



Vinson&Elkins

An Introduction To:

Sustainable Finance

Summer 2022

Key Contacts



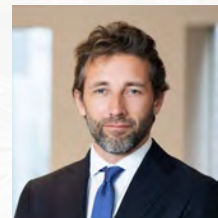
Caitlin Snelson
**Senior Associate,
Key Author**

Finance
Houston
+1.713.758.2382
csnelson@velaw.com



Sarah Morgan
Partner

Mergers & Acquisitions
and Capital Markets
Houston
+1.713.758.2977
smorgan@velaw.com



Eamon Nolan
Partner

Project Development
& Finance
New York
+1.212.237.0052
enolan@velaw.com



Margaret E. Peloso
Partner

Environmental and
Natural Resources
Washington
+1.202.639.6774
mpeloso@velaw.com



Taylor Daily
Associate

Finance
Houston
+1.713.583.3245
tdaily@velaw.com

Table of Contents

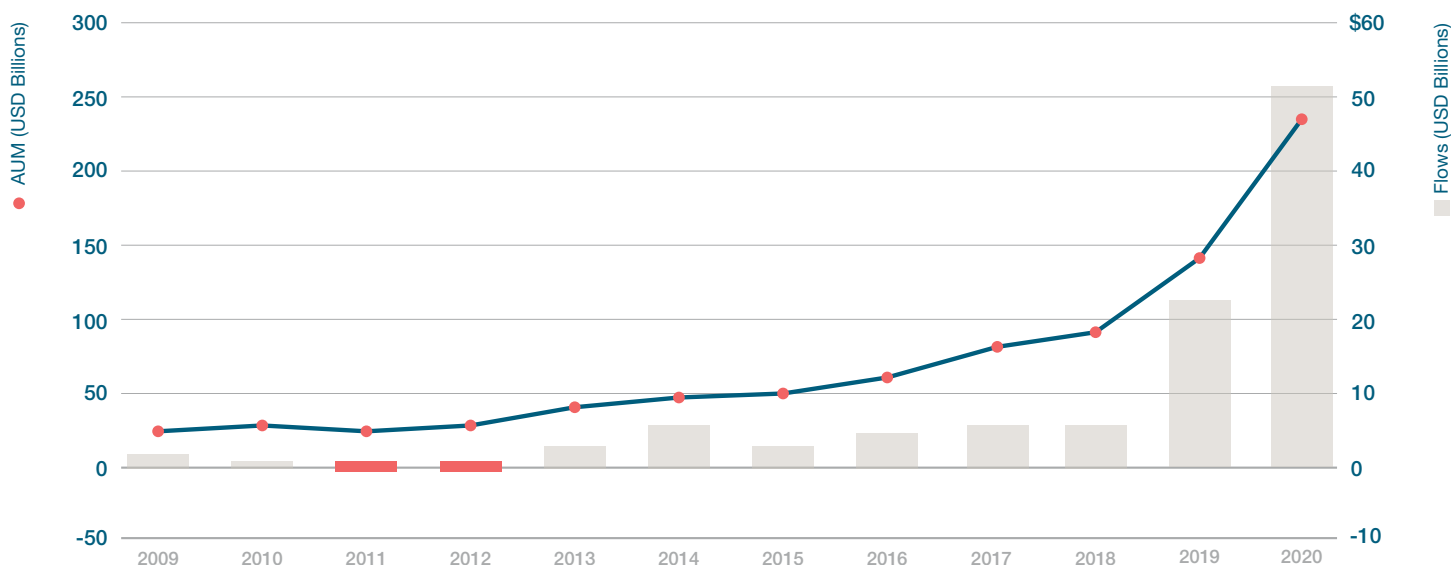
Introduction	2
What is Sustainable Finance?	2
Growth and Future of Sustainable Finance	3
“Green” Financing	5
Green Bonds	5
Green Loans	10
Supplemental Principles — Climate Bonds Standard and Certification Scheme	12
Social Financing	13
Sustainability Linked Financing	15
The Sustainability Linked Bond Principles	15
The Sustainability Linked Loan Principles	18
EU Regulations	22
EU Sustainability-Related Disclosure Regulations	22
EU Taxonomy	23
Recent Issuances	24
Recent Sustainable Bonds and Loans	24
Recent Sustainability Linked Bonds and Loans	32
Endnotes	38

Introduction

What is Sustainable Finance?

The amount of money invested in Environmental, Social and Governance (ESG) funds more than doubled in 2020,¹ and it is estimated that more than \$4 out of every \$10 invested is being invested in ESG.² As banks and investors increasingly turn their attention to ESG factors — both in response to changing societal expectations and evolving ideas regarding the ability of good ESG practices to create value — companies are also increasing their focus on ESG. This corporate focus on ESG is driven by the need to respond to investor pressures, manage nonfinancial risks, preserve social license to operate, and take advantage of new opportunities. As part of this trend, ESG-type criteria are appearing with increasing prevalence in the bond and loan markets, and new opportunities within sustainable finance are opening up as a result of major financial institutions making their own commitments with respect to ESG criteria. Companies increasing their focus on ESG issues have the opportunity to access sustainable finance tools and to gain access to additional financing sources and/or financing on more favorable terms. “Green Bonds,” “Green Loans” and performance-specific sustainability linked debt instruments are just some of the instruments falling under the umbrella of sustainable finance.

Sustainable Funds Annual Flows and Assets



Source: Morningstar. Data as of December 31, 2020. Includes Sustainable Funds as defined in Sustainable Funds U.S. Landscape Report, February 2020. Includes funds that have been liquidated; does not include funds of funds.

In their most basic forms, sustainable bonds or their corollary in the loan market, sustainable loans (“sustainable” being the umbrella of “Green,” “Social” and mixed use-of-proceeds instruments), are any type of financial instrument where the proceeds will be applied to eligible environmental and/or social projects. Unlike sustainable bonds and loans, the proceeds of sustainability linked bonds or loans are intended for general corporate purposes, but incentivize the issuer’s achievement of material, quantitative, pre-determined, ambitious, regularly monitored and externally verified sustainability (i.e., ESG) objectives through sustainability performance targets (SPTs).

These debt instruments benefit companies, investors and lenders by impacting pricing, providing relational and reputational benefits, supplying increased demand for investment in environmental and social change, attracting and retaining talent and improving relationships with stakeholder communities. Further, these debt instruments, and their benefits, are increasingly available to a variety of corporate issuers across an expanding universe of industries and may take the form of bonds, term loans, revolving loans and other working capital facilities.

Growth and Future of Sustainable Finance

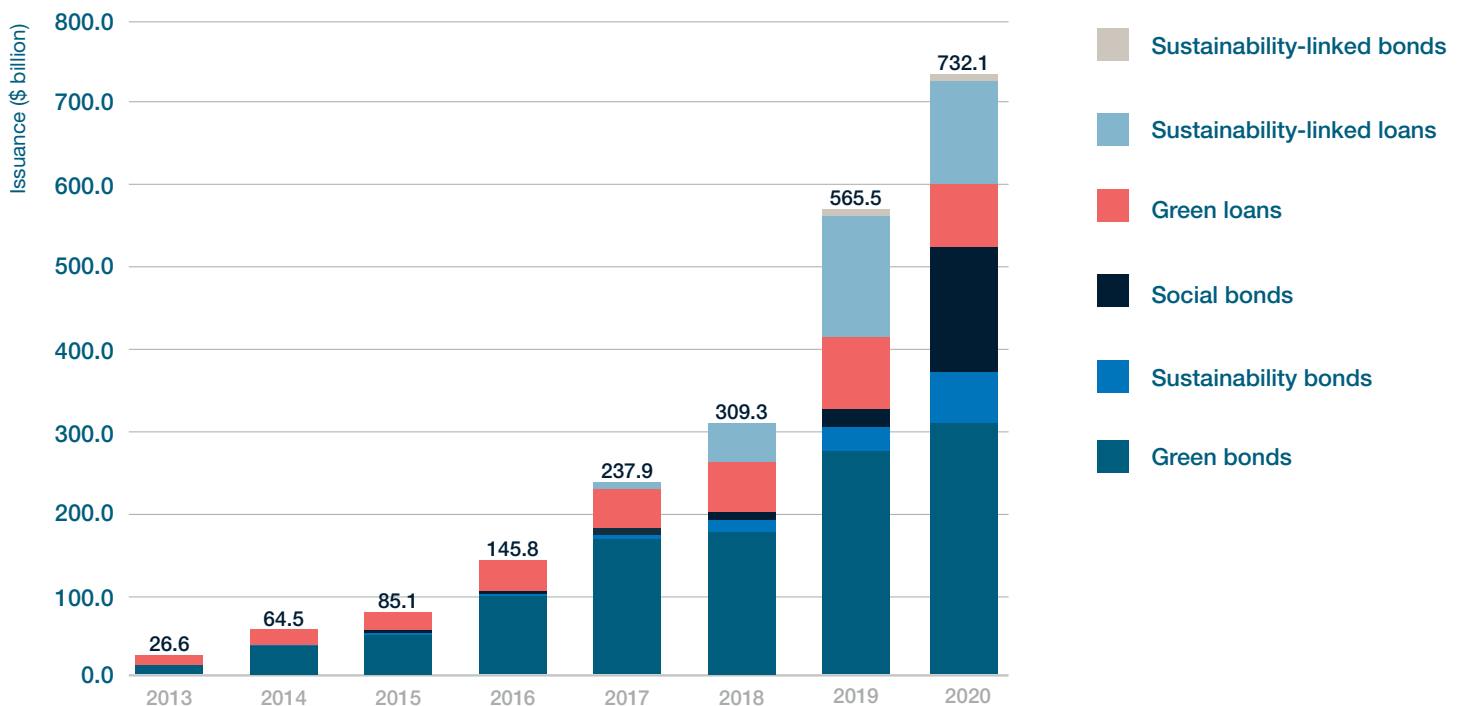
Issuances of sustainable debt broke records in each quarter of 2020 and the numbers continue to rise.³ To highlight a few metrics:

