Mr Richard Lloyd, Interim Chair
Financial Conduct Authority
SDR and labels policy
12 Endeavour Square
London E20 1JN

Email: cp22-20@fca.org.uk

January 25, 2023

Dear Chair Lloyd,

Re: Sustainability Disclosure Requirements (SDR) and investment labels, CP22/20

The International Corporate Governance Network (ICGN) welcomes the request for comments by the Financial Conduct Authority (FCA) on the Sustainability Disclosure Requirements (SDR) and Investment Labels consultation paper.

Led by investors responsible for assets under management of $70 trillion, ICGN is a leading authority on global standards of corporate governance and investor stewardship. Headquartered in London, our membership is based in more than 45 countries and includes companies, advisors, and other stakeholders. ICGN offers an important international investor perspective on corporate governance and investor stewardship to help inform public policy development and the encouragement of good practices by capital market participants. For more information on the ICGN, please visit www.icgn.org

ICGN's Global Governance Principles[1] (GGP) and Global Stewardship Principles[2] (GSP) set out best practices in relation to corporate governance and investor stewardship obligations. These documents represent the foundation of ICGN's policy framework. Many ICGN members refer to the GGP and GSS as bellwethers for their corporate governance assessments, proxy voting policies, and company engagements. The GGP also informs governments and regulatory agencies on internationally accepted standards to help inspire the evolution of national corporate governance codes.

As a future consideration in rulemaking and for informational purposes, the ICGN GGP have been recognised as one of the most prominent global standards for corporate governance as acknowledged in Recital 44 of the proposed European Corporate Sustainability Reporting Directive (CSRD) where the ICGN GGP and G20/OECD Principles are both recognised as 'an authoritative global framework of governance information of most relevance to users.'[3] Once approved by the European Parliament and Council, the Directive will influence the drafting of corporate sustainability reporting standards developed by the European Financial Reporting

[1] ICGN Global Governance Principles 2021.pdf (2021) https://www.icgn.org/icgn-global-governance-principles
[2] ICGN Global Stewardship Principles 2020.pdf (2020) https://www.icgn.org/icgn-global-stewardship-principles
[3] EUR-Lex - 52021PC0189 - EN - EUR-Lex (europa.eu)

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Advisory Group which will be mandatory for over 50,000 of the largest EU companies and effective from January 2024.

In the area of investor stewardship ICGN's GSP also represent a global benchmark for stewardship that has relevance across a wide range of jurisdictions. Over fifty-seven ICGN investors whose assets total over US $28 trillion have endorsed the GSP.[4] ICGN adopted the GSP to provide a framework for investors to implement stewardship practices in fulfilling their fiduciary obligations to beneficiaries or clients.[5] The ICGN GSP were revised in 2020 to capture significant developments, however, "ICGN's commitment and policy work on stewardship dates back to its 2003 Statement on Institutional Shareholder Responsibilities, the predecessor to the current Principles."[6] This theme of stewardship is well in line with the FCA's consultation to support a regulatory framework for sustainability reporting, disclosure, and labelling requirements.

ICGN, too, has noted the significant rise in the creation of investment products that are marketed as "sustainable investments'. ICGN wholeheartedly agrees with the statement within the FCA's consultation paper that "Trust and integrity in these products are important to the transition to a more sustainable future".[7] Trust is indeed the bedrock of any long-term investment relationship and strategy. ICGN recognises that trust is also of utmost importance between investors and companies to support capital allocation strategies, and has stated as such in the GSP," Companies should recognise the benefits of building investor relationships that can strengthen trust and enhance financial flexibility by enhancing access to cost-effective capital."[8]

Before we respond in detail, ICGN would like to express our appreciation for the outreach to the representatives within the industry throughout the process of developing the consultation paper. The creation of the Disclosures and Labels Advisory Group (DLAG) was an excellent idea to tap the knowledge base of actual industry members to hear their concerns and suggestions. ICGN has convened similar groups to provide comments and feedback prior to any changes in the GGP or GSP and relevant guidance. In this way, the end result is a better, more comprehensive approach when all stakeholders are at the table.

There are 31 questions to which the FCA has requested a response. While ICGN will not be commenting on every question posed in the consultation, we do offer our views on the questions related to the requirements for investors who make up a significant portion of the ICGN membership. The questions are noted in bold type and the ICGN response is directly below each question that is answered.

