The Sustainable Finance Law Review

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THE SUSTAINABLE FINANCE LAW REVIEW

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PREFACE

Sustainable finance is a relative youngster in the world of finance, but it is growing up fast. Public and private financing of sustainable/green projects, or those with provisions in line with borrowers' and issuers' environmental, social and governance (ESG) commitments, has exploded.

Since the signing of the Paris Agreement in 2015, more than 100 countries have committed to net zero emissions targets. Countries have also acted at a national level with ambitious target-setting and nationally determined contributions (NDC) pursuant to the Paris Agreement. They are not alone. By mid-2022, more than one-third of the world's largest publicly traded companies had net zero targets. Financial institutions have also engaged with various policies introduced to enshrine ESG commitments, in terms of both their own lending targets and the carbon emissions linked to those targets. Investors at both retail and institutional levels increasingly look to the financial markets as an important lever in achieving such targets.

For over three decades the United Nations has brought together almost every country on earth for the global climate summits – known as the Conference of the Parties (COP). At COP26 in 2021, private finance showed up in force to play its role in the transformation of the business ecosystem as we know it. Precisely what that role entails is a live debate and the discussions regarding the purpose of sustainable finance cover a wide spectrum of issues – from greenwashing, to the fundamental shift of credit including the risks and opportunities of ESG considerations. We saw that debate play out in real time during COP27.

Notwithstanding ongoing considerations about the purpose of sustainable finance, financial market participants have reacted by creating a wide variety of financial products marketed as sustainable, green or ESG-friendly. The rapid increase in both supply of and demand for sustainable investment products has, at times, resulted in a lack of consistency, transparency and reliability of disclosures and metrics. Governments and regulatory bodies are increasingly focused on imposing guidelines and frameworks to address these issues.

Although sustainable finance continues to elude strict definition at present, significant efforts are being made globally to ensure quality and transparency in the industry, to impose consistent frameworks such as the International Sustainability Standards Board (ISSB) and disclosure requirements such as those of the Task Force on Climate-related Financial Disclosures (TCFD) that support comparability and interoperability among firms and products, and to provide investors with sufficient information to monitor the impact of their investments.

In this inaugural edition we aim to:

a provide a snapshot of the current state of sustainable finance and the status of regulatory efforts across multiple jurisdictions; and

b track the evolution of sustainable finance and outline key trends for the near future.

I thank all of the contributors for their expertise, hard work and dedication in producing this volume.

Anna-Marie Slot
Ashurst LLP
London
December 2022

Chapter 3

HONG KONG

Mark Uhrynuk, Francis K W Chen, Dion K Y Yu, Angie N K Chan and Wei Na Sim[1]

I INTRODUCTION

The sustainable finance framework in Hong Kong is currently voluntary. While there are no specific regulatory or legal requirements for sustainable finance, several financial regulators in Hong Kong, such as the Hong Kong Monetary Authority (HKMA), the Securities and Futures Commission (SFC) and The Stock Exchange of Hong Kong Limited (HKEX), have issued sustainable finance-related guidance on topics such as ESG disclosure requirements and climate-related risk management.

On a broader scale, in the Asia-Pacific region, the Asia Pacific Loan Market Association (APLMA), jointly with the Loan Market Association (LMA) and the Loan Syndications and Trading Association (LSTA), have issued principles and guidance on three types of sustainable loans: green loans,[2] sustainability-linked loans[3] and social loans.[4] These serve as the industry standard for sustainable lending within the region.

Sustainable finance has experienced growing popularity within Hong Kong and the Asia-Pacific region. This can be credited to support and interest from key stakeholders across the industry, including companies, financial institutions, regulators and the government.

With Hong Kong's goal of developing into a green financial hub in the region, the government has taken a lead role in sustainable finance with the issuance of green bonds through the Government Green Bond Programme (GGBP) since 2019. The GGBP expanded its borrowing ceiling from HK$100 billion to HK$200 billion to raise funds for a variety of public and private green projects.[5] The GGBP demonstrates the government's support for sustainable finance and also sets a benchmark for the issuance of green bonds in the market. The issuance of bonds under the GGBP was oversubscribed by five times on the five and 10-year tenor and seven times on the 30-year tenor, reflecting the market's substantial appetite for sustainable finance.[6]

Further, various regulators have published strategic frameworks and created working groups to encourage the development of a sustainable finance ecosystem in Hong Kong. The relevant frameworks and initiatives will be described below.