- sustainable debt issuances totaled \$732.1 billion in 2020 across both loans and bonds, representing a 29% increase from 2019’s total;⁴
- green, social and sustainable bonds totaled \$127.3 billion in the third quarter of 2020, setting a quarterly record 30% higher than the second quarter of 2020 (which itself set a quarterly record as compared to the first quarter of 2020);⁵
- total green bond issuances hit a \$1 trillion issuance milestone in the third quarter of 2020; when taken together with other social bonds and sustainability linked instruments, the sector hit a \$2 trillion issuance milestone in the third quarter of 2020;⁶ and
- sustainable finance is expected to see a 55% increase in 2021 as compared to 2020.⁷

Two of the driving forces behind the growth in issuances of sustainable debt are (1) the increasing focus of investors and policy makers on ESG criteria and (2) the proven performance of sustainable investments.⁸ In recent years, an increased focus on sustainable investments has been seen across the general populace, and even more so in millennials, a generational group that is starting to invest more capital into the financial markets and is also more likely to align their investments with their individual values or mores relative to the general populace.⁹ However, millennials are not the only investors driving increases in sustainable

investments. Public policy adopted across the world relating to sustainability goals is resulting in the development of regulatory schemes and initiatives to increase investment in sustainable finance.¹⁰ Further, banks, investment funds and other institutional investors are making increased commitments to allocate capital to sustainable finance, which is driving demand for sustainable investments.¹¹ As sustainable finance continues to grow, the importance of, and need for, benchmarks and guidelines will grow alongside it.¹²

Global Sustainable Debt Annual Issuance, 2013-2020



Source: BloombergNEF, Bloomberg L.P.

“Green” Financing



Green bonds and green loans are debt securities issued to fund projects or other expenditures with positive environmental and/or climate benefits.¹³ The documents for these green instruments highlight a “green” use of proceeds, e.g., to finance specific green projects, or in furtherance of operations of issuers with defined environmental benefits.¹⁴

Green Bonds

Introduction to Green Bonds

Green bonds are the most prevalent type of debt instruments under the umbrella of sustainable finance, with \$800 billion in green bonds outstanding as of September 30, 2020.¹⁵ While originally formulated as government debt securities, the first corporate green bond was issued by Vasakronan, a Swedish property company, in November 2013, to fund new energy-efficient buildings, retrofit existing buildings and develop renewable energy projects, among other things.¹⁶ Since then, many large corporate issuers have tapped into the green bond market, including Apple Inc., Bank of America Corporation, Citigroup Inc., the Goldman Sachs Group, Inc., PepsiCo, Inc., Visa, Inc., Verizon Communications Inc., Volkswagen AG and Toyota Financial Services.¹⁷ The corporate green bond market is dominated by investment-grade issuers rather than issuers of high-yield bonds.¹⁸

The Green Bond Principles

The Green Bond Principles (GBP) are the leading framework globally for issuances of green bonds.¹⁹ These voluntary best practice guidelines were established in 2014 by a consortium of investment banks, including BofA Securities, Inc., Citigroup Inc., Crédit Agricole CIB, JPMorgan Chase & Co., BNP Paribas S.A., Daiwa Securities Group Inc., Deutsche Bank AG, the Goldman Sachs Group, Inc., HSBC Holdings plc, Mizuho Securities Co., Ltd., Morgan Stanley, Coöperatieve Rabobank U.A. and Skandinaviska Enskilda Banken AB.²⁰ The International Capital Market Association (ICMA) provides guidance for the governance of the GBP and has assumed the continued monitoring and development of the GBP.²¹ Following the annual general meeting of the GBP in June 2018, ICMA announced the publication of new and updated principles that represent an important additional step toward the gradual harmonization and expansion of the global green bond market. While there is currently no universal standard for green bonds — and bonds without the green label may in fact be just as functionally “green” as bonds with a green label — the GBP are intended to help encourage transparency and disclosure in the green bond market, reduce “green washing” and increase capital allocation to environmental projects.

The GBP have four core components:

1. Use of Proceeds;
2. Process for Project Evaluation and Selection;
3. Management of Proceeds;
4. Reporting.²²



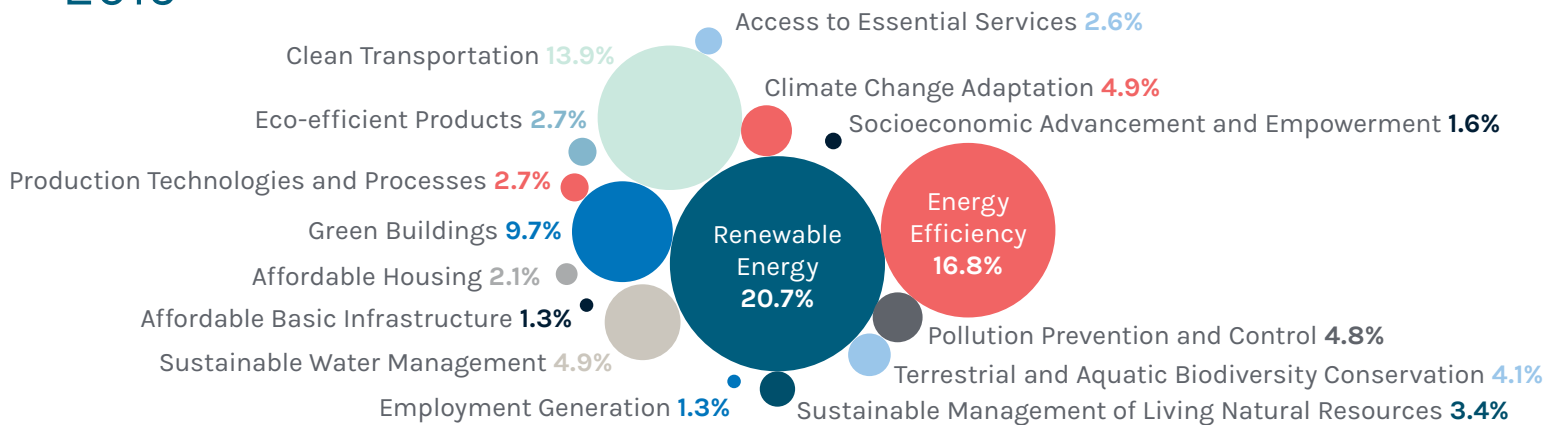
Use of Proceeds

The GBP describe the use of proceeds component as the “cornerstone” of the GBP.²³ The eligible green projects financed or refinanced by an issuance should be clearly identified, and, if possible, quantified, in the use of proceeds section of the offering document. The GBP state that the offering document should clearly and specifically describe the intended use of the green bond proceeds, including around particular projects, and their continued or expected environmental benefit. Green bonds generally do not include covenants that contractually obligate the issuer to use the proceeds for specific green projects, increasing the need for investors to conduct their own due diligence.²⁴

Currently, there is no global consensus on how to classify projects qualifying for green bond financing.²⁵ However, the GBP provide a non-exhaustive list of eligible green categories and examples that can be selected for the use of proceeds:

- **renewable energy** (including production, transmission, appliances and products);
- **energy efficiency** (such as in new and refurbished buildings, energy storage, district heating, smart grids, appliances and products);
- **pollution prevention and control** (including reduction of air emissions, greenhouse gas control, soil remediation, waste prevention, waste reduction, waste recycling and energy/emission-efficient waste to energy);
- **management of living natural resources and land use** (including environmentally sustainable agriculture; environmentally sustainable animal husbandry; climate smart farm inputs such as biological crop protection or drip-irrigation; environmentally sustainable fishery and aquaculture; environmentally sustainable forestry, including afforestation or reforestation, and preservation or restoration of natural landscapes);
- **terrestrial and aquatic biodiversity conservation** (including the protection of coastal, marine and watershed environments);
- **clean transportation** (such as electric, hybrid, public, rail, non-motorized, multi-modal transportation, infrastructure for clean energy vehicles and reduction of harmful emissions);

2019



Methodology: When bonds have more than one 'use of proceeds' the whole value of the bond is counted for each 'use of proceeds.'

Source: www.bonddata.org

- **sustainable water and wastewater management** (including sustainable infrastructure for clean and/or drinking water, wastewater treatment, sustainable urban drainage systems and river training and other forms of flooding mitigation);
- **climate change adaptation** (including information support systems, such as climate observation and early warning systems);
- **eco-efficient and/or circular economy adapted products, production technologies and processes** (such as development and introduction of environmentally sustainable products, with an eco-label or environmental certification, resource-efficient packaging and distribution); and
- **green buildings** which meet regional, national or internally recognized standards or certifications (e.g., LEED or BREEAM).²⁶

Green bond issuers initially provide this information regarding use of proceeds in a "Green Bond Framework." A Green Bond Framework is a detailed publication by a potential green bond issuer that contains information describing how the requirements of the GBP will be met by the issuer for a future potential green bond.²⁷ As of

December 15, 2020, investments in the energy sector have made up roughly a third (35%) of all green bond uses of proceeds, followed by low carbon buildings (26%) and green transportation (19%).²⁸ Some examples of eligible green projects undertaken by green bond issuers include: (a) Apple Inc.'s funding of aluminum chip sorting improvements to maximize use of recycled aluminum in enclosure manufacturing,²⁹ (b) Bank of America's investment in numerous solar and wind farms,³⁰ (c) PepsiCo's purchase of more sustainable plastics and packaging,³¹ (d) Verizon's conversion to using all LEDs in its facilities³² and (e) Volkswagen's contributions to e-charging infrastructure.³³

Determining whether a bond is "green" depends on the eligibility of the project to which it relates — not the eligibility of an issuer. Even companies in industries that may not be universally considered to be green, including those with high greenhouse gas emissions, can participate in the green bond market if the use of proceeds meets certain eligibility criteria. A green bond can also be used to fund a portion of a larger project that would not meet the green criteria set forth above, provided that the green bonds are only used to fund the eligible portion.

