Future of International and Transnational Law* 10–11 (Ji Li & Gregory Shaffer, eds., forthcoming), <https://ssrn.com/abstract=4945150> [<https://perma.cc/SGY6-HJGW>].

12. Tan Jiaoyiwan (碳交易网) [Carbon Market Platform], www.tanjiaoyi.com/ets-1382 [<https://perma.cc/48X9-TRTZ>]; State Council Information Office, *Zhongguo Yingdui Qihou Bianhua de Zhengce Yu Xingdong Baipishu* (《中国应对气候变化的政策与行动》白皮书) [White Paper on China's Policies and Actions for Addressing Climate Change] (Oct. 27, 2021) 6 http://www.scio.gov.cn/zfbps/ndhf/2021n_2242/202207/t20220704_130709.html [<https://perma.cc/T45R-H749>].

13. James Stent, *China's Banking Transformation* 166–86 (2017). This is in contrast to the United States and the United Kingdom, where companies rely much more heavily on equity markets.

14. Harper Ho, *supra* note 11, at 14.

15. 'Origin and Purpose' NGFS, www.ngfs.net/en/about-us/governance/origin-and-purpose [<https://perma.cc/Y76G-UWQK>] (last visited 1 June 2024); Harper Ho, *supra* note 11, at 15 (discussing the PBOC's role in the NGFS).

diligence and post-loan monitoring of commercial lending.¹⁶ Since 2014, China has also implemented performance assessments for financial institutions that are linked to these green credit guidelines.¹⁷ Although still accounting for a low percentage of total commercial lending volumes, “green credit” has grown exponentially as a result of these measures¹⁸ and due to further support from preferential baseline lending policies of the PBOC.¹⁹ Nearly 70 percent of green loans reportedly reduce carbon emissions to some extent.²⁰

In addition, the PBOC has integrated climate risk resilience into its own macro-prudential risk assessment of factors that could impact the stability of the PRC economy.²¹ Chinese banks have already gained several years’ experience in climate risk stress testing and scenario analysis, moving ahead of the practice of many US banks.²² These measures are

16. Zhongguo Yinjianhui Guanyu Yinfa Lüse Xindai Zhiyin de Tongzhi (中国银监会关于印发绿色信贷指引的通知) [Notice of the CBRC on Issuing Green Credit Guidelines] (promulgated by CBRC, Jan. 29, 2012) [hereinafter *Green Credit Guidelines*] <https://www.cbirc.gov.cn/en/view/pages/ItemDetail.html?docId=10270&itemId=980> [<https://perma.cc/YZ58-EXPP>].

17. Yinhang Ye Jinrong Jigou Lüse Jinrong Pingjia Fang'an (银行业金融机构绿色金融评价方案) [Notice on Conducting Green Credit Performance Evaluation of Banking Depository Financial Institutions] (promulgated by PBOC, July 1, 2021). In 2022, following the merger of China’s banking and insurance regulators, the Green Credit Guidelines were extended to insurers. Zhongguo Yinbaojianhui Guanyu Yinfa Yinhang Ye Baoxian Ye Lüse Jinrong Zhiyin de Tongzhi (中国银保监会关于印发银行业保险业绿色金融指引的通知) [Notice of Issuing the Guidelines on Green Finance for the Banking and Insurance Industries] (promulgated by Chinese Banking and Insurance Regulatory Commission (CBIRC), June 1, 2022) [hereinafter *NFRA Green Finance Notice*].

18. 2023 Nian Jinrong Jigou Daikuan Touxing Tongji Baogao (2023年金融机构贷款投向统计报告) [Statistics Report on the Allocation of Loans by Financial Institutions in 2023] (promulgated by PBOC) <http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/5221508/index.html> [<https://perma.cc/S7DS-XXMC>] [hereinafter 2023 PBOC Report] (reporting that green credit levels doubled from 2021 to 2023, reaching a lending volume of RMB 30 trillion), [绿色金融主力碳达峰中和].