1 Mark Uhrynuk, Francis K W Chen, Dion K Y Yu and Angie N K Chan are partners and Wei Na Sim is a counsel at Mayer Brown.

2 APLMA/LMA/LSTA Green Loan Principles and Guidance on Green Loan Principles.

3 APLMA/LMA/LSTA Sustainability-Linked Loan Principles and Guidance on Sustainability-Linked Loan Principles.

4 APLMA/LMA/LSTA Social Loan Principles and Guidance on Social Loans.

5 The Government Green Bond Programme.

6 Christophe Cretot (Credit Agricole), Hong Kong Prices Second Green Bond, Becoming a Key Sustainable Finance Issuer in Asia (news) (January 2021).

Well-known Hong Kong companies recognise the importance of sustainable finance and have developed publicly available internal sustainable finance frameworks. Further, Hong Kong companies have been involved in sizable sustainable finance deals. For example, in November 2021, a Hong Kong property developer signed the largest sustainability-linked loan in Hong Kong at the time for HK$8.65 billion.[7]

Financial institutions encourage the development of sustainable finance as well. For example, HSBC has set aside US$5 billion for sustainable finance to fund projects within the Greater Bay Area region that aim to reduce carbon emissions and stated that it would provide up to US$1 trillion for transition financing and investment by 2030 to reduce financed emissions in its portfolio.[8]

With the active involvement of key players in the sustainable finance market, the Hong Kong green finance market has encouraged Mainland Chinese firms to access offshore sustainable financing. In the past year, Hong Kong accounted for nearly 40 per cent of the US$6.7 billion sustainability-linked loans taken out by Mainland Chinese firms.[9]

The above actions of key stakeholders reflect the prevailing positive attitude in the market towards sustainable finance.

II YEAR IN REVIEW

Over the past year, the Hong Kong sustainable finance market has grown significantly. The volume of green and sustainable debt issued in the past 12 months reached US$57 billion, four times greater than the previous year.[10]

In April 2022, the government launched its first retail green bond programme with a target issuance of up to HK$20 billion. The issuance was oversubscribed by 1.2 times and, at the time, was the largest global retail green bond issuance.[11]

Environmental and sustainable lending has also been on the rise. From January to May 2022, private sector builders have signed US$3.7 billion worth of sustainability-linked loans. The public sector has also been involved in sustainability-linked loans with one of the most recent deals being a HK$4 billion loan to a statutory body overseeing the development of a cultural district.[12] Additionally, in 2022, the market has evolved with the emergence of social-based sustainable finance, which will be further expanded upon in Section IV.

At the same time, concerns about greenwashing have become more prevalent in the sustainable finance market. Please refer to Section IX for details.

7 Sun Hung Kai Properties, 'SHKP signs first sustainability-linked loan of HK$8,650 million, the largest of its kind in real estate sector in Hong Kong' (press release) (November 2021).

8 Martin Choi, 'HSBC sets aside US$5 billion in sustainable financing to fund projects in the Greater Bay Area to reduce carbon emissions', *South China Morning Post* (May 2022).

9 Loretta Chen, 'Hong Kong Emerges as a Hub for Chinese Firms Seeking ESG Loans', *Bloomberg News* (May 2022).

10 Paul Chan (Financial Secretary of Hong Kong), Country backs HK's green finance (speech delivered on 16 June 2022).

11 Enoch Yiu, 'Hong Kong's first Retail Green Bond sells out with US$4.2 billion in orders, auguring well for city's role as funding hub for climate-friendly projects', *South China Morning Post* (May 2022).

12 West Kowloon Cultural District Authority, 'WKCDA Announces the Signing of a $4 billion Sustainability-linked loan' (press release) (April 2022).

Another challenge is the limited access of small and medium-sized enterprises (SME(s)) to the sustainable finance market. Over the past five years, most ESG fundraisings have been undertaken by large and well-developed businesses. To address this, the government has introduced several incentives and schemes, which are discussed in Section VII.

III REGULATION AND POLICY

i Governance regime

The People's Republic of China (PRC) ratified the Paris Agreement in 2016 and, in accordance with the Basic Law of Hong Kong, declared that the Paris Agreement applies to Hong Kong. In September 2020, President Xi Jinping stated that the PRC will aim for peak carbon emissions prior to 2030 and carbon neutrality prior to 2060, which is otherwise known as the '30.60' decarbonisation goal.[13] Hong Kong has a role to help fulfil the PRC's obligations under the Paris Agreement. Hong Kong aims to reduce total carbon emissions by 50 per cent before 2035 using 2005 level as a base, and to reach carbon neutrality prior to 2050.