A green bond issuer does not legally covenant to use proceeds strictly for green projects, however. It is common to find disclosure in the relevant offering document that highlights to investors that the issuer does not guarantee that the funds raised will be allocated to eligible green projects. The following risk factor excerpt from Apple Inc.'s green bond prospectus illustrates this point: "The examples of projects in 'Use of Proceeds' are for illustrative purposes only and no assurance can be provided that disbursements for projects with these specific characteristics will be made by us with the proceeds from the notes."³⁴ In practice, the lack of specifically "green" covenants and the fungibility of cash provide an issuer with broad discretion to use the proceeds of a green bond for general corporate purposes, albeit with implications for the issuer stemming from the external audit of the issuer's allocation of funds to eligible green projects.

The summary chart "Recent Sustainable Bonds and Loans," set forth on page 24 under "Recent Issuances," includes the use of proceeds of several recent green bond issuances.

Process for Project Evaluation and Selection

Companies issuing green bonds are expected to provide clear communication to investors about the objectives of any environmentally beneficial projects, the protocols used in determining the project's adherence to the green projects list above and other eligibility criteria.³⁵ The GBP also recommend that any green project selection process be supported by a

third-party review.³⁶ Third-party review often takes the form of a second-party opinion, although other forms include verification and certification.³⁷ As the green bond market has expanded, an increasing number of consultants and institutions with recognized expertise in environmental sustainability have begun providing third-party reviews of Green Bond Frameworks. These environmental organizations and firms are now ubiquitous in the green bond industry, and nearly all Green Bond Frameworks first receive an external stamp of approval, most commonly in the form of a second-party opinion, before going to market.



Green bond issuers often support the characterization of their bonds as green by requesting a "second-party opinion" by an environmental consultant, like Sustainalytics.³⁸ The content of these opinions varies depending on the format of the second-party opinion provider but they typically assess the procedural aspects of the green bond, such as whether the issuer has adequately

disclosed the use of proceeds, whether the issuer has explained how it will select projects and how the issuer expects to conduct ongoing reporting.³⁹ To that end, not all reviews are equal, and an issuer can receive varying degrees of confirmation that its framework is GBP-aligned.⁴⁰ See "Green Bond Documentation" on the next page for more information.

While the GBP only recommend that issuers use some form of external review and do not include it as a core component, over 91% of green bonds by aggregate principal amount outstanding receive some form of external review.⁴¹ Moreover, some green bond-specific stock exchanges, such as the Luxembourg Green Exchange, mandate a second-party opinion as a listing requirement.⁴²

Management of Proceeds

The GBP encourage issuers to ring-fence the net proceeds, or an amount equal to the net proceeds, of an issuance in an external or internal account, attested to by a formal allocation process.⁴³ The company will typically need to inform investors about the types of temporary investments in which any unallocated funds are being held, and auditors — usually "Big Four" accounting firms — are often tasked with independently evaluating the allocation of funds.⁴⁴ Additionally, the GBP recommend that, while a green bond is outstanding, the balance of the tracked net proceeds should be periodically adjusted to match allocations made to eligible green projects during that period.⁴⁵

Consistent with their goal of transparency, the GBP recommend

that an issuer's management of proceeds be reviewed by an outside auditor, or other third party, to ensure the internal tracking method and the allocation of funds from the green bond proceeds is accurate.⁴⁶ In light of the fungibility of cash, the funds raised from a green bond issuance could become interchangeable with the issuer's other funds if not properly maintained, which could result in an issuer using funds originally intended for eligible green projects for non-green projects — and vice versa.⁴⁷

Reporting

Under the GBP, companies are expected to prepare and make readily available annual disclosures or a green bond impact report on the use of proceeds until the proceeds of the bond sale have been fully allocated.⁴⁸ Companies will also report new material developments in these reports.⁴⁹ A green bond impact report is an annual publication by a green bond issuer that provides quantitative and qualitative information regarding annual use of proceeds, progress allocating net proceeds and selected impact metrics accompanied by management's discussion of the amount of the net proceeds that was allocated to eligible green projects, among other things.⁵⁰ The annual report will include a list of the projects to which green bond proceeds have been allocated, as well as a brief description of the projects and the amounts allocated, along with their expected impact.⁵¹ The GBP also recommend core indicators for two types of projects, energy efficiency and renewable energy, and reference reporting templates that issuers can adapt to their own circumstances.⁵²

Green Bond Documentation

The preparation and content of green bond offering documentation (for example, the underwriting or purchase agreement, indenture, comfort letters and opinions of counsel) are largely the same as a traditional bond offering. Where green bonds differ are in the prospectus or offering memorandum — which include green bond-specific disclosures in the "use of proceeds" section and marketable green font — and in the preparation of related materials, such as Green Bond Frameworks (i.e., a disclosure by a potential issuer detailing compliance with the GBP) or second-party opinions.

Preparing a Green Bond Framework prior to issuance provides an issuer with time to arrange for external review, which often takes the form of a second-party opinion, with the Framework later referenced or summarized in the eventual offering documents. It is notable, however, that Green Bond Frameworks are not incorporated by reference or included in the offering documents and these Green Bond Frameworks provide that any decision to purchase securities are to be based solely upon the offering documentation.⁵³

Similarly, a second-party opinion, if any, is typically not included in, or incorporated by reference into, the offering document. Issuers that receive such a second-party opinion may choose to disclose these opinions in their offering documents in order to attract purchasers to their bonds. Typically, second-party opinions are:

- provided for the general benefit of the public and not as a comfort letter to the underwriters or initial purchasers;
- made available to the public through the issuer's website; and
- subject to review by the issuer before publication to ensure that factual descriptions of the issuer's Green Bond Framework are consistent with the issuer's offering disclosure.

Due to the additional ESG documentation involved in a green bond offering, liability concerns arise regarding issuer ESG disclosure. Many offering documents, like the Green Bond Frameworks, include an express statement that corporate ESG materials on the issuer's website do not constitute a part of the offering materials. Attention to ESG disclosure is growing on a global scale, as can be seen, for example, in the European Union's taxonomy and disclosure initiatives described in "EU Regulations" below and the recent creation of a Climate and ESG Task Force in the Division of Enforcement by the Securities and Exchange Commission (SEC).⁵⁴ The SEC has announced that the Climate and ESG Task Force's "initial focus will be to identify any material gaps or misstatements in issuers' disclosure of climate risks under existing rules,"⁵⁵ demonstrating one marker of increased attention to the veracity of ESG disclosure that is likely to grow right alongside growth of the market for sustainable finance.



Green Loans

Introduction to Green Loans

Green loans are the corollary to green bonds in the loan market, meaning they are also use-of-proceeds or project-specific instruments used to finance or refinance an eligible green project. A borrower in any industry may incur a green loan so long as the proceeds of the loan are used in connection with an eligible green project.⁵⁶

Green Loan Principles

The Loan Market Association (LMA), the Asian Pacific Loan Market Association (APLMA), and the Loan Syndications and Trading Association (LSTA) first promulgated a set of voluntary guidelines called the Green Loan Principles (GLP) in 2018,⁵⁷ with the most recent update of the GLP released in February 2021. The Guidance on Green Loan Principles, which provides more details on the core GLP principles, was also updated in February 2021. The GLP are the primary guidance existing in the green loan market today and are

closely aligned with the GBP.⁵⁸ The primary differences between the GLP and GBP relate not to the core framework for the “green” nature of the instrument, but to the differences in the fundamental nature of a loan versus a bond. The GLP contain the same four core principles as the GBP: use of proceeds, process for project evaluation and selection, management of proceeds and reporting. Given the close alignment of these principles, the development of and considerations around green bonds and the application of the GBP to green bonds may be informative in discussions, developments and issuances of green loans.

Use of Proceeds

Use of proceeds is the “fundamental determinant of a green loan,” according to the GLP and, as such, should be clearly identified in the loan documents and related marketing materials for a green loan.⁵⁹ Proceeds of a green loan may be used in whole or in part to finance a new green project or to refinance an existing green project and may comprise an entire credit facility or one or more tranches within a multi-tranche credit facility, in each case, with the requirement that the proceeds apportioned to eligible green projects be delineated.⁶⁰ Further, while green loans lend themselves to term loan structures, they may also take the form of revolving loans where there is a sufficient framework in place for allocating borrowings to eligible green projects.⁶¹ The GLP include the same non-exhaustive list of recognized “eligible green products” as the GBP (detailed above under “Green Bonds – The Green Bond Principles – Use of

Proceeds”), but note that definitions of “green” and “green projects” are likely to vary across industries and geographical locations.⁶²

The summary chart “Recent Sustainable Bonds and Loans,” set forth on page 24 under “Recent Issuances,” includes the use of proceeds of several recent issuances.

Process for Project Evaluation and Selection

Clear communication to lenders, as with the GBP and the sustainability linked loan principles outlined below, is of the utmost importance in the GLP. The second core component of the GBP provides that a borrower should clearly communicate its environmental sustainability objectives, its selection process for the one or more relevant green projects and the related eligibility criteria. Disclosure of any applicable green standards and certifications is further encouraged.⁶³ Nationally and internationally, organizations, both private and public, have undertaken to establish further guidance, regulations, definitions and standards for defining “green.”⁶⁴ ICMA maintains a compendium of international policy initiatives as a resource,⁶⁵ which includes, for example, a reference to the impending EU taxonomy regulation which was promulgated subsequent to the latest compendium and is described below under “EU Taxonomy.”