19. Guanyu Genghao Fahui Tan Jianpai Zhichi Gongju Zhengce Zuoyong de Jidian Renshi Yu Jianyi (关于更好发挥碳减排支持工具政策作用的几点认识与建议) [Perspectives and Recommendations on Maximizing the Role of Carbon Emission Reduction Support Policy Tools] (promulgated by PBOC Research Institute, 33 *Macro-Analysis* [宏观观察 (Hongguan Guancha)] Aug. 9, 2023), pic.bankofchina.com/bocappd/rareport/202308/P020230809367758654855.pdf [<https://perma.cc/RU2T-LJT9>].

20. 2023 PBOC Report, *supra* note 18.

21. NFRA Green Finance Notice, *supra* note 17, at 5. Internationally, the Basel Committee on Banking Supervision (BCBS) later developed guidance on climate risk monitoring by central banks, bank regulators, and the financial institutions they supervise to better address such risks. Basel Committee on Banking Supervision (BCBS), Principles for the Effective Management and Supervision of Climate-Related Financial Risks (June 2022), www.bis.org/bcbs/publ/d532.pdf [<https://perma.cc/KQG4-6CA3>].

22. Eric Ng, *Chinese Banks Ahead of US Peers When It Comes to Climate Risk Analysis*, S. China Morn. Post (Jan. 10, 2023) <https://www.scmp.com/business/article/3206264/chinese-banks-ahead-us-peers-when-it-comes-climate-risks-analysis>

designed to expand financing for sustainable development and to ensure that climate risk events and financial institutions' own failure to manage such risks do not lead to systemic economic shocks.

B. *Taxonomies & Other Standards for Green Investment*

A second key green finance reform seeks to address the need for clear standards to determine what counts as a green investment or financial product. Designed to protect investors from greenwashing, "green taxonomies" define green or sustainable investment activities. For example, in Europe and the United Kingdom, asset managers must monitor and report greenhouse gas (GHG) emissions at the level of the fund and the financial institution itself, requiring them to assess their own climate risks and in some cases, the climate and environmental impacts of the companies they invest in.²³ In order to support green finance measures, market-based green finance mechanisms, and the development of green bonds and other financial instruments, multiple regulators in China have also developed their own green taxonomies, although Chinese green bond issuers may also reference international standards when determining which companies to invest in.²⁴

China has yet to adopt regulations for asset managers or for funds or investment products along the lines of those in Europe and the UK rules. However, as in other markets, the number of funds marketing themselves as "green," as "sustainable," or as advancing environmental, social, and governance (ESG) goals has grown exponentially in China in recent years.²⁵ State-backed funds are also being developed to direct investment in support of China's net zero goals.²⁶ In the absence of regulation, however, the Asset Management Association of China (AMAC), a state-affiliated industry organization, has already developed voluntary guidelines for green funds.²⁷

must-do-more-msci-study-finds [<https://perma.cc/R9SY-F5Q8>].

23. Regulation 2019/2088 of the European Parliament and of the Council of 27 November 2019 on Sustainability-Related Disclosures in the Financial Services Sector, 2019 O.J. (L 317) 1 (EU) [hereinafter EU SFDR]; *see also* Fin. Conduct Auth. [FCA], Enhancing Climate-Related Disclosures by Asset Managers, Life Insurers and FCA-Regulated Pension Providers (2021), <https://www.fca.org.uk/publication/policy/ps21-24.pdf> [<https://perma.cc/5HMM-3YEF>].

24. *Infra* notes 28 to 36 and accompanying text.

25. As of 2022, green funds in the Chinese market held a combined RMB 882.1 billion, representing a growth of 34 percent compared to the end of 2020. Zhongguo Lüse Ziben Shichang Lu Pi Shu (2022 Niandu) (中国绿色资本市场绿皮书(2022年度)) [The Green Book of Chinese Green Capital Market (2022)] (promulgated by Institute of Finance and Sustainability & China Construction Bank), http://www.greenfinance.org.cn/upfile/file/20230413092041_835145_16008.pdf [<https://perma.cc/25KR-EXTV>].

26. CCPCC & PRC State Council, *supra* note 8 (recommending that a national low-carbon transition fund should be studied and investment funds should be established for green and low-carbon industries).