The government's commitment is demonstrated by its plan to deploy HK$240 billion over the next 15 to 20 years (from 2021) to combat climate change.[14] The acceleration of sustainable finance and the development of Hong Kong into a green financial hub in the region form part of the strategies and opportunities identified in the government's Climate Action Plan 2050. As previously mentioned, Hong Kong does not have specific laws governing sustainable finance by public and private institutions.

Green and Sustainable Finance Cross-Agency Steering Group

In May 2020, Hong Kong established the Green and Sustainable Finance Cross-Agency Steering Group (Cross-Agency Steering Group),[15] a multi-regulatory steering group co-led by the HKMA and the SFC. The Cross-Agency Steering Group aims to coordinate the management of climate and environmental risks to the financial sector, accelerate the growth of green and sustainable finance in Hong Kong and support the government's climate strategies.

The Cross-Agency Steering Group has launched a number of initiatives including the Centre for Green and Sustainable Finance (GSF Centre). The GSF Centre is a cross-sector platform designed to coordinate the efforts of financial regulators, government agencies, industry stakeholders and academia in capacity building and policy development. It serves as a repository for resources, data and analytics and supports the development of a sustainable finance ecosystem, such as with its GSF Data Source Repository. As of June 2022, the Cross-Agency Steering Group is working with the government to pilot a Green and Sustainability Capacity Building Support Scheme, which aims to subsidise training for and the acquisition of relevant professional qualifications by existing and prospective practitioners.

The Cross-Agency Steering Group has published its Strategic Plan to Strengthen Hong Kong's Financial Ecosystem to Support a Greener and More Sustainable Future (Strategic Plan). The Strategic Plan sets out six key focus areas to strengthen Hong Kong's sustainable financial ecosystem.

13 Carbon Neutral @ HK, Hong Kong's Climate Action Plan 2050 (October 2021).

14 ibid.

15 Other members of the Cross-Agency Steering Group include the Environment Bureau, Financial Services and the Treasury Bureau, HKEX, the Insurance Authority and the Mandatory Provident Funds Schemes Authority.

ii Regulators

The main regulators involved in regulating, enforcing and promoting sustainable finance frameworks in Hong Kong are the SFC, HKMA, HKEX and the Hong Kong Mandatory Provident Fund Schemes Authority (MPFA). The guidelines and papers issued by these regulators are not directly applicable to sustainable finance, but form part of the regulatory ecosystem that financial institutions operate in.

SFC

The SFC is an independent statutory body charged with regulating the securities and futures markets in Hong Kong.

In 2018, the SFC published the Strategic Framework for Green Finance. The SFC listed five main focus areas, namely:

a improving HKEX-listed companies' climate-related disclosure obligations;
b engaging with relevant stakeholders to formulate disclosure obligations for the asset management industry;
c facilitating the development of a wider range of green investment products;
d supporting investor awareness of and capacity building in green finance and investment-related matters; and
e promoting Hong Kong as an international green finance centre by participating in international green initiatives.[16]

The strategic framework has led to action by various regulators in Hong Kong such as the SFC's amendments to the Fund Manager Code of Conduct (FMCC), with effect from August 2022, to introduce climate-related disclosures and the HKEX ESG-related disclosure requirements. Both are discussed in Section V.

The SFC further published its Agenda for Green and Sustainable Finance in August 2022 to lay out its continued strategy in supporting green and sustainable finance. The Agenda has outlined three main focuses: corporate disclosure; expectations on fund managers; and identifying an appropriate regulatory framework for the carbon market.[17]

HKMA

The HKMA is Hong Kong's central banking institution, which is the governmental authority responsible for maintaining monetary and banking stability in Hong Kong.

In June 2020, the HKMA published a white paper on green and sustainable banking,[18] which outlines the HKMA's supervisory approach to climate-related issues. The HKMA's sustainable finance framework targets sustainable banking practices in Hong Kong. The HKMA issued a set of climate change risk management guidelines for banks in December 2021. See Section IX for details.

16 SFC, Strategic Framework for Green Finance (September 2018).
17 SFC, Agenda for Green and Sustainable Finance (August 2022).
18 HKMA, White Paper on Green and Sustainable Banking (June 2020).