[4] More information on ICGN may be accessed here: www.icgn.org

[5] In the Preamble, ICGN stated "stewardship enhances overall financial market stability and economic growth, and, by focusing on long-term value creation, stewardship is directly linked to sustainable benefits for the economy, environment, and society".

[6] ICGN Global Stewardship Principles, ICGN Global Stewardship Principles 2020, 2020.

[7] FCA Public Consultation, CP22/20: Sustainability Disclosure Requirements (SDR) and investment labels (fca.org.uk), p. 3.

[8] ICGN Global Stewardship Principles 2020_1.pdf, Part 3: The ecosystem of stewardship, p. 27.

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Questions in the Consultation Paper:

Q1: Do you agree with the proposed scope of firms, products, and distributors under our regime? If not, what alternative scope would you prefer, and why?

ICGN recognises that the scope of this consultation relates to funds and portfolio management based in the UK until a later date when the FCA intends to consider some type of application to overseas funds. As the FCA noted, retail investors may desire to invest in products within and outside of the UK. In order to provide a level playing field and to address the FCA's concerns on greenwashing, the ICGN would agree that upon the review of comments to this consultation, a separate consultation would be necessary for FCA to follow up on how these proposals or any revisions could be applied to overseas funds. As the international market evolves and demand for sustainable investment products grows, the need for global standards will continue to increase. There are good examples of efforts in several countries to identify and label sustainable investment products.

ICGN also appreciates the fact that the FCA aspires to coordinate this consultation with other regulatory regimes, including the Sustainable Finance Disclosure Regulation (SFDR) in the European Union, the proposed rules by the Securities and Exchange Commission (SEC) in the United States, the ISSB and TCFD. Our members have clearly indicated that the SDR will need to align with the SFDR and any SEC disclosure requirements very closely, otherwise the reporting requirements for asset managers will be prohibitively burdensome.

Q2: Do you agree with the proposed implementation timeline? If not, what alternative timeline would you prefer, and why?

ICGN has reviewed the proposed timeline and recognises that firms that are subject to the new requirements will need time to implement them effectively. This will include time to consider the products they currently offer or are in the pipeline of development, for which they will need to assess them against the qualifying criteria and meet the disclosure requirements and decide whether to label their products or amend their naming and marketing accordingly. At this stage, it does not seem unreasonable to set a target date of 30 June 2024, or one year after the implementation date for the labelling, naming, and marketing, and initial disclosure requirements under the proposal. Indeed, if the proposal is changed or not implemented within this target date, firms will need to request additional time, if necessary.

With respect to the 'anti-greenwashing' rule which contains the requirements for all regulated firms that sustainability-related claims must be "clear, fair and not misleading", ICGN understands that FCA would like to implement this change, which is intended to clarify existing rules, immediately after publishing the Policy Statement (PS).

Q3: Do you agree with the proposed cost-benefit analysis set out in Annex 2? If not, we welcome feedback in relation to the one-off and ongoing costs you expect to incur and the potential benefits you envisage.

As an investor-led organisation, ICGN would not be in a position to provide its own calculation of the proposed cost-benefit analysis. However, from our members' perspectives, we recognise that there will be up-front costs, including the referenced "one-off" costs and ongoing expenses for the resources necessary to maintain the reporting requirements. The early investment of infrastructure, including human capital, should be part of the cost-benefit analysis. Each investor

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will have its own perspective as a fiduciary on how it will consider the initial and long-term costs in relation to the benefits they may envisage.

Q4: Do you agree with our characterisation of what constitutes a sustainable investment, and our description of the channels by which positive sustainability outcomes may be pursued? If not, what alternatives do you suggest and why.

ICGN recognises that any attempt to characterise what constitutes a sustainable investment may be challenging. Some investors and consumers may believe that a stricter classification is in order, to achieve the demarcation between “sustainable” investments and those that are not tied to a more tangential sustainability strategy. FCA has made a good effort to provide channels that should help to demonstrate types of positive outcomes. We collectively are still at the early stages of this type of review. Nevertheless, there is a need to pursue common outcomes.