27. Zhongguo Zhengquan Touzi Jijin Ye Xiehui (中国证券投资基金业协会) [Asset Management Association of China], *Lüse Touzi Zhiyin (Shixing)* (绿色投资指引(试行)) [*Green Investment Guidelines (Trial)*] (2018), <https://www.amac.org.cn/hdjl/>

The Chinese government has prioritized green bond development for over a decade, seeing green bonds and related forms of debt as a critical tool to promote a low-carbon transition. Indeed, by 2016, China had become one of the global leaders in green bond issuance.²⁸ The regulatory framework for green bonds developed rapidly between 2015 and 2017, as the PBOC, the NDRC, and the CSRC, all introduced their own guidelines for issuers in their respective regulatory domains.²⁹ These efforts were spurred on in 2018, when the European Union began a project to identify commonalities in how climate-related investments are defined under the European “green taxonomy” and Chinese green bond standards. This led in 2021 to the introduction by the PBOC, CSRC, and the NDRC of a joint unified taxonomy or “catalog” covering six areas: energy conservation and environmental protection industry, clean production industry, clean energy industry, ecological environment industry, green upgrading of infrastructure, and green services.³⁰ The EU and China, represented by the PBOC, then released a “Common Ground Taxonomy” (CGT) that covers climate-related investments and can be used to ensure that a given issuance satisfies both EU and PRC standards.³¹ The CGT has also become a point of reference for other jurisdictions.³² In addition, regulators in key municipalities at the subnational level, such as Shanghai, have developed specialized taxonomies for transition finance – that is, the use of funding to help companies transition away from carbon-intensive operations.³³

Beyond the CGT, state-backed industry groups have also developed voluntary standards for issuers of green bonds and other green financial products. For example, the China Green Bond Standards Committee and the National Association of Financial Market Institutional

jhywhjs/esg/202001/P020231126414988602491.pdf [https://perma.cc/ZMJ7-G2RM].

28. Lin Lin & Yanrong Hong, *Developing a Green Bonds Market: Lessons from China*, 23 Eur. Bus. Org. Law Review 143, 146 & n. 20 (2022) (noting that the earliest issuances were based on international voluntary green bond standards).

29. *Id.* at 150–55 (describing these diverse standards).

30. Zhongguo Renming Yinhang Fazhan Gaige Wei Zhengjian Hui Guanyu Yinfu “Lüse Zhaiquan Zhichi Xiangmu Mulu (2021) Nianban” De Tongzhi (中国人民银行发展改革委证监会关于印发《绿色债券支持项目目录 (2021)年版》的通知) [PBOC, NDRC, CSRC, Catalogue of Green Bond Endorsed Projects (2021 ed.), No. 96 (2021)].

31. International Platform on Sustainable Finance (IPSF) Taxonomy Working Group, *Common Ground Taxonomy – Climate Change Mitigation Instruction Report* 13–14 (2022) (updating the 2021 taxonomy) finance.ec.europa.eu/system/files/2022-06/220603-international-platform-sustainable-finance-common-ground-taxonomy-instruction-report_en.pdf [https://perma.cc/M8TD-NZ2R].

32. *Id.*

33. Shanghai Shi Zhuanxing Jinrong Mulu (Shixing) (上海市转型金融目录 (试行)) [Shanghai Transition Finance Catalogue (Trial)] (promulgated by NAFR Shanghai Branch & PBOC Shanghai Office, Dec. 21, 2023, effective Jan. 1, 2024), No. 293, http://www.greenfinance.org.cn/upfile/file/20240106111856_461948_18135.pdf [https://perma.cc/M7DW-XY2R].

Investors (NAFMII) have developed voluntary Green Bond Principles,³⁴ and NAFMII has introduced standards for carbon neutrality bonds.³⁵ Enforcing issuers' commitments under these voluntary standards, or even under direct regulation, to direct funds in accordance with its specified purposes remains difficult. However, transparency measures are also being considered that would impose more stringent monitoring obligations on green bond issuance to reduce greenwashing.³⁶

C. Corporate Disclosure

Finally, disclosure has been widely recognized as an important soft regulatory tool, including with respect to corporate climate and environmental risks and impacts.³⁷ Internationally, one of the most dynamic areas of sustainable finance regulation has been the development of standards for corporate climate and sustainability risk disclosure, and approximately one-third of China's listed companies now produce some form of sustainability disclosure.³⁸ However, in the absence of clear standards and disclosure mandates, even the largest companies in China and elsewhere have often been free to provide selective sustainability

34. Zhongguo Lüse Zhaiquan Yuanze (中国绿色债券原则) [China Green Bond Principles (promulgated by the Green Bond Standards Committee (GBSC), July 29, 2022), No. 1, <https://www.nafmii.org.cn/ggtz/gg/202207/P020220801631427094313.pdf> [<https://perma.cc/3E96-4QVG>]; International Capital Market Association, *Analysis of China's Green Bond Principles* (Sept. 2022), www.icmagroup.org/assets/Analysis-of-Chinas-Green-Bond-Principles.pdf [<https://perma.cc/P69P-6FA8>].