HKEX

The HKEX is the stock exchange based in Hong Kong. In December 2020, the HKEX launched the Sustainable and Green Exchange (STAGE). It provides access to a comprehensive database of sustainable and green investment options available in Hong Kong's securities markets as well as a sustainable finance education and advocacy platform. One of its most valuable features is a product repository, which is a reliable and accessible platform for information on a variety of green investment products.

MPFA

The MPFA is in charge of supervising the provision of Mandatory Provident Fund (MPF) retirement schemes. In November 2021, the MPFA introduced Principles for Adopting Sustainable Investing in Investment and Risk Management Processes of MPF Funds (MPFA Principles).[19] The MPFA Principles outline a high-level integration of ESG considerations for trustees of the MPF, a compulsory retirement savings scheme for Hong Kong residents. The MPFA Principles have four key focuses: governance, strategy, risk management and disclosure.

Hong Kong Quality Assurance Agency

Although not a regulator, the Hong Kong Quality Assurance Agency (HKQAA) is a key player in promoting green and sustainable finance in Hong Kong.

The HKQAA is a non-profit public organisation established by the government in 1989 to introduce international management standards and promote good management practices and sustainability in the Greater China region. One of its most significant contributions is the Green and Sustainable Finance Certification Scheme. Under this scheme, the HKQAA provides third-party compliance assessments for sustainable requirements of finance instruments. The HKQAA had certified over US$35 billion worth of green and sustainable finance instruments as at the end of 2021.[20]

IV SUSTAINABLE FINANCE INSTRUMENTS

Green bonds and sustainability-linked and green loans are the most popular types of sustainable finance debt instruments. Climate Bonds[21] has noted that in 2021, green debt instruments that aligned with Climate Bonds' Green Bond Database accounted for 75 per cent of the total of the US$14 billion in green, social, sustainability and transition bonds and sustainability-linked debt instruments issued by Hong Kong issuers.[22] Within the PRC and Hong Kong, there was US$1.7 billion of green loans in January and February of 2022.[23]

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19 MPFA, Principles for Adopting Sustainable Investing in the Investment and Risk Management Processes of MPF Funds (November 2021).

20 The Hong Kong Quality Assurance Agency, 'HKQAA Symposium Sustainable Finance and Climate Resilience 2021', *Taiwan News* (December 2021).

21 Climate Bonds is an international organisation working on mobilising global capital for climate action.

22 Note that this statistic does not include any sustainability-linked loans. Climate Bond Initiative, Green and Sustainable Debt Market Briefing 2021 (Hong Kong) (report) (July 2022).

23 Loretta Chen, 'China, Hong Kong ESG Loan Deals Soar in Face of Global Slump', *Bloomberg News* (July 2022).

Apart from the above debt instruments, sustainable deposits and green retail certificates of deposit have also been introduced by large banking institutions into the market.[24]

Traditionally, in Hong Kong, the sustainable finance market has focused on environmental finance. However, more recently, the market has been venturing into social-based sustainable finance.

In June 2022, a listed real estate property developer issued the first US dollar-denominated social and green dual tranche bond issuance in the public bonds market.[25] More recently, the Hong Kong Mortgage Corporation Limited issued its first social bond. The net proceeds of the issuance are to be mostly used to finance or refinance the Special 100% Loan Guarantee under the SME Financing Guarantee Scheme, which was launched in April 2020 to alleviate cash flow pressure of SMEs in Hong Kong during the Covid-19 pandemic.[26]

In September 2022, the first Hong Kong property developer concluded its bilateral social loan of HK$100 million. The HKQAA served as the independent and external certification body.[27] Further, Mayer Brown acted for a syndicate of banks including Sumitomo Mitsui Banking Corporation (as social loan adviser) in a HK$2 billion and US$241 million social loan facility with China Gas Capital Management Limited (a wholly owned subsidiary of China Gas Holdings Limited, a leading natural gas operator in China) as the borrower, which is the first syndicated social loan in the Greater China region.[28]

V SUSTAINABLE DISCLOSURE REQUIREMENTS AND TAXONOMY

A mix of mandatory and comply or explain disclosure requirements exists in Hong Kong.