In our request for member feedback, one fund indicated that it has spent a year and the ‘(wo)manpower’ of 70 people to try to interpret the SFDR and define what is a sustainable investment, noting that asset managers will apply their own version of the definition. In their view, if one considers the EU Taxonomy’s alignment of investments as a baseline, then the MSCI ACWI index would have about 5% alignment, well short of 70%.

In order to reach a 70% alignment, several additional measures, including greenwashing, would need to be considered. Defining what is “sustainable” (and aligning the definitions with existing EU regulations) will be of critical importance. Striving for a high percentage of alignment may cause firms and investors to venture deeper into illiquid territory to source such investments, where data sets are scarce. In addition, determining which country’s sovereign debt can be considered “sustainable” will need to be factored into the review. A 70% alignment may be aspirational.

Q5: Do you agree with the proposed approach to the labelling and classification of sustainable investment products, in particular the emphasis on intentionality? If not, what alternatives do you suggest and why?

ICGN appreciates the need to consider labelling requirements to distinguish sustainable investment products based on the objective they are seeking to achieve. Investors will likely search for investment products that meet their needs and keywords will be useful. It would be helpful to add that the labels are intended to highlight the most advanced sustainability-focused investment strategy, followed by the two other tiers. Please see our response in Q6 for further commentary.

ICGN notes that a label for the EU is expected and there are already other country labels in place (for example, Nordic Swan Ecolabel, Forum Ethibel, Belgium Febelfin, French GreenFin Label and ISR, etc.). Our members have expressed caution against adding additional labels that have different requirements for investment products.

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Q6: Do you agree with the proposed distinguishing features, and likely product profiles and strategies, for each category? If not, what alternatives do you suggest and why? In particular, we welcome your views on:

a. **Sustainable Focus: whether at least 70% of a 'sustainable focus' product's assets must meet a credible standard of environmental and/or social sustainability, or align with a specified environmental and/or social sustainability theme?**

   The first label, 'sustainable focus' must provide a clear view as to what these products will offer and provide investors with an initial list of similar sustainable investment schemes. This is a high percentage. ICGN has members that are concerned that the data sets are not robust enough yet to ensure that at least 70% of the product's assets meet this definition. Without that data, it will be hard to meet the "credible standard" of sustainable products. On behalf of our members, who wish to strive for a "Sustainable Focus", more consideration on the distinguishing features, reporting and monitoring, will be necessary.

b. **Sustainable Improvers: the extent to which investor stewardship should be a key feature; and whether you consider the distinction between Sustainable Improvers and Sustainable Impact to be sufficiently clear?**

   The second label identified as 'sustainable improvers' appears to be less clear in our view. Improvement is in the eye of the beholder and could lead to confusion without metrics for measurement. Stewardship concepts are still nascent, although more prevalent in the UK. We would like the FCA to consider adding a different qualifying word to distinguish it from the first label. For example, a label that says, "sustainable aspiration" or "pathway" may help an investor understand that there are efforts underway to improve the investment within the stewardship scope. The key principle is to try to draw a clear line between sustainable products, those on a journey to become sustainable and those that have no sustainability focus, allowing for flexibility to move between the categorisations.

c. **Sustainable Impact: whether 'impact' is the right term for this category or whether should we consider others such as 'solutions'; and the extent to which financial additionality should be a key feature?**

   The final label, 'sustainable impact' appears to be clearer, particularly due to the impact investment strategy that some investors have already adopted. The key, as the FCA noted, is to "distinguish between different types of sustainable product, according to the nature of the objective and the primary channel by which each can plausibly achieve or encourage positive sustainability outcomes."[9]

[9] [CP22/20: Sustainability Disclosure Requirements (SDR) and investment labels (fca.org.uk)](), p. 6.

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Q7: Do you agree with our proposal to only introduce labels for sustainable investment products (i.e. to not require a label for 'non-sustainable' investment products)? If not, what alternative do you suggest and why?

ICGN recognises that the labelling of investment products can help investors make decisions tailored to their interests and investment needs. As the proposal seeks to label sustainable investment products in a clear and transparent fashion, it does not seem necessary to label those products that are deemed "non-sustainable" at this time. In the future, ICGN would like to see sustainable investment products become mainstream.