Management of Proceeds

The GLP, like the GBP, encourage crediting loan proceeds to a dedicated account and/or otherwise tracking allocation of the proceeds. Unlike most bonds, loans almost

ubiquitously contain use of proceeds representations and warranties and covenants, which allow loans to provide a tighter check on ultimate use of proceeds than their bond corollaries.⁶⁶ Additional guardrails regarding management of proceeds may take the form of additional conditions precedent to a draw (e.g., providing a funds flow or supplying invoices or other evidence to confirm use of proceeds, in each case, prior to each drawing) or third-party verification.⁶⁷

Reporting

The GLP recommend that a borrower keep readily available and up-to-date information regarding the allocation of loan proceeds to eligible green projects, which information should be reported annually at least until the loan proceeds have been fully drawn and should be updated thereafter in the case of any material developments. This information should at minimum include the eligible green projects to which proceeds have been allocated and a description of the projects, allocated amounts and their expected impact.⁶⁸ The GLP further recommend that this information include qualitative and quantitative performance indicators, as applicable, with disclosure of the supporting methodologies to such indicators. This reporting information need not be made publicly available, but does need to be provided to lenders.⁶⁹

Review

While not a core component of the GLP, external review is an important recommendation of the GLP, with the need for, and scope of such external review to be determined by the borrower and its initial investors during negotiation of the loan documents. External review may take the form of (a) consultant review or second-party opinions regarding the sustainability or administration of a green loan, (b) verification of a borrower's green loan framework or alignment with a borrower's internal standards, (c) certification of a borrower's green loan or associated green loan framework against an external assessment standard or (d) rating of the green loan or associated green loan framework.⁷⁰

The nature of a loan as traditionally relationship-driven and held by financial institutions, rather than held by and traded by the public, provides different considerations to external review than are applicable to a green bond.⁷¹ For example, lenders are likely to have a better working knowledge of a borrower than the public would have of an issuer.⁷² Therefore, lenders may be more comfortable relying upon a borrower's self-certification and internal review process.⁷³ Nonetheless, a borrower should still clearly document its internally developed expertise and the review process associated with evaluating compliance

with the Green Loan Framework.⁷⁴ Where feasible and appropriate (taking into account confidentiality and competitive considerations), information regarding the review of a green loan and associated framework should be made publicly available.⁷⁵

Green Loan Documentation

As noted in the introduction to this Section, the loan documents for a green loan do not fundamentally differ from those for traditional loan products — the key difference is that the proceeds must be used for an eligible green product. However, the Guidance on Green Loan Principles recommends that the “green” nature of the loan be taken into account in the relevant loan documents, not just in the use of proceeds provisions, but also in the information representations and warranties and covenants, including the accuracy of reporting on the proceeds allocation and use of proceeds described above. Further, parties to a loan agreement will need to agree upon the consequence of a “green” breach, either in a failure to report (or accurately report) or to use the proceeds for their intended purposes.⁷⁶ Generally, a violation of these provisions would result in an event of default, with applicable grace or cure periods and effect on other outstanding indebtedness to be agreed.⁷⁷



Supplemental Principles – Climate Bonds Standard and Certification Scheme⁷⁸

While the GBP and GLP are the main principles guiding the green debt markets, other organizations have developed and are in the process of developing their own methods for evaluating the “greenness” of a debt instrument, including the Climate Bonds Initiative (CBI). Founded in 2010, the CBI is an international investor-focused non-profit organization whose stated purpose is to promote large-scale investments

in a low-carbon and climate-resilient global economy. The CBI created its own set of guidelines, the Climate Bonds Standard and Certification Scheme (CBS), which can apply to green bonds and other green debt instruments, such as green loans. Similar to the GBP, the CBS includes four key components, which the CBI intentionally aligned with the GBP.

The CBS differs from GBP by bifurcating its principles and certification process into two distinct phases of issuing a bond (or closing a loan or other debt instrument):

Pre-Issuance Requirements

- use of proceeds;
- process for evaluation and selection of projects and assets;
- management of proceeds; and
- reporting prior to issuance.

Post-Issuance Requirements

- use of proceeds;
- process for evaluation and selection of projects and assets;
- management of proceeds; and
- reporting.



The CBI not only provides the above guidelines, but also offers CBS certification for issuers who satisfy all four requirements of the CBS. While the GBP encourage compliance verification by third-party review, the CBS mandates it, providing for even greater transparency.

While there currently are not many alternative green bond-certification frameworks, it is likely that more market participants will introduce their own versions of the GBP as the green bond market continues to grow.

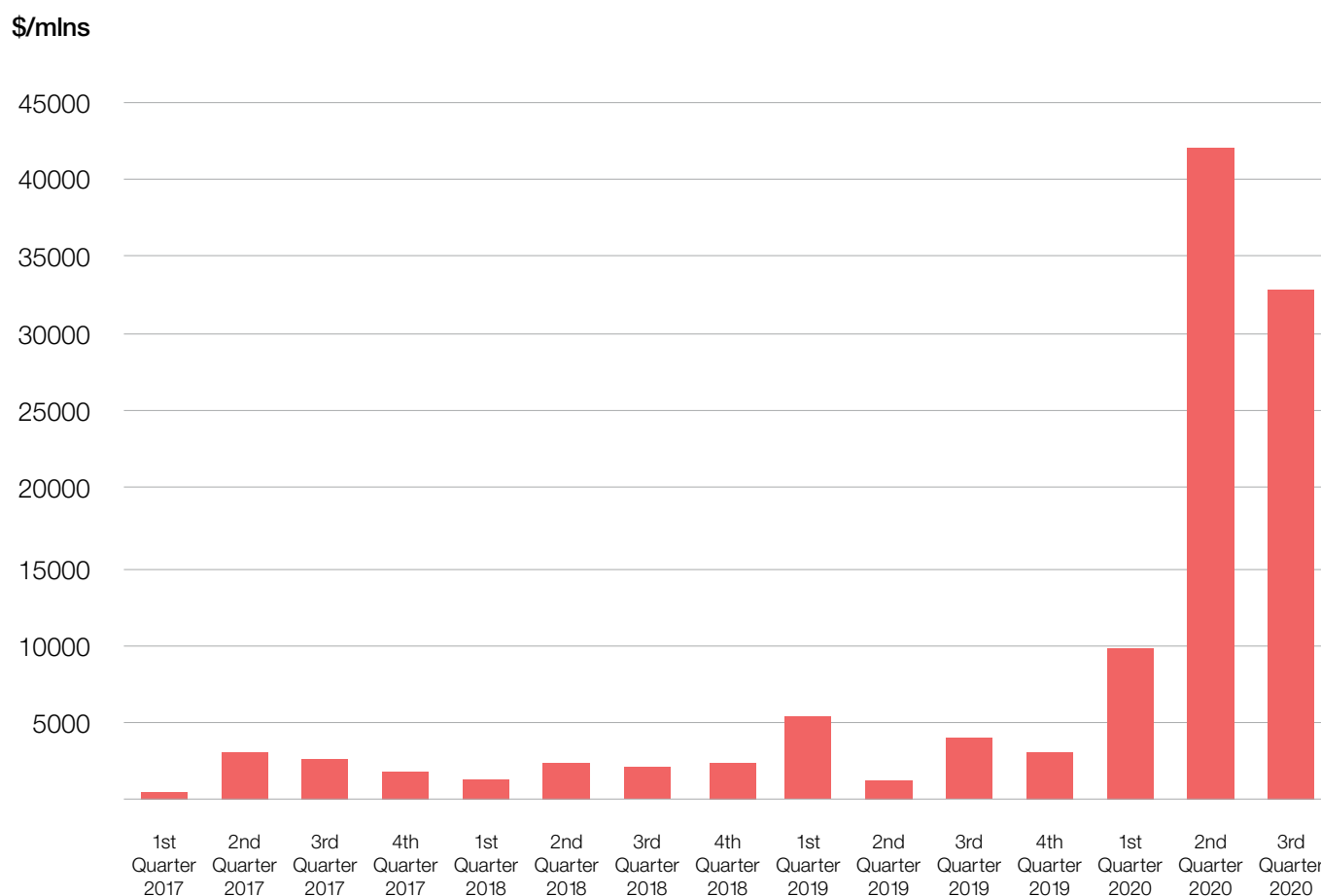
Social Financing

ESG of course is not limited to environmental matters and there are corollaries to green bonds and green loans that exist in the market to address the social aspects of ESG. These instruments are referred to as “social bonds” and “social loans.” In fact, the growth of social bonds and social loans is a major contributor to the overall market growth of sustainable finance, with Reuters reporting an 8x increase in social bond issuances in the third quarter of 2020 as compared to the previous year.⁷⁹ Recent issuances include bonds issued by Unedic, an unemployment insurance fund, to fund projects aimed at tackling unemployment⁸⁰ and a \$3 billion “Fight Covid-19” social bond issued by the African

Development Bank.⁸¹ Further recent issuances can be found in the summary chart “Recent Sustainable Bonds and Loans,” set forth on page 24 under “Recent Issuances.”

To provide voluntary guidelines for social bonds, ICMA have promulgated the Social Bond Principles (SBP). The SBP track closely to the GBP following the same four core principles of use of proceeds, process for project evaluation and selection, management of proceeds and reporting.⁸² The SBP, like the GBP, provide a non-exhaustive list of potential project categories: affordable basic infrastructure, access to essential services, affordable housing, food

Social Bonds Issued Since Q1 2017



Source: www.reuters.com



security and sustainable food systems, socioeconomic advancement and empowerment.⁸³ The SBP also note that a social bond may use proceeds to improve the lives of a target population in addition to or in lieu of addressing or mitigating a specific social issue, for example, populations living below the poverty line, excluded and/or marginalized populations and/or communities, people with disabilities, migrants and/or displaced persons, undereducated persons, underserved populations, unemployed persons, women and/or sexual and gender minorities, aging populations and vulnerable youth.⁸⁴ As with the GBP, transparency and clear communication are of the utmost importance in the SBP.