The HKEX's ESG reporting guide (within the listing rules) contains two disclosure obligations for both listed companies on the Main Board and on the Growth Enterprise Market. First, there are mandatory board governance disclosure requirements, such as disclosure of the board's oversight of ESG issues, the board's ESG management approach and how progress is made against ESG-related goals with an explanation of how they relate to the issuer's business. Secondly, the comply or explain requirements relate to key performance indicators across 12 areas of environmental and social issues ranging from emissions to supply chain management.[29]

The SFC's FMCC was amended in 2022 to require fund managers of collective investment schemes to take climate-related risks into consideration in their investment and risk management processes and make the appropriate disclosures such as ensuring board and management-level oversight of climate-related issues; identifying climate-related risks relevant to their investment strategies; considering climate-related risks in risk management

24 See footnote 18, paragraph 2.4.3.

25 New World Development Company Limited, 'New World Development Offers World's First USD Social and Green Dual Tranche Bond in Public Markets Totaling USD700M' (press release) (June 2022).

26 HKMA, 'HKMC's Inaugural Social Bond Issuance' (press release) (October 2022).

27 Henderson Land Development Company Limited, 'Henderson Land Concludes an Industry-first HK$100 Million Bilateral Social Loan with China Construction Bank (Asia)' (press release) (September 2022).

28 China Gas Holdings Limited, 'China Gas Signs Three-Year US$500 Million Syndicated Loan Marks First Social Syndicated Loan in Greater China Region' (press release) (June 2022).

29 HKEX, Appendix 27 Environmental, Social and Governance Reporting Guide, Main Board Listing Rules.

procedures; and publicly disclosing how they manage climate-related risks. At a minimum, annual disclosures should be made regarding climate-related governance, risk management and investment management.[30]

The HKMA's Supervisory Policy Manual GS-1 on Climate Risk Management requires financial institutions to incorporate climate risk considerations into their strategic frameworks. The manual requires banks to make climate-related disclosures aligned with the TCFD recommendations as soon as reasonably practicable and no later than mid-2023.[31]

With regard to investment products, the SFC issued guidance on 29 June 2021 on the disclosure standards of ESG funds through a circular to management companies of SFC-authorised unit trusts and mutual funds involving ESG factors. It requires a fund's offering documents to provide information necessary for investors to make an informed judgment about the investment. This includes the fund's ESG focus, ESG investment strategy, expected proportion of ESG investment (in terms of net asset value), any reference benchmark and related risks.[32] The guidelines require ESG fund managers to conduct periodic assessments of the attainment of their ESG focus and to disclose the results through effective means such as annual reports.

With regards to the MPFA, the MPFA Principles require MPF trustees to disclose ESG integration strategies and report implementation progress regularly and disclose metrics; describe how ESG factors are factored into the relevant investment strategies; and disclose metrics and targets adopted by investment managers where possible.

Hong Kong has committed to align itself with TCFD recommendations by 2025.[33] The Cross-Agency Steering Group has announced plans for mandatory TCFD-aligned climate-related disclosures by 2025.

The SFC, HKEX and HKMA regularly refer to TCFD recommendations in their guidance materials. In November 2021, the HKEX published the Reporting on TCFD Recommendations: Guidance on Climate Disclosures. This guidance provides practical advice to assist listed companies in complying with TCFD-aligned reporting requirements.[34]

Hong Kong regulators may soon require companies to follow the global baseline for sustainability reporting, expected to be finalised by the International Sustainability Standards Board (ISSB) by early 2023. The SFC and the HKEX are evaluating the implementation of the ISSB standards for Hong Kong listed companies. An SFC–HKEX joint working group is further looking into the challenges faced by listed companies and their readiness to report under the ISSB's proposed disclosure requirements.[35]

Hong Kong does not have a local green finance taxonomy. Local issuers and underwriters mostly rely on international standards and taxonomies. Following the publication of the

30 SFC, Circular to licensed corporations management and disclosure of climate-related risks by fund managers (August 2021).

31 HKMA, Supervisory Policy Manual GS-1 Climate Risk Management (December 2021).

32 SFC, Circular to management companies of SFC-authorized unit trusts and mutual funds – ESG funds (June 2021).

33 HKMA, 'Cross-Agency Steering Group Launches its Strategic Plan to Strengthen Hong Kong's Financial Ecosystem to Support a Greener and More Sustainable Future' (press release) (December 2020).

34 HKEX, 'Exchange Publishes Corporate Governance and ESG (Climate Disclosures) Guidance' (regulatory announcement) (November 2021).