35. Guanyu Mingque Tan Zhonghe Zhai Xiangguan Jizhi De Tongzhi (关于明确碳中和债相关机制的通知) [Notice by the National Association of Financial Market Institutional Investors of Specifying the Mechanism relating to Carbon Neutrality Bonds], Zhongguo Yinhang Jian Schichang Jiaoyi Shang Xiehui (中国银行间市场交易商协会) [National Association of Financial Market Institutional Investors (NAFMII)] (Mar. 18, 2021), https://www.nafmii.org.cn/ggtz/tz/202103/t20210318_198891.html [<https://perma.cc/DW7R-K5HF>].

36. Lüse Zhaiquan Cunxu Qi Xinxu Pilu Zhinan (绿色债券存续期信息披露指南) [Guidelines for Ongoing Green Bond Disclosure], (promulgated by the Green Bond Standards Committee, Nov. 28, 2023), <https://www.nafmii.org.cn/ztbd/lszqbzwyh/tzgg/202311/P020231129496468470224.pdf> [<https://perma.cc/Y4WE-XT93>]; Guanyu Fabu "Lüse Zhaiquan Pinggu Renzheng Yewu Zicha Baogao Cankao Wenben" He Guifan Niandu Zicha Gongzuo De Tongzhi (关于发布《绿色债券评估认证业务自查报告参考文本》和规范年度自查工作的通知) [Notice of Green Bond Standards Committee on Issuing the Reference Text of Self-Inspection Report for Green Bond Assessment and Certification Business and the Regulation of Annual Self-Inspection Work], (promulgated by Green Bond Standards Committee, Mar. 24, 2023), No. 1, <https://www.nafmii.org.cn/ggtz/tz/202303/P020230324644770908328.pdf> [<https://perma.cc/H8GJ-EFZ2>].

37. Virginia Harper Ho & Stephen Kim Park, *ESG Disclosure in Comparative Perspective: Optimizing Private Ordering in Public Reporting*, 41 U. Pa. Int'l L.J. 249, 270–76 (2019).

38. Kuang Jixiong (匡继雄), *Shangshi Gongsi ESG Ceping: Si Da Chengxiao Xianzhu, Shuangchong Shouyi Fuxian* (上市公司ESG测评: 四大成效显著·双重收益浮现) [ESG Evaluation of Listed Companies: Four Significant Results and Double Benefits Emerge], Zhengjuan Shibao Wang (整卷时报网) [The Securities Times] (Dec. 15 2023), www.stcn.com/article/detail/1065237.html [<https://perma.cc/A55E-PAPF>].

information to investors and to ignore climate-related financial risk. Voluntary reporting is therefore prone to corporate greenwashing, and inadequate information on the nature and magnitude of climate and other ESG risks may make it impossible to direct private capital away from unsustainable projects and toward a post-carbon transition.

Mandatory disclosure and the standards to support it are therefore critical to the development of market-based incentives for corporate sustainability and climate action. Where companies are required to report on their GHG emissions and climate externalities, or to take affirmative steps to mitigate those risks, reporting mandates can also encourage companies to operate more sustainably. Where these rules also apply to financial institutions that are themselves asset managers or investors, reporting reforms can also encourage them to monitor the climate and sustainability risks of the companies they invest in, which could nudge those companies toward operating more sustainably.

An interesting contrast to other jurisdictions, where securities and capital market regulators have been taking the lead in introducing tougher corporate reporting mandates, is that in China the MEE has led the introduction of mandatory corporate environmental reporting. Its mandatory enterprise environmental disclosure system should be completed in the next several years,³⁹ and its current administrative rules on environmental disclosure already require specific disclosure of carbon emissions, environmental compliance and risk management, and pollution for companies in high-polluting sectors and those with prior serious environmental violations.⁴⁰ Many Chinese companies are also subject to international reporting standards as a result of listing or operating in Europe, Hong Kong, or other jurisdictions that have already adopted disclosure mandates.