Issuers are not required to choose the environment or choose social issues, they may also issue bonds and loans with mixed use of proceeds as between “green” projects and “social” projects. These instruments take on a broader name of “sustainability bond” and “sustainability loan.” ICMA have also promulgated Sustainability Bond Guidelines (SBG) to provide guidance on when a bond that is partially a green bond and partially a social bond should be labeled a sustainability bond.⁸⁵ While the LSTA, LMA and APLMA have not provided corresponding guidelines to the SBP or SBG, those principles are likely to be formative in social and sustainable loan issuances given the close alignment of the GBP to the GLP.

The summary chart “Recent Sustainable Bonds and Loans,” set forth on page 24 under “Recent Issuances,” highlights the key terms of several recent social bonds and loans.

Sustainability Linked Financing

Sustainability linked bonds (SLBs) and sustainability linked loans (SLLs)⁸⁶ differ primarily from “green” or “social” bonds and loans in that they are not use-of-proceeds-specific — meaning that any company, irrespective of industry or current sustainability practices, can incur debt under a sustainability linked instrument for any purpose. Instead, the SLB or SLL will include one or more terms, usually economic in nature, that tie to company-specific key performance indicators (KPI) hitting (or missing) pre-negotiated SPTs. These instruments provide companies with the ability to tap into the growing sustainable finance market while maintaining flexibility with respect to the application of proceeds, and provide investors with an opportunity to allocate capital in advancement of their commitments to invest in sustainability initiatives. The use-of-proceeds flexibility in these instruments opens them up to companies in a wider breadth of industries than are seen utilizing green finance.⁸⁷ Both investors and companies have the opportunity to demonstrate their ESG credentials through participation in SLBs and SLLs.

The summary chart “Recent Sustainability Linked Bonds and Loans,” set forth on page 32 under “Recent Issuances,” highlights the key terms of several recent sustainability linked bonds and loans.

The Sustainability Linked Bond Principles

Currently, the principle set of guidelines for the SLB market are the Sustainability Linked Bond Principles (June 2020) (SLBP). The SLBP are a voluntary set of principles promulgated by ICMA that provide guidance for SLBs.⁸⁸ Subject to any applicable law or regulation, all types of issuers in the debt capital markets can issue SLBs, as long as the instrument is aligned with the five core components of the SLBP.⁸⁹ Those five components are:

- selection of credible KPI;
- calibration of ambitious SPTs;
- bond characteristics;
- reporting; and
- verification.⁹⁰

Top Five Sectors and Their Respective Shares Split by Sustainable Debt Format

Sustainability-linked Loans	Percentage	Green Loans	Percentage
Utilities	14%	Renewable Energy	47%
Transportation & Logistics	9%	Power Generation	23%
Chemicals	7%	Utilities	8%
Industrial Other	6%	Real Estate	6%
Food & Beverage	5%	Financial Services	3%

Source: Bloomberg and Nordea

Selection of KPI

An SLB issuer's sustainability performance is measured using external or internal sustainability KPI.⁹¹ SLBs are more similar to traditional debt instruments than green and social bonds in the sense that ESG KPI are integrated into the bond rather than including an ESG-project-specific use of proceeds.⁹² Because of this, net proceeds of SLBs can be used for anything (general corporate purposes, refinancing debt, etc.) and need not be related at all to the sustainability goals.⁹³

Conducting a transparent KPI selection process is key to the SLBP and important for the dependability of the market for SLBs, with the SLBP stressing the importance of avoiding KPI that are not credible.⁹⁴ The SLBP provide the following elements that make up a credible KPI:

- “relevant, core and material to the issuer's overall business, and of high strategic significance to the issuer's current and/or future operations;
- measurable or quantifiable on a consistent methodological basis;
- externally verifiable; and
- able to be benchmarked (as much as possible using an external reference or definitions to assess whether an SPT is meaningfully ambitious).”⁹⁵

The SLBP advise that, to the extent an issuer has previously included KPI in annual reports, sustainability reports or other non-financial reporting disclosures, the issuer is encouraged to select one or more of these previous KPI for its SLB issuance, allowing investors to evaluate historical performance of the KPI selected.⁹⁶ Further, the SLBP provide that, when the KPI have not been previously disclosed, issuers should aim to provide historical, externally verified KPI values covering at least the previous three years.⁹⁷

Similar to the GBP, the SLBP suggest that issuers maintain transparency and provide clear communication to investors regarding the rationale and process according to which the KPI have been selected and how the KPI fit into the issuer's overall sustainability strategy.⁹⁸ Additionally, a clear definition of the KPI should be provided, including the applicable scope (for example, the percentage of the issuer's total emissions to which the target is applicable), as well as the calculation methodology.⁹⁹

Calibration of SPTs

After going through the KPI selection process, an SLB issuer should calibrate one or more SPTs per KPI.¹⁰⁰ SPTs are sustainability goals outlined in the offering documents, which are measured against an issuer's KPI through reporting obligations and verified by external review.¹⁰¹ The SPT calibration process is a crucial step in structuring SLBs because these targets represent the level of ambition to which the issuer is prepared to commit.¹⁰²

Issuers must set SPTs in good faith and should communicate strategic information that may have a material impact on achieving the SPTs.¹⁰³ As mentioned above, SPTs should be ambitious. The SLBP define an ambitious SPT as one that:

- represents a material improvement in the related KPI;
- is beyond a “‘Business as Usual’ trajectory”;
- is compared to a benchmark or external reference, when possible;
- is consistent with the issuer's overall sustainability or ESG strategy; and
- can “be determined on a predefined timeline, set before (or concurrently with) the issuance of the bond.”¹⁰⁴



Target-setting should involve a combination of benchmarking methods, including to the issuer's own performance over time *and* the issuers' peers/industry or references to the science, official country/regional/ international targets (e.g., the Paris Agreement on Climate Change or the EU taxonomy¹⁰⁵ described below under "EU Taxonomy") or other proxies to determine relevant targets across environmental and social themes.¹⁰⁶

The issuer should also disclose certain aspects of their target-setting process. The SLBP provide that these disclosures should explicitly reference:

- "the timelines for the target achievement, including the target observation date(s)/period(s), the trigger event(s) and the frequency of SPTs;
- where relevant, the verified baseline or reference point selected for improvement of KPI as well as the rationale for that baseline or reference point to be used (including date/period);
- where relevant, in what situations recalculations or pro-forma adjustments of baselines will take place;
- where possible and taking competition and confidentiality considerations into account, how the issuers intend to reach such SPTs, e.g. by describing its ESG strategy, supporting ESG governance and investments, and its operating strategy, i.e. through highlighting the key levers/type of actions that are expected to drive the performance towards the SPTs as well as their expected respective contribution, in quantitative terms wherever possible; and
- any other key factors beyond the issuer's direct control that may affect the achievement of the SPTs."¹⁰⁷

Bond Characteristics

The distinctive quality of an SLB is that the bond's financial and/or structural characteristics can change depending on whether the selected KPI do or do not reach the predefined SPTs.¹⁰⁸ "Structural changes" refer to any changes to the financial characteristics of the bond (coupon, maturity, repayment, interest payment date, amount, options, etc.) that would vary depending on whether the selected KPI reach (or do not reach) the predefined SPT.¹⁰⁹ For example,

a missed SPT often triggers an increase in the interest rate paid to holders of the SLB.¹¹⁰ Ensuring the impact of such changes is not toothless is a primary concern of the SLB.¹¹¹ The SLBP recommend avoiding illusory penalties by ensuring the variation of the bond financial and/or structural characteristics is commensurate and meaningful relative to the issuer's original bond financial characteristics.¹¹²

For an SLB, since sustainability features can impact the bond's characteristics, these features need to be built into the bond's offering documents.¹¹³ To that end, the KPI, SPTs and the potential variation of the SLB's financial and/or structural characteristics are necessary elements of the bond offering documentation. Issuers may also consider including in their offering documents language that considers exceptional events (such as material mergers and acquisitions) or extreme events (including significant changes in the regulatory environment that could substantially impact the calculation of the KPI, the restatement of the SPT, and/or pro-forma adjustments of baselines or KPI scope).¹¹⁴

Further non-operative information related to the SLB's structure and the issuer's sustainability strategy can be disclosed in a variety of ways, including an SLB framework, investor presentation, external review or sustainability report.¹¹⁵ While disclosure and transparency are important, the SLBP acknowledge that an issuance may involve confidential information;¹¹⁶ such information should be treated appropriately.



Reporting

The SLBP recommend issuers publish and keep available and accessible the following information:

- “up-to-date information on the performance of the selected KPI(s), including baselines where relevant;
- a verification assurance report relative to the SPT outlining the performance against the SPTs and the related impact, and timing of such impact, on the bond’s financial and/or structural characteristics; and
- any information enabling investors to monitor the level of ambition of the SPTs (e.g., any update in the issuers sustainability strategy or on the related KPI/ ESG governance, and more generally, any information relevant to the analysis of the KPI and SPTs).”¹¹⁷

Similar to the recommendations set forth in the GBP, these reports should be published annually — or more frequently — if relevant for assessing SPT performance that could lead to an adjustment of the SLB’s financial and/or structural characteristics.¹¹⁸

Verification

The SLBP recommend that issuers appoint one or more external reviewers that provide second-party opinions to confirm that the issuer’s SLB aligns with the five core components of the SLBP.¹¹⁹ In a pre-issuance second-party opinion, “external reviewers are encouraged to assess the relevance, robustness and reliability of selected KPI, the rationale and level of ambition of the proposed SPTs, the relevance and reliability of selected benchmarks and baselines, and the credibility of the strategy outlined to achieve them, based on scenario analyses, where relevant.”¹²⁰

In the event of post-issuance material changes to KPI or SPTs, issuers are encouraged to ask external reviewers to assess any such changes.¹²¹ Additionally, issuers should seek independent and external verification of their performance level against each SPT for each KPI

by a qualified external reviewer with relevant expertise, such as an auditor or an environmental consultant, at least once a year, and in any case for any date/period relevant for assessing SPT performance leading to a potential adjustment of the SLB financial and/or structural characteristics, until after the last SPT trigger event of the bond has been reached.¹²² The verification of the issuer’s performance against the SPTs should be made publicly available.¹²³ As opposed to pre-issuance external review, which is recommended, post-issuance verification is a necessary element of the SLBP.¹²⁴