35 The Government of the Hong Kong Special Administrative Region, Cross Agency Steering Group announces launch of information and data repositories and other progress in advancing Hong Kong's green and sustainable development (press release) (June 2022).

updated Common Ground Taxonomy (CGT) report by the International Platform on Sustainable Finance, the Cross-Agency Steering Group will work towards proposing the structure and core elements of the local green classification framework for consultation.[36]

VI ESG DATA AND REPORTING

Please refer to Section V for a discussion on reporting requirements.

There are two main challenges in the ESG data reporting regime.

First, there are challenges surrounding data availability. At present, reporting is only required for a narrow range of entities in Hong Kong such as listed companies, fund managers and companies that issue ESG funds. Outside of Hong Kong, mandatory reporting of ESG data is also limited.

Secondly, even where data is available, it may not be sufficiently granular to fully evaluate a particular ESG metric. HKEX has previously emphasised that there is no one-size-fits-all approach for ESG reporting frameworks.[37] While this is true, difficulties may arise regarding which reporting standards to adopt and the breadth and depth of the reporting done by each company, which can lead to difficulties when comparing the disclosed data between industries and markets.

The HKEX's ESG reporting guide encourages (but does not oblige) listed companies to disclose according to scope classifications.

Regarding fund managers of collective investment schemes, large fund managers[38] must make efforts to collect and disclose Scope 1 and Scope 2 greenhouse gas emissions data, whereas smaller fund managers are not required to comply with this requirement.

VII SUSTAINABLE FINANCE INCENTIVES

One of the most notable incentives that the government supports is the Green and Sustainable Finance Grant Scheme (GSFG Scheme).[39] The GSFG Scheme consists of two tracks.

Track I covers general bond issuance costs (such as arrangement, legal, audit and listing fees) for eligible first-time green and sustainable bond issuers. Track II covers external review costs (such as pre-issuance external review, post-issuance external review or reporting) for eligible green and sustainable bond issuers and loan borrowers.

The GSFG Scheme supports issuers in Hong Kong to access sustainable financing, which can help accelerate the climate transition. As of late May 2022 (a year after the GSFG Scheme was launched), close to 100 applications were approved resulting in an aggregate amount of approximately HK$100 million provided as grants to private institutions.[40]

36 HKMA, Cross-Agency Steering Group announces progress and way forward to advance Hong Kong's green and sustainable finance development (press release) (December 2021).

37 See footnote 29.

38 Fund managers with over US$8 billion of assets under management for any three months in the previous reporting year constitute large fund managers.

39 HKMA, Guideline on the Green and Sustainable Finance Grant Scheme (May 2021).

40 See footnote 10.

In addition, the government has set out four decarbonisation strategies in the Climate Action Plan. These involve net-zero electricity generation, energy saving and green buildings, green transport and waste reduction.[41] Public and private companies embarking on such projects will likely require sustainable financing.

In December 2021, the HKMA issued a circular on sound practices supporting the transition to carbon neutrality as a transition framework for the banking industry.[42] With banks prioritising carbon neutrality, this will further encourage a healthy, sustainable finance ecosystem.

Given Hong Kong's reputation as an international finance centre and the important roles that HKMA, SFC, HKEX and the MPFA have played in upholding this status, their individual transition frameworks and guidelines to transform Hong Kong into a sustainable economy will serve as important benchmarks for companies seeking to remain compliant and competitive, and to develop and maintain a good reputation in the market.

VIII GREEN TECHNOLOGY

i Carbon trading

In March 2022, the Cross-Agency Steering Group published its preliminary assessment report following a carbon market work stream that supports Hong Kong's development into a global, high-quality voluntary carbon market that could potentially become a Greater Bay Area unified carbon market.[43]

On 28 October 2022, the HKEX launched Core Climate, an international carbon marketplace for the trading of voluntary carbon credits and instruments. The Core Climate platform enables parties to source, hold, trade, settle and retire voluntary carbon credits. Projects listed on the platform will be verified against international standards such as the Verified Carbon Standard.

ii Research and development

Hong Kong's start-up community is actively involved in the development of green technology as one of the Hong Kong Science Park's five core technology clusters. The government has provided funding support to environmental technology-related research and development (R&D) projects under the Innovation and Technology Fund, with total funding exceeding HK$499 million.[44]