Q8: Do you agree with our proposed qualifying criteria? If not, what alternatives do you suggest and why? In your response, please consider:

- **whether the criteria strike the right balance between principles and prescription**
- **the different components of the criteria (including the implementing guidance in Appendix 2)**
- **whether they sufficiently delineate the different label categories, and;**
- **whether terms such as 'assets' are understood in this context?**

Please refer to the response in Q6.

Q9: Do you agree with the category-specific criteria for:

- **The 'Sustainable focus' category, including the 70% threshold?**
- **The 'Sustainable improvers' category? Is the role of the firm in promoting positive change appropriately reflected in the criteria?**
- **The 'Sustainable impact' category, including expectations around the measurement of the product's environmental or social impact? Please consider whether there are any other important aspects that we should consider adding.**

Please refer to the response in Q6.

Q10: Does our approach to firm requirements around categorisation and displaying labels, including not requiring independent verification at this stage, seem appropriate? If not, what alternative do you suggest and why?

ICGN would encourage the FCA to consider adding some type of independent verification as a next step in the process, which would be aligned with other regulatory regimes that facilitate global labelling standards and limit duplicative reporting and verification. At present, a self-regulatory approach may be necessary.

Q11: Do you agree with our proposed approach to disclosures, including the tiered structure and the division of information to be disclosed in the consumer-facing and detailed disclosures as set out in Figure 7?

ICGN has been in favour of disclosures that help educate and inform investors for many years, even prior to the emergence of sustainability-related investment products. Accurate consumer-facing disclosure is highly relevant and necessary.

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Q12: Do you agree with our proposal to build from our TCFD-aligned disclosure rules in the first instance, evolving the disclosure requirements over time in line with the development of future ISSB standards?

ICGN is keenly aware of the movement toward TCFD-aligned disclosure and has commented previously to standard setters on this very component. We support a more global alignment for standards, such as the ISSB standards, that will ultimately benefit all investors as they seek to make informed decisions. ICGN also believes that the alignment will provide better avenues for dialogue between issuers and investors as disclosures show how issuers are addressing TCFD-aligned disclosures relative to peers and their industries. We noted that ISSB and TCFD have a financial (or dynamic) materiality aspect, which is not currently part of the SEC's proposal.

In a recent letter, ICGN stated:

> …support best practice climate disclosure standards to be consistent with emerging sustainability reporting standards, such as those under development at the International Sustainability Standards Board, coordinated with standards on financial statements and management commentary. This includes consideration of internationally agreed frameworks such as the Taskforce on Climate-Related Financial Disclosure and the Taskforce on Nature-Related Financial Disclosure to provide material information required by investors and stakeholders to allocate capital appropriately.[10]

Q13: Do you agree with our proposals for consumer-facing disclosures, including location, scope, content and frequency of disclosure and updates? If not, what alternatives do you suggest and why?

Whilst ICGN does not deal with consumers as proposed in this consultation, ICGN believes that disclosures on all investment products should be easily accessible and written in such a way that will enable consumers and investors to distinguish amongst them and understand the purpose of these product selections. Any potential sustainability-related risks and opportunities for investment returns (and performance over the course of the investment) should not be overstated or exaggerated and would be important components of the disclosures. It will be important to translate all the various definitions to make the disclosures accurate but still understandable.

Q14: Do you agree with the proposal that we should not mandate use of a template at this stage, but that industry may develop one if useful? If not, what alternative do you suggest and why?

ICGN agrees that at this stage of the development of international standards, whilst a template might be useful, some in the industry have already developed good disclosures and therefore, need more flexibility in providing the necessary information to show they meet the criteria. Setting the minimal requirements for disclosures should address the issue. As the situation advances, a template may (or may not) be necessary.

Whilst templates would lead to comparability (if calculation methodologies are clearly determined), they also can lead to a 'box ticking' exercise which is not ideal.

[10] 5. ICGN Statement of Shared Climate Change ResponsibilitiesCOP27, November 2022_0 (1).pdf, p. 4.

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Q15: Do you agree with our proposals for pre-contractual disclosures? If not, what alternatives do you suggest and why. Please comment specifically on the scope, format, location, content and frequency of disclosure and updates.

Yes, ICGN agrees that pre-contractual disclosures within an investment prospectus are important to include for consumers and investors.

Q16: Do you agree with our proposals for ongoing sustainability-related performance disclosures in the sustainability product report? If not, what alternative do you suggest and why? In your response, please comment on our proposed scope, location, format, content and frequency of disclosure updates.