The Sustainability Linked Loan Principles

Primary guidance for SLLs in the current market are the Sustainability Linked Loan Principles (May 2020) and the Guidance on Sustainability Linked Loan Principles (May 2020) (collectively referred to herein as the SLLP). The SLLP are a set of voluntary guidelines promulgated by the LMA, APLMA and LSTA that set out a framework for SLLs.¹²⁵

A key objective of the SLLP is to provide a framework that protects against “sustainability washing” — a term which, according to the SLLP, “has often been used to describe situations where sustainable credentials are misleading, inaccurate or inflated.”¹²⁶ By placing an emphasis on the setting of meaningful SPTs and the reporting and review process of measuring performance under SPTs, the SLLP strive to ensure that SLLs are an effective tool for promoting improvements in environmental, social and governance performance.¹²⁷

The SLLP framework is built around four key components:

- relationship to borrower’s overall sustainability strategy;
- target setting — measuring the sustainability of the borrower;
- reporting; and
- review.¹²⁸

Relationship to Borrower's Overall Sustainability Strategy

SLLs are intended to enhance a company's existing sustainability strategy and incentivize achievement of its larger business and sustainability objectives.¹²⁹ A clear link should exist (which link is expected to be able to be clearly communicated to lenders) between a borrower's corporate sustainability strategies and goals and the SPTs set out in the loan agreement.¹³⁰ The sustainability strategies of a borrower's parent company may or may not be sufficient to allow a borrower to utilize an SLL, depending on whether those strategies encompass and relate to the borrower's relationship to its parent, and the operations of the borrower and its subsidiaries as opposed to an affiliated "sister" company of the borrower.¹³¹

Target Setting – Measuring the Sustainability of the Borrower

Appropriate, ambitious and meaningful SPTs are the mechanism by which a loan agreement becomes a tool to incentivize a borrower to transition to more sustainable operations through achieving their strategic sustainability goals.¹³² SPTs are target goals set out in the loan agreement, which are measured against a borrower's KPI through reporting obligations and verified by external review.¹³³ SPTs are intended to apply through the life of loan, as opposed to falling away at a single point in time.¹³⁴ SPTs will be negotiated in each SLL transaction as between the borrower and its lenders, which negotiation may be facilitated by the appointment of a single lender acting as a "Sustainability Coordinator" or "Sustainability Structuring Agent."¹³⁵ The "Sustainability Coordinator" or "Sustainability Structuring Agent" does not replace the "administrative agent" or another titled role in a credit facility, and may be a financial institution acting in multiple roles or in this single role.¹³⁶





A typical SPT ties KPI to an interest rate margin toggle, either a pricing discount as a result of meeting an SPT or an increase as a result of a failure to do so (or both) — functioning as a proverbial “carrot or stick” incentive for positive change. There is not a standard set forth in the SLLP (nor otherwise a market standard) for the amount of pricing impact tied to an SPT, but a range of 2 basis points to 15 basis points has been reported for investment grade borrowers.¹³⁷ For example, Xylem Inc. entered into a 5-year revolving credit facility where the relevant KPI was its sustainability rating — defined as an ESG score assigned to the company by Sustainalytics.¹³⁸ The SPT reward Xylem with a 2.5-basis-point-reduction in its interest rate margin for achieving a sustainability rating of 81-83 and a 5-basis-point-reduction in its interest rate margin for achieving a rating of 84 or higher.¹³⁹ The inverse is also true, the SPT further provides that a score of 75-72 increases Xylem, Inc.’s interest rate margin by 2.5 basis points and a score of 71 or lower increases the interest rate margin by 5 basis points. If Xylem, Inc. stays in the 76-80 point range, the interest rate margin is unaffected.¹⁴⁰

While many SPT seen in the market to date relate to energy efficiency (e.g., increasing energy efficiency, renewable energy generation, reducing water consumption and reducing green-house gas emissions), SLLs are not limited to environmental sustainability — other potential SPTs

include increasing affordable housing units, increasing sustainable sourcing of raw materials, providing services in developing countries, increasing diversity in management and improving global ESG scores.¹⁴¹ The summary chart “Recent Sustainability Linked Bonds and Loans,” set forth on page 32 under “Recent Issuances,” provides further examples of the types of SPTs seen in the market to date.

The SLLP emphasize that SPTs should be meaningful and in no event lower than a borrower’s targets set out in its internal strategies — this is in part to avoid “sustainability washing,” which is described more fully below. While a borrower, having the most knowledge of its business, will have significant input in setting SPTs, the SLLP encourage oversight and external consultation.¹⁴² For example, the SLLP suggest lenders require a second-party opinion as to the appropriateness of SPT included in a loan agreement as a condition precedent to the closing of the transaction. Further, the SLLP provide guidelines for selecting SPTs including:

“(a) ESG metrics and targets included in the borrower’s sustainability strategies and/or policies; (b) external analysis to establish sector-specific ESG criteria and best-practice performance; and/or (c) verified industry metrics reported against frameworks, with verification or evaluation by civil society organisations or external reviewers who will determine if SPTs are ambitious for the borrower and that borrower’s industry, and/or align the SPTs to existing regulatory targets.”¹⁴³

Reporting

The SLLP provide that a borrower under a SLL should expect to provide reporting on SPT compliance and/or progress at least annually. The SLLP emphasize transparency and encourage borrowers to report publicly where appropriate and to provide details of underlying methodology and/or assumptions (where known) with their reporting. In addition, a borrower of an SLL should confirm on at least an annual basis that there have been no changes to the calculation methodology since the most recent prior reporting or, if there have been changes, to provide details on such changes and their impact.¹⁴⁴ If there have been changes to calculation methodology, the loan agreement may provide mechanisms for the parties to adjust an impacted SPT or related provisions.¹⁴⁵ Whereas non-satisfaction of an SPT may not result in an event of default

under a loan agreement, inaccurate reporting (or a failure to report) may more likely result in a breach of the loan agreement and give rise to an event of default if treated in a customary manner for reporting requirements generally.¹⁴⁶ Reporting requirements for SPTs and the methodologies for measuring associated KPI will vary depending upon the nature of a borrower's operations and the relevant SPTs and KPI. While there is no "one-size-fits-all" methodology for reporting, there are standardized methodologies in the market today such as the Global Reporting Initiative's Sustainability Standards (which is used, for example, by Simon Property Group in reporting on the annual non-financial disclosure form according the GRI Standard Reporting¹⁴⁷).¹⁴⁸

Review

Review of SPT performance, in particular the need for external review, is another core component of the SLLP that will vary among transactions depending upon negotiation of the parties.¹⁴⁹ The SLLP strongly recommend external review, in particular for private companies where information is not otherwise accompanied by an audit/assurance statement, noting that for public companies, reliance on public disclosures may be sufficient. Where external review is included in a transaction, the SLLP recommend providing lenders with some level of approval rights over the identity of the external reviewer. For example, in Johnson Controls PLC's SLL, the external auditor for its KPI related to greenhouse gas emissions reductions and "Total Recordable Incident Rates" (i.e., recordable work injuries)

is PricewaterhouseCoopers or a replacement thereof, that (1) is a nationally recognized "big four" auditing firm (or another auditing firm designated by the Parent as to which the Required Lenders do not object within 5 business days of posting to such lenders) and (2) applies standards consistent with those previously utilized except for changes consistent with generally accepted industry standards (or as to which the Required Lenders do not object within 5 business days of posting to such lenders).¹⁵⁰

In transactions where only internal review will be relied upon, the SLLP strongly recommend development and documentation of internal expertise and an internal review process. The SLLP outline criteria which may be relevant to determining the sufficiency of internal expertise, which include: the presence of a dedicated sustainability team or sustainability personnel, a clear sustainability strategy, the availability of historical data on the relevant metrics and internal and/or external audit processes. Further, the SLLP note that sufficient comfort may be taken over internal review processes where there is regulatory oversight over a borrower's SPT performance.

As with reporting, the SLLP provides a preference for public disclosure where appropriate of either the external review or description of the internal expertise and review processes where appropriate. Once reporting and the review process is complete, lenders will then evaluate a borrower's performance against the applicable SPT.¹⁵¹





EU Regulations

The European Union (EU) has taken notable steps to create a cohesive path forward for sustainable financing, in large part through its recently implemented disclosure regulations and the EU taxonomy. Although the disclosure regulations adopted by the EU and EU taxonomy apply only to EU financial market participants, they may influence growing sustainable finance investments in other markets, including markets like the U.S. where there is a limited or nonexistent regulatory regime, to reduce risks of “sustainability washing” and inadequate ESG disclosures.¹⁵²

EU Sustainability-Related Disclosure Regulations

The EU regulations on Sustainability-Related Disclosures (Disclosure Regulations) were designed to improve the ESG-integration process by providing robust disclosure standards and increasing transparency and took effect on March 10, 2021.¹⁵³ The Disclosure Regulations represent only one legislative initiative amongst a broader body of current and planned legislation, which also includes the EU Taxonomy Regulation (discussed below under “EU Taxonomy”), drafted to encourage the financial services industry to help build a sustainable economy and eliminate the so-called “greenwashing” of ESG-related bonds and loans.¹⁵⁴ While these regulations are not explicitly intended to replace any of the principles provided by ICMA, the imposition of a mandatory regulatory scheme may affect the use of the GBP or other principles.