IX CLIMATE CHANGE IMPACT

Hong Kong's initiatives have yielded positive results in its aim to reach carbon neutrality before 2050. Hong Kong's carbon emissions in 2020 were 20 per cent below the base 2005 level, reflecting an almost 30 per cent drop from the peak per capita carbon emission

41 See footnote 13.
42 HKMA, Sound practices supporting the transition to carbon neutrality (circular) (December 2021).
43 SFC, Preliminary Carbon Feasibility Assessment (March 2022).
44 HKTDC Research, Green Technology & Environmental Services Industry in Hong Kong (October 2022).

level in 2014.[45] However, climate change is increasingly evident in our living and working environments. Accordingly, a more cohesive and global approach is required to effectively combat climate change.

In December 2021, the HKMA published the results of a climate risk stress test on banks. The test indicated that the Hong Kong banking sector should remain resilient to climate-related shocks given the banks' strong capital buffers. However, it noted that the use of simplified assumptions and historical data could mean that the potential impact may be more serious than predicted.[46]

In response to such risks, the HKMA published the Supervisory Policy Manual GS-1 (see the discussion on its disclosure requirements in Section V),[47] and issued a circular in June 2022 to lay out its two-year plan to integrate climate risk management into its supervisory processes and agenda.[48]

Hong Kong has a history of environmental public interest litigation, including environmental-related cases with mixed success.[49] It is not uncommon for Hong Kong courts to hear judicial review cases brought by parties who seek to challenge the Town Planning Board's planning permissions on environmental grounds.[50]

Since mandatory climate-related regulations are new and relatively limited, there has not been any noteworthy climate-related litigation or enforcement action in Hong Kong. Nonetheless, regulatory checks on compliance with the new ESG disclosure and reporting requirements are expected and may lead to the first such enforcement action in the coming years. In addition, the global trend of increased shareholder and non-governmental organisation activism as a result of greenwashing concerns is likely to apply in Hong Kong as well. An example is the Airport Authority's US$4 billion green bond package, which was the subject of media reports following concerns raised by Reclaim Finance, a Paris-based climate campaigner. Reclaim Finance alleged that the environmental benefits of the project would be more than offset by greater carbon emissions from more flights and biodiversity risks from building the new runway.[51]

X OUTLOOK AND CONCLUSIONS

In the 2022–23 Budget Speech, the Financial Secretary of Hong Kong noted that green and sustainable finance development in Hong Kong will continue to be a key initiative to support Hong Kong's net zero agenda as well as the PRC's 30.60 decarbonisation goal in relation to carbon emission peak and carbon neutrality.

Issuances of government green bonds are expected to continue. The government's proactive approach signifies Hong Kong's commitment to a low-carbon economy, which can

45 See footnote 10.
46 HKMA, Pilot Banking Sector Climate Risk Stress Test (December 2021), page 5.
47 See footnote 31.
48 HKMA, Embedding climate risk in banking supervision (circular) (June 2022).
49 Cases include the Harbour Reclamation (2004), Hong Kong-Zhuhai-Macau Bridge (2011), Municipal Wastes Incinerator at Shek Kwu Chau (2014), Artificial Beach in Lung Mei (2014), and the Airport Third Runway (2015).
50 An example is *Tam Hoi Pong v. Town Planning Board* [2022] HKCA 462.
51 Eric Ng, 'Sustainable finance: 'greenwashing' concerns raised as Hong Kong airport floats US$4 billion bonds package to fund growth decarbonisation', *South China Morning Post* (January 2022).

lead to a lower cost of capital for the sustainable finance market. This is likely to stimulate increased funding of sustainable projects in the region and to anchor Hong Kong as an attractive location for PRC companies to issue offshore sustainable debt.

Further, based on the trend in 2022, we predict that social finance will gain traction in Hong Kong in the coming year.

With the strategic framework published by the HKMA and the SFC and consultations published by the HKEX, we anticipate increasing ESG-related regulations and mandatory disclosures to be expected of financial institutions and companies in Hong Kong, which are likely to become increasingly aligned with the TCFD.

At the same time, significant market challenges remain.

First, there is a lack of harmonised sustainability definitions and classification systems in the market, which may affect the credibility of sustainable finance products. Due to the lack of a common taxonomy, the standards in a green finance transaction are often agreed between private parties. The lack of consistency in the market can lead to greenwashing concerns, which affect the integrity of the sustainable finance market as a whole. To help close this gap and address the issue of greenwashing, Hong Kong's short-term goal is to develop a local taxonomy aligned with the CGT.