ICGN would agree that ongoing sustainability performance disclosures should be included in a product report, and be updated as necessary. Without such inclusion, a consumer may not have the most relevant performance disclosure for his or her review, prior to making the investment.

Q17: Do you agree with our proposals for an 'on-demand' regime, including the types of products that would be subject to this regime? If not, what alternative do you suggest and why?

ICGN would leave comments on the "on-demand" regime to the firms that would be subject to the requirements.

Q18: Do you agree with our proposals for sustainability entity report disclosures? If not, what alternatives do you suggest and why? In your response, please comment on our proposed scope, location, format, content, frequency of disclosures and updates.

ICGN agrees that a sustainability report by entity is an important component. Without independent verification, self-reporting by covered entities will be necessary, along with monitoring by the FCA. We note that entity-level disclosures are required within the consultation for a 'sustainability entity report' on how firms are managing sustainability-related risks and opportunities. These disclosures will be made regardless of whether an in-scope firm uses a label. With respect to location, ICGN would encourage the use of a website or platform that is easily accessible to consumers and investors, without a need to log in for the purpose of reviewing disclosures and sustainability information that should be in the public domain.

Unless there is a delay, it seems reasonable to suggest that 12 months after the approval of the final rule, the first such report should be prepared and updated frequently thereafter as soon as new information is known and subject to disclosure. However, the covered entities may need additional time.

Q19: Do you agree with how our proposals reflect the ISSB's standards, including referencing UK-adopted IFRS S1 in our Handbook Guidance once finalised? If not, please explain why?

ICGN believes that the FCA has made a good faith effort to reflect the current ISSB's standards, as well as attempt to incorporate other proposed rules into the proposals. The timeline that has been suggested will also provide the FCA with the opportunity to address upcoming final rules within the sustainability area.

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Q20: Do you agree with our proposed general 'anti-greenwashing' rule? If not, what alternative do you suggest and why?

ICGN is also concerned with the appearance of greenwashing because it creates an environment wherein trust in such investment products is diminished. ICGN has called on full and transparent disclosure for all investment products offered to our investor members for many years to support the ultimate beneficiaries and clients they serve. We, therefore, support a proposed general "anti-greenwashing" rule.

Q21: Do you agree with our proposed product naming rule and prohibited terms we have identified? If not, what alternative do you suggest and why?

ICGN would leave detailed comments on the proposed rule to the firms that would be subject to the rule. ICGN would, however, agree that some type of product naming should be established to encourage standard naming rules, which would provide consumers and investors with a way to clearly identify these investment products.

Q22: Do you agree with the proposed marketing rule? If not, what alternative do you suggest and why?

ICGN would leave comments on the proposed rule to the firms that would be subject to the rule.

Q23: Are there additional approaches to marketing not covered by our proposals that could lead to greenwashing if unaddressed?

ICGN appreciates the careful approach taken by the FCA to address greenwashing. Our sense is that the proposed marketing changes will need to be evaluated in the near future to ensure that what is considered greenwashing has decreased or been eliminated.

Q24: Do you agree with our proposals for distributors? If not, what alternatives do you suggest and why?

ICGN would leave comments on the proposed rule to the firms that would be subject to the rule.

Q25: What are your views on how labels should be applied to pension products? What would be an appropriate threshold for the overarching product to qualify for a label and why? How should we treat changes in the composition of the product over time?

As we understand the consultation, the FCA intends to consider expanding the pension products requirement after working with other government departments. From the perspective of ICGN's membership, the use of a consistent and coherent approach to labelling products should help ensure that the playing field is level amongst providers of all types of sustainable investment products and that enforcement regimes would be in place. However, please refer to our response in Q27 for further commentary on pension products.

Q26: Do you consider the proposed naming and marketing rules set out in Chapter 6 to be appropriate for pension products (subject to a potentially lower threshold of constituent funds qualifying for a label). If not, why? What would be an appropriate threshold for the naming and marketing exemption to apply?

ICGN would leave comments on the proposed rule to the firms that would be subject to the rule.

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Q27: Are there challenges or practical considerations that we should take into account in developing a coherent regime for pension products, irrespective of whether they are offered by providers subject to our or DWP's requirements?