Key Requirements

Unlike the voluntary bond and loan principles discussed previously, the Disclosure Regulations require alternative investment fund managers (AIFMs), undertakings for the collective investment in transferable securities (UCITS) management companies, as well as portfolio managers and investment advisers authorized under the Markets in Financial Instruments Directive (MiFID), to implement policies and make certain disclosures (on a “comply or explain” basis) with regard to sustainability risks and factors relevant to their investment activities.¹⁵⁵ The Disclosure Regulations define a “sustainability risk” as an ESG-related event that, if it occurs, could cause a negative material impact on the value of an investment.¹⁵⁶

Asset managers and investment advisers in the EU and UK will be required to take the following steps to comply with the Disclosure Regulations:

- **Policies and Procedures.** Firms will need to consider and document the relevance of ESG concerns to their investment policies.¹⁵⁷
- **Website Disclosures.** All managers will be required to publish on their websites information about their policies on integration of sustainability risks in their investment decision-making processes. Should a firm choose not to take sustainability risks into account when making their investment decisions, the firm will be required to provide clear reasons for its decision.¹⁵⁸



- **Pre-Contractual Disclosures.** Pre-contractual disclosures (such as the investment management agreement relating to a separately managed account or bond offering documentation) must contain disclosures regarding the method by which sustainability risks are integrated into investment decisions and advice and the results of the manager's assessment of the likely impacts of sustainability risks on the returns.¹⁵⁹ As with website disclosures, if a manager does not consider sustainability risks to be relevant, the pre-contractual disclosures must include a clear explanation of the manager's rationale.¹⁶⁰
- **Sustainable Investments.** Additional detailed disclosure obligations will apply to investments that are marketed as sustainable investments or other products that promote specific ESG characteristics.¹⁶¹

EU Taxonomy

The EU taxonomy is a classification system established by the European Commission to create a “common language” and “clear definition of what is ‘sustainable’” in order to facilitate the EU “[meeting] its climate and energy targets for 2030.”¹⁶² Among its various objectives are to direct stakeholders to investments and financial products that promote sustainability goals and, as with the other guidance referred to in this chapter, mitigate “green-washing” or “sustainability-washing.”¹⁶³

The Taxonomy Regulation, published by the European Union in June 2020 and entered into force on July 12, 2020, sets out a framework establishing minimum criteria that must be satisfied by an investment to qualify as environmentally sustainable under the EU taxonomy:

- It contributes to one or more of the following categories:
 - climate change mitigation;
 - climate change adaptation;
 - sustainable use and protection of water and marine resources;
 - transition to a circular economy;
 - pollution prevention and control; and
 - protection and restoration of biodiversity and ecosystems;¹⁶⁴
- it does no significant harm to any of the other categories;¹⁶⁵
- it is carried out in compliance with the minimum safeguards, including OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights;¹⁶⁶ and
- it complies with the technical screening criteria.

Further details on the design of the EU taxonomy and recommendations for implementation and disclosure against the EU taxonomy are provided in the final report published by the Technical Expert Group (TEG) on sustainable finance on March 9, 2020. Among the goals of the EU taxonomy set forth in that final report is the desire to extend the reach of the EU taxonomy to social sustainability initiatives.¹⁶⁷

Recent Issuances

As discussed previously, the following tables highlight several recent (i) sustainable bond issues and loans, including green, social and sustainable issuances, and (ii) sustainability linked bonds and loans.

Recent Sustainable Bonds and Loans

Date	Type and Size of Facility	Borrower/Issuer
Issued January 30, 2019	\$600M Senior Unsecured Dual-Tranche Sustainability Bond	KEB Hana Bank <i>South Korea</i>
February 2019	€1B Social Bond	CAFFIL <i>Europe</i>
Announced July 11, 2019	€1.1B Syndicated Green Loan	Italo Nuovo Trasporto Viaggiatori Spa <i>Europe</i>
Announced August 1, 2019	£75M Revolving Credit Facility	A2Dominion <i>UK</i>
September 16, 2019	HK\$3.6B 4-Year Secured Term Loan	Capital Court Limited <i>Asia</i>
Announced October 31, 2019	£450M Revolving Credit Facility, with a £300M green tranche	Derwent London <i>UK</i>

Administrative/ Bookrunner & Sustainability Agent(s)	Use of Proceeds	Reporting Requirements	Review	Online Links
-----	Eligible categories include: SME financing, socioeconomic advancement and empowerment, affordable housing, employment generation, clean transportation, renewable energy, green buildings.	Annual	External	Hana Bank Sustainable Financing Report and Sustainability Bond SPO, which can be found at: https://www.hanafn.com:8002/eng/csr/sustainability/sustainabilityReport.do#
Credit Agricole and Société Générale, as structuring advisors	Proceeds earmarked to be loaned to public hospitals in France.	-----	External	https://www.ifre.com/story/2135408/green-bond-zhmfpgmkk
Banca IMI (Intesa Sanpaolo Group), Natixis and UniCredit, as Global Coordinators, Bookrunners, MLAs and Green Coordinators ING Bank, as Green Advisor	Proceeds will finance existing green investments and further investment in its electric train fleet.	-----	External	https://italospa.italotreno.it/en/press-office/press-releases/2018/italo-raises-the-largest-ever-green-loan-in-the-transportation-sector.html
Barclays Bank plc	Proceeds will finance building over 7,600 high-quality homes in London and southern England.	-----	-----	https://www.a2dominiongroup.co.uk/news/a2dominion-strikes-new-75m-loan-agreement-with-barclays
Industrial and Commercial Bank of China (Asia) Limited, as Facility Agent BNP Paribas and China Construction Bank (Asia) Corporation Limited, as Green Finance Structuring Advisors	Proceeds will finance hotel property targeting achievement of a Final BEAM "Gold" Plus certification from the Hong Kong Green Building Council.	-----	External	http://www.laisun.com/files/E_LSD_Press-Release_190917.pdf
HSBC UK, as Facility Agent and Green Loan Coordinator	Green tranche will finance projects that will deliver energy efficient working, amenity, and outdoor spaces.	Annual	External	https://www.derwentlondon.com/uploads/downloads/News/2019-10-31-Derwent-London-Green-RCF-Press-Release.pdf

Date	Type and Size of Facility	Borrower/Issuer	Administrative/Bookrunner & Sustainability Agent(s)	Use of Proceeds
November 7, 2019	€2B Green Bond	Apple U.S.	Goldman Sachs & Co. LLC, as Green Structuring Advisor	Eligible categories include: low carbon design and engineering, energy efficiency, renewable energy, carbon mitigation, carbon sequestration.
Announced December 4, 2019	S\$150M Green Loan Facility	Keppel REIT Asia	OCBC Bank	Proceeds to be used to finance or refinance eligible green projects and fund further growth of Keppel REIT's green building portfolio.
Announced March 27, 2020	\$1.25B Sustainability Bond	Pfizer, Inc. U.S.	— — — — —	Proceeds will help manage the company's environmental impact, support increased access to the company's medicines and vaccines, particularly in underserved populations, and strengthen health care systems.
Announced May 13, 2019	\$1B Sustainability Bond	Starbucks Corporation U.S.	Morgan Stanley, as Sustainability Structuring Agent	Proceeds will support ethically sourced coffee. The scope includes: purchasing coffee that is verified by Coffee and Farmer Equity; continuing to develop and operating Farmer Support Centers and agronomy research and developing centers in coffee-growing regions; providing new and refinanced loans to coffee farmers made through Starbucks \$50M Global Farmer Fund; and funding the company's Greener Retail commitments.
Announced May 20, 2020	\$100M Incremental Loan Facility	Manulife US Real Estate Investment Trust U.S.	OCBC Bank, as Sole Lender and Green Loan Advisor	Proceeds will be used to refinance an Energy Star certified office building.
Announced June 16, 2020	\$743M Export Credit Agency-Backed Financing Package	National Grid North America Inc. UK	BNP Paribas Corporate & Institutional Bank, as Structuring Bank	Proceeds will help fund a €2B subsea electricity cable between the UK and Denmark that will supply renewable energy to 1.4M households.

Reporting Requirements

Review

Online Links

Annual

Internal and External

<https://www.sustainalytics.com/sustainable-finance/wp-content/uploads/2019/11/Apple-Green-Bond-2019-Second-Party-Opinion.pdf>
https://sec.report/Document/0001193125-19-286514/#supptoc804226_10

Internal

https://www.keppelreit.com/news_item.aspx?aid=6990&title=keppel-reit-increases-sustainability-focused-funding-with-s-150-million-green-loan-6990

Annual

External

<https://investors.pfizer.com/investor-news/press-release-details/2020/Pfizer-Completes-125-Billion-Sustainability-Bond-for-Social-and-Environmental-Impact/default.aspx>

Annual

External

<https://stories.starbucks.com/press/2019/starbucks-completes-issuance-of-third-and-largest-sustainability-bond/>

Internal

http://investor.manulifeusreit.sg/newsroom/20200520_180800_BTOU_PLJ5SX970DJBGERZ.2.pdf

Internal

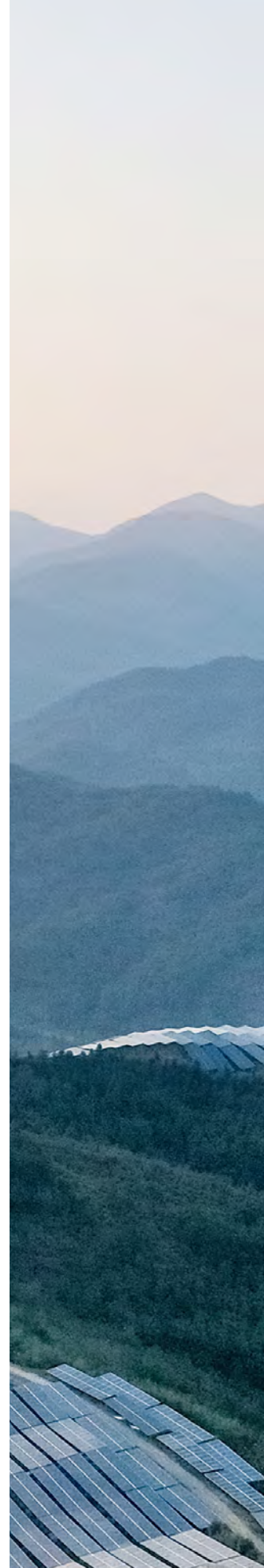
<https://www.nationalgrid.com/national-grids-viking-link-interconnector-secures-first-multi-eca-green-loan-worth-us743m-0>