A second key challenge is the shortage of talent to meet demand in the sustainable finance market in Hong Kong. To address this issue, the government is seeking to attract ESG professionals from abroad and to build capacity locally. Experienced financial professionals in ESG have been added to the Talent List of Hong Kong, which lists the professions that are most needed in the immediate to medium term for Hong Kong's economic growth. Professionals on the list are entitled to receive preferential residency treatment.

Overall, we believe that Hong Kong's sustainable finance ecosystem will grow from strength to strength over the coming years. The steady increase of sustainable finance locally within Hong Kong and regionally within the Greater Bay Area and the PRC, the increasing global demand for sustainable finance products and Hong Kong's commitment to fulfil its climate goals by 2050 collectively reflect Hong Kong's potential as an international sustainable finance hub.

Appendix 1

ABOUT THE AUTHORS

MARK UHRYNUK

Mayer Brown

Mark Uhrynuk is a partner of Mayer Brown in the Hong Kong office. Mark represents asset managers, family offices and other investor groups, corporations and financial institutions in a variety of transactional matters. His wide-ranging experience includes private equity and venture capital investment and related financings; cross-border mergers, acquisitions, divestitures, joint ventures and strategic alliances; investment fund matters, including the formation of private equity, infrastructure and real estate funds; and international equity and debt capital markets transactions.

Mark is a key contact point for the ESG initiative within the Mayer Brown network and is a founding member of the firm's ESG steering committee. Mark also co-leads the firm's family office initiative in the region. An active thought leader in these fields, Mark has been widely quoted by the leading media and has authored a number of articles and legal updates on these and related topics.

Mark is qualified as a lawyer and has practised law in Hong Kong, New York and England. According to *IFLR1000* (2021), clients say 'Mark has deep experience in the field. He knows how to get deals done and has years of global practice experience to draw on to ensure we are able to see issues from all sides and pick the best path forward.' Mark has been nominated as a highly regarded Hong Kong lawyer by *IFLR1000* for private equity (2018–2022) and mergers and acquisitions (2018–2022).

ANGIE N K CHAN

Mayer Brown

Angie Chan is a partner of Mayer Brown's banking and finance practice in Hong Kong. Angie advises and represents banks, other financial institutions and borrowers on domestic, cross-border and international bank financing transactions, which include general syndicated, club and bilateral loans, onshore and offshore loans, acquisition financing and development financing.

FRANCIS K W CHEN

Mayer Brown

Francis Chen is a partner of Mayer Brown. Francis has acted for financial institutions and large corporations in all sorts of financing structures, including bilateral and syndicated loan transactions, with or without security; local and cross-border financing transactions as well as more complicated financing structures, such as receivables-based financing, project finance, onshore offshore financing, receivables purchase facilities, limited recourse pre-payment facilities and leverage finance facilities.

DION K Y YU

Mayer Brown

Dion Yu is a partner of Mayer Brown's banking and finance team in Hong Kong. Dion advises and represents banks and financial institutions in banking finance transactions ranging from bilateral loan transactions to syndicated secured loan financing. Dion has experience in advising loan financing transactions involving real estate investment trusts, private equity funds and asset managers, shares and assets acquisition financing, ESG-related financing, pre-IPO financing, hotel development project financing and other construction and development financing in Hong Kong, the PRC and Macao.

WEI NA SIM

Mayer Brown

Wei Na Sim is a counsel in the litigation and dispute resolution practice in Mayer Brown's Hong Kong office and a member of the firm's ESG product team. Wei Na advises and acts for companies in litigation, investigations and regulatory enforcement matters, with a focus on the financial services industry. Wei Na is experienced with handling independent compliance monitor reviews on financial crime issues conducted on banks in Asia, Europe and the US. Euromoney's *Expert Guides 2022* named Wei Na as a rising star in white-collar crime, Hong Kong.

Prior to moving to Hong Kong, Wei Na practised litigation in Singapore where she advised and represented public listed companies, banks, insurers and financial institution intermediaries in complex commercial disputes and financial services-related matters. Wei Na handled litigation at all levels of the courts of Singapore and represented clients in mediation. Wei Na also advised clients on regulatory matters such as show cause requests from Singapore regulators and requests for evidence from foreign regulators, and advised on customer due diligence requirements, anti-money laundering and confidentiality laws.

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