ICGN has several members that are "OPS firms", which are the in-house investment management arms of occupational pension schemes and have their own FCA-regulated firm category. Typically, an OPS firm has one client only (the trustee of the relevant pension fund) and an OPS firm owes clear regulatory obligations to its sole client.

At present, it is not clear whether the SDR proposals apply to OPS firms (the document refers to "providers of pension products" rather than "pension schemes" themselves). These pension schemes are or will be subject to DWP's regulations on ESG reporting and disclosures, but at present, the respective investment subsidiaries may be in scope for the SDR requirements.

If included, OPS firms could be subject to regulatory duplication and the consequent confusion and unnecessary complexity.

If there are regulations around pension *fund* labelling, it would be preferable that these regulations come from either the DWP or TPR, so pension schemes are not required to incur excessive and unnecessary costs of compliance with different, and possibly duplicative, regulations from multiple regulators.

It would be useful if the FCA works with the DWP to ensure that, if there is a requirement for pension schemes to provide SDR-type data to their members, such requirements are delivered via pension fund regulation rather than fund manager regulation.

Q28: To what extent would the disclosures outlined in Chapter 5 be appropriate for pension providers ie do you foresee any challenges or concerns in making consumer-facing disclosures, pre-contractual disclosures and building from the TCFD product and entity-level reports?

ICGN would leave comments on the proposed rule to the firms that would be subject to the rule.

Q29: Do you agree that the approach under our TCFD-aligned product-level disclosure rules should not apply to products qualifying for a sustainable investment label and accompanying disclosures? Would it be appropriate to introduce this approach for disclosure of a baseline of sustainability-related metrics for all products in time?

ICGN would encourage the FCA to consider a baseline for sustainability-related metrics for all products in time. Our belief is that investment strategies contribute to long-term value creation. In the ICGN-GISD Model Mandate (2022), we stated:

> There is an increased public and political expectation that investors should contribute to long-term sustainable value creation, by contributing to the UN Sustainable Development Goals and exercising active stewardship of the assets for which they are responsible. For this to happen, there should be an alignment of incentives between asset owners and their managers and a shared understanding of the outcomes being sought. The terms of the mandate agreed upon between them are crucial to achieving these objectives.
>
> Achieving long-term sustainable value creation requires action not just from asset owners and asset managers but those who advise them and the organisations

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responsible for setting the regulatory framework and standards within which investors operate.[11]

Q30: What other considerations or practical challenges should we take into account when expanding the labelling and disclosures regime to pension products?

Many of ICGN's members support the investment of funds stemming from contributions from beneficiaries and pensioners. One emerging area is the need to ensure intergenerational equity amongst pension products and long-term investment strategies, including the ability to communicate with and inform members who have significant age ranges and educational levels.

Q31: Would the proposals set out in Chapters 4-7 of this CP be appropriate for other investment products marketed to retail investors such as IBIPs and ETPs. In your response, please include the type of product, challenges with the proposals, and suggest an alternative approach.

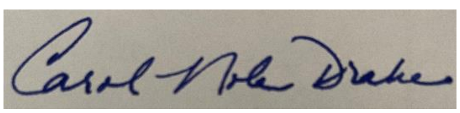
ICGN would leave comments on the proposed rule to the firms that would be subject to the rule.

In conclusion, ICGN welcomes coordinated action by regulators and standard-setters on global sustainability-related disclosures and labelling criteria. We have responded to multiple consultations on similar subjects including EFRAG, ISSB, US SEC, and other national regulators.[12]

Collectively, we are in an era of sustainable finance regulation which is much needed. It can be challenging for our members who are subject to numerous measures across multiple jurisdictions. Thus, the approach to move toward standardised regulation is essential to ensure the effective flow of capital throughout the markets.

Thank you for the opportunity to comment on this consultation. If you would like to follow up with questions or comments, please contact me at carol.nolandrake@icgn.org or Robert Walker, rwalker@icgn.org.

Yours faithfully,



Carol Nolan Drake
Governance and Stewardship Policy Manager

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Cristina Ungureanu, Co-Chair, ICGN Global Governance Committee

[11] ICGN GISD Model Mandate 2022.pdf, p. 6.
[12] 24. ICGN Response to OECD Consultation October 2022 211022(3) (2).pdf