The CSRC and China's stock exchanges have encouraged voluntary sustainability reporting for listed firms since the mid-2000s but since 2021 have introduced new sustainability reporting mandates for firms that are subject to the MEE reporting rules or wish to be eligible for inclusion in certain preferential market indices.⁴¹ The general disclosure

39. See Guanyu Yinfa “Huanjing Xinxi Yifa Pilu Zhidu Gaige Fangan” de Tongzhi (关于印发《环境信息依法披露制度改革方案》的通知) [Notice on Issuing the “Reform Plan for the Legal Disclosure of Environmental Information”] (promulgated by the Ministry of Ecology and Environment of the People's Republic of China, May 24, 2021), No. 43, https://www.mee.gov.cn/xxgk2018/xxgk/xxgk03/202105/t20210525_834444.html [<https://perma.cc/VQQ4-N5VA>].

40. Qiye Huanjing Xinxi Yifa Pilu Guanli Banfa (企业环境信息依法披露管理办法) [Measures for the Administration of the Law-based Disclosure of Enterprise Environmental Information] (promulgated by the Ministry of Ecology and Environment of the People's Republic of China, Dec. 21, 2021, effective Feb. 8, 2022) No. 24, https://www.mee.gov.cn/xxgk2018/xxgk/xxgk02/202112/t20211221_964837.html [<https://perma.cc/B7SM-BP5D>].

41. CSRC, *Zhongguo Zhengquan Jiandu Guanli Weiyuanhui, Zhengjianhui Fabu Xiuding Hou de Shangshi Gongsi Niandu Baogao He Banniandu Baogao Geshi Zhunze* (中国证券监督管理委员会, “证监会发布修订后的上市公司年度报告

rules for listed company annual and semi-annual reports require certain disclosures about environmental penalties and encourage all companies to voluntarily report on their carbon mitigation efforts and on corporate responsibility activities in support of Party-state policy priorities, such as poverty alleviation.⁴² Due to PBOC guidance requiring environmental information disclosure and emissions reporting from the banking sector,⁴³ all listed banks now provide sustainability reporting under these rules in some form, outpacing listed firms in other sectors.⁴⁴ Further voluntary sustainability reporting guidance adopted in May 2024 by China's stock exchanges, under CSRC oversight, is influenced by the European and international climate and sustainability disclosure standards.⁴⁵

As I have written elsewhere,⁴⁶ certain features of the PRC economy and capital markets, namely the dominance of state ownership among Chinese listed firms, the weaker role of equity financing in the Chinese

告和半年度报告格式准则) [CSRC issued revised annual and semi-annual report format guidelines for listed companies], (June 28, 2021), www.csrc.gov.cn/csrc/c100028/cb25156c4913f4c9ea6b658cad8011f17/content.shtml [https://perma.cc/RPC8-N86C]. On index eligibility requirements see, e.g. Shangjiaosuo Jiu "Shanghai Zhengquan Jiaoyisuo Shangsi Gongsi Zilu Jianguan Zhiyin Di 14 Hao – Kechixu Fazhan Baogao (Shixing) (Zhengqiu Yijian Gao)" Gongkai Zhengqiu Yijian (上交所就《上海证券交易所上市公司自律监管指引第14号——可持续发展报告(试行)》(征求意见稿))公开征求意见) [The Shanghai Stock Exchange Solicits Public Opinions on the "Shanghai Stock Exchange Listed Company Self-regulatory Guidelines No. 14 – Sustainable Development Report (Trial) (Draft for Comments)"], Shangjiaosuo Jiu (上交所就) [Shanghai Stock Exchange] (Feb. 8, 2024), http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20240208_5735532.shtml [https://perma.cc/77EX-H8JJ] (imposing mandatory reporting requirements on companies listed in the exchange's "180 Index").

42. CSRC, *Zhongguo Zhengquan Jiandu Guanli Weiyuanhui, Gongkai Faxing Zhengquan de Gongsi Xinxi Pilu Neirong yu Geshi Zhunze Di2hao – Niandu Baogao de Neirong yu Geshi (2021 Nian Xiuding)* (中国证券监督管理委员会, 公开发行证券的公司信息披露内容与格式准则 第2号 – 年度报告的内容与格式 (2021年修订)) [CSRC, *Disclosure content and format guidelines for the annual reports of companies issuing listed securities—annual report content and format (2021 revision)*], *Zhongguo Zhengquan Jiandu Guanli Weiyuanhui* (中国证券监督管理委员会) [CSRC] No. 15 art. 41–43 (June 28, 2021), <http://www.csrc.gov.cn/csrc/c101864/c6df1268b5b294448bdec7e010d880a01/content.shtml> [https://perma.cc/5H25-7UKD].

43. See Jianrong Jigou Huanjing Xinxi Pilu Zhinan (金融机构环境信息披露指南) [Guidelines for Financial Institutions' Environmental Information Disclosure] (promulgated by the People's Bank of China (PBOC), July 22, 2021), JR/T 0227–2021, http://group1.ccb.com/cn/group/regime/upload/20220726_1658822708/20220726160537518146.pdf [https://perma.cc/W3LE-ENV8].

44. Kuang, *supra* note 38.

45. Golden Bee WeChat Official Account, *A Gu Kechixu Fazhan Baogao Zhiyin Jiedu Yin Geei: Chongfen Xishoule Quanguo Kechixu Xinxi Pilu Zuixin Chengguo* (A股可持续发展报告指引解读 | 殷格非: 充分吸收了全球可持续信息披露最新成果) [Interpretation of the A-share Sustainable Development Report Guidelines | Yin Gefei: Fully absorbed the latest achievements of global sustainable information disclosure] Pengpai Xinwen (澎湃新闻) [The Paper] (Feb. 9, 2024), m.thepaper.cn/newsDetail_forward_26327839 [https://perma.cc/X8RN-SGRQ].

46. Harper Ho, *supra* note 11, at 24.

market, and the relatively weak demand among Chinese retail investors for ESG information, mean that China's securities regulators and stock exchanges face less urgency to expand mandatory sustainability disclosures. For the same reasons, corporate disclosure mandates may also have a limited effect on changing corporate risk management practice or improving corporate climate responses as compared to other markets.⁴⁷ Moreover, even though the PBOC, the CSRC, and other regulators have publicly endorsed international climate and sustainability reporting standards,⁴⁸ the generality of the standards and the weak mechanisms for any sort of enforcement of mandatory elements may make them less effective in changing corporate practice than may be the case in other markets.

III. LOOKING AHEAD: CHINA'S ROLE IN THE GLOBAL GREEN FINANCE TRANSITION

China has been working to implement its green finance strategy for over a decade at a pace rarely seen in other major economies. In these efforts, we have seen that bank regulators and the PBOC have been particularly active, and that Chinese regulators have also been actively engaged internationally in the organizations, platforms, and institutions that are working to "green" financial systems, all with clear backing from the Party-state. It is uncertain how much corporate practice will change in response. It is also unclear whether green finance reforms will have influence beyond the financial sector, state-owned firms, and other listed companies, where top-down regulation is more likely to be effective. Nonetheless, green finance remains an important part of China's evolving regulatory landscape and of its toolkit for reaching its environmental protection, sustainable development, and climate change goals.

47. In addition, Chinese regulations do not yet require climate or emissions reporting on corporate business partners, so companies are still able to "outsource" these impacts without transparency.

48. China's Ministry of Finance (MOF) has proposed sustainability disclosure standards referencing the mandatory international climate and sustainability reporting standards of the International Sustainability Standards Board. Ministry of Finance (PRC), Qiye Kechixu Pilu Zhunze – Jiben Zhunze (Zhengqiu Yijian Gao) Qicao Shuoming (企业可持续披露准则——基本准则 (征求意见稿) 起草说明) [Consultation Paper on Corporate Sustainability Disclosure Standards: Basic Principles] (May 27, 2024), [upload.news.esnai.com/2024/0527/1716799385429.pdf](https://perma.cc/7JAG-NDMQ) [<https://perma.cc/7JAG-NDMQ>].