Date	Type and Size of Facility	Borrower/Issuer	Administrative/ Bookrunner & Sustainability Agent(s)
Announced June 23, 2020	\$1B Social Bond	The Ford Foundation <i>U.S.</i>	Wells Fargo Securities, as Lead Sustainability Structuring Agent
Announced August 3, 2020	\$5.75B Sustainability Bonds	Alphabet Inc. <i>U.S.</i>	-----
September 16, 2020	€2B Green Bond	Volkswagen Intl Finance NV <i>Europe</i>	-----
Announced September 25, 2020	\$2B Equality Progress Sustainability Bond	Bank of America <i>U.S.</i>	Loop Capital Markets, Ramirez & Co., Inc. and Siebert Williams Shank.
Announced October. 20, 2020	€17B Social Bond	EU <i>Europe</i>	-----
Announced February 12, 2021	\$800M Sustainability Bond	Goldman Sachs Group, Inc. <i>U.S.</i>	Goldman Sachs

Use of Proceeds	Reporting Requirements	Review	Online Links
Proceeds will help support and strengthen non-profit organizations that have been hit by the COVID-19 pandemic.	-----	External	https://www.fordfoundation.org/the-latest/news/ford-foundation-announces-sale-and-pricing-of-landmark-1-billion-social-bonds/
Proceeds will fund ongoing and new environmentally or socially responsible projects in the following areas: energy efficiency, clean energy, green buildings, clean transportation, circular economy and design, affordable housing, racial equality, support for small business and COVID-19 response.	Annual	-----	https://www.blog.google/alphabet/alphabet-issues-sustainability-bonds-support-environmental-and-social-initiatives/
Proceeds will be used to target funding of the modular electric drive matrix and the new BEV models ID.3 and ID.4.	Annual	External	https://www.volkswagenag.com/en/news/2020/09/Volkswagen_Green_Bonds.html
Proceeds will be dedicated to financial empowerment of Black and Hispanic-Latino communities, economic opportunity and environmental sustainability.	Annual	-----	https://newsroom.bankofamerica.com/press-releases/corporate-and-financial-news/bank-america-issues-2-billion-equality-progress#:~:text=Bank%20of%20America%20announced%20today,in%20the%20financial%20services%20industry
Proceeds will be used to finance measures needed by Member States to preserve the income of self-employed individuals and employees at firms experiencing substantial negative impacts due to COVID-19.	Bimonthly reporting to guarantee funds will be used for social purposes.	External	https://cib.bnpparibas.com/sustain/world-s-largest-social-bonds-support-eu-covid-19-response_a-3-3796.html
Eligible green project and social project categories fall into 9 key impact themes: clean energy, sustainable transport, sustainable food and agriculture, waste and materials, ecosystem services, accessible and innovative healthcare, accessible and affordable education, financial inclusion, and communities.	Annual	External	https://www.goldmansachs.com/media-relations/press-releases/current/sustainability-bond-feb-2020.html https://www.esgtoday.com/goldman-sachs-issues-its-first-sustainability-bond-in-800-million-offering/



Date	Type and Size of Facility	Borrower/Issuer	Administrative/ Bookrunner & Sustainability Agent(s)	Use of Proceeds
Announced March 2, 2021	\$1.25B Social Bond	Truist Financial Corporation <i>U.S.</i>	— — — — — — — — — —	Net proceeds will support new and existing eligible social programs in areas such as affordable housing and enhancing essential nonprofit services.
Announced March 18, 2021	5-Year €300M Green Bond	Via Célere <i>Europe</i>	— — — — — — — — — —	Proceeds will be used to fund cash on balance sheet and refinance existing indebtedness in connection with constructing energy efficient residential buildings across Iberia.
Announced May 10, 2021	\$1B Sustainable Bond	Amazon <i>U.S.</i>	— — — — — — — — — —	The proceeds will be used to fund projects in renewable energy, clean transportation, sustainable buildings, affordable housing and socioeconomic advancement and empowerment.
May 12, 2021	\$500M Green Bond	Norfolk Southern Corporation <i>U.S.</i>	— — — — — — — — — —	Proceeds will be used to fund investments to reduce the company's carbon emissions and help customers reduce supply-chain emissions.
Announced May 13, 2021	\$350M Senior Unsecured Notes	Alimentation Couche-Tard Inc. <i>Europe</i>	— — — — — — — — — —	Proceeds will be used to support green projects in clean transportation, energy efficiency, renewable energy, pollution prevention and control, sustainable water and waste management and green buildings.
Announced May 14, 2021	7-Year \$100M Senior Unsecured Notes	Terreno Realty Corporation <i>U.S.</i>	PNC Capital Markets LLC	Net proceeds will be used to finance recently completed and future green buildings that are LEED, BREEAM or Energy Star certified, as well as to improve energy efficiency, sustainable water and wastewater management and renewable energy.

Reporting Requirements

Review

Online Links

Annual

External

<https://media.truist.com/2021-03-02-Truist-issues-first-social-bond-to-advance-environmental-social-and-governance-focus>

Second Party Opinion available at: <https://ir.truist.com/corporate-social-responsibility>

External

<https://varde.com/news/varde-owned-via-celere-issues-first-green-bond-by-residential-developer-in-the-euro-market/>

Annual

External

<https://www.aboutamazon.com/news/sustainability/amazon-announced-issuance-of-1b-sustainability-bond>

<https://assets.aboutamazon.com/72/3e/0bb38e6a4ed7a1e2066267dc3af3/amazon-sustainable-bond-framework.pdf>

Annual

External

<http://www.nscorp.com/content/nscorp/en/news/norfolk-southern-issues--500-million-of-green-bonds-to-fund-sust.html>

<http://www.nscorp.com/content/dam/nscorp/get-to-know-ns/about-ns/environment/sustainability/better-planet/Green-Financing-Framework-2021.pdf>

Annual

External

<https://www.newswire.ca/news-releases/alimentation-couche-tard-closes-1-billion-debt-offering-including-inaugural-green-bonds-808488280.html>

https://corpo.couche-tard.com/wp-content/uploads/2021/04/COTA48_Green-Bond-Framework-2021_20210507_v02.pdf

<https://investors.terreno.com/news-presentations/press-releases/press-release/2021/Terreno-Realty-Corporation-Announces-Private-Placement-of-150-Million-Senior-Unsecured-Notes-Including-100-Million-of-Green-Bonds/default.aspx>



Recent Sustainability Linked Bonds and Loans

Date	Type and Size of Facility	Borrower/Issuer	Administrative/ Bookrunner & Sustainability Agent(s)	KPIs: What is Being Measured?
April 2019	€2.5B Revolving Credit Facility	SUEZ <i>Europe</i>	— — — — —	Four KPIs, including: women in management; reducing greenhouse gas emissions; and developing sustainable access to essential services in developing countries.
May 23, 2019	\$2.75B Term Loan Facility and Revolving Credit	HCP, Inc. <i>U.S.</i>	Bank of America, N.A., as Administrative Agent	The square footage of Boundary Properties that are ENERGY STAR and/or LEED certified (or other similarly recognized rating systems).
May 28, 2019	\$3.5B Term Loan Facility and Revolving Credit Facility	NRG Energy, Inc. <i>U.S.</i>	Citicorp North America, Inc., as Administrative Agent and Collateral Agent BNP Paribas, as Sustainability Structuring Agent	Two KPIs: reduction in greenhouse gas emissions and intensity of greenhouse gas emissions in relation to revenues.
Announced August 26, 2019	\$650M Revolving Credit Facility	Louis Dreyfus Company B.V. <i>Asia</i>	ABN AMRO and DBS, as sustainability coordinators	Four KPIs: greenhouse gas emissions; electricity and energy consumption; water usage; and solid waste sent to landfill.
February 2020	\$550M Revolving Credit Facility	JetBlue Airways Corp. <i>U.S.</i>	BNP Paribas, as Sustainability Structuring Agent	ESG score.
June 2020	Five-Year \$105M Export Prepayment Facility	Tereos Sugar & Energy Brazil <i>Brazil</i>	ING and Natixis, as Joint Bookrunners, Mandated Lead Arrangers and Sustainability Coordinators	Four KPIs: reduction in greenhouse gas emissions; reduction in water consumption; increase in certified sugarcane; and improved score for ESG.
Announced September 16, 2020	€1.85B Sustainability Linked Bond	Novartis <i>Europe</i>	— — — — —	Two KPIs: expanding access to its medicines and addressing key global health challenges.

Effect of Targets on the Facility

Reporting Requirements

Review

Online Links

Pricing adjusted based on SPT performance.

<https://www.suez.com/en/news/press-releases/suez-announces-the-successful-renegotiation-of-its-main-revolving-credit-facility-now-indexed-to-extra-financial-performance-criteria>

Pricing decrease if SPT are met.

Annual

Internal (with external certification system)

<https://www.sec.gov/Archives/edgar/data/765880/000162828019007151/ex101.htm>

Pricing increase or decrease depending on SPT performance

Annual

External

<https://www.sec.gov/Archives/edgar/data/1013871/000101387119000035/ex101nrgg32019.htm>

Pricing decrease if SPTs are met.

External

<https://www ldc.com/press-releases/louis-dreyfus-company-secures-its-first-asia-sustainability-linked-revolving-credit-facility/>

Pricing adjusted based on SPT performance.

Annual

External

<http://investor.jetblue.com/~media/Files/J/Jetblue-IR-V2/fact-sheet-documents/sustainability-facts-9-10.pdf>

Pricing decrease if SPTs are met.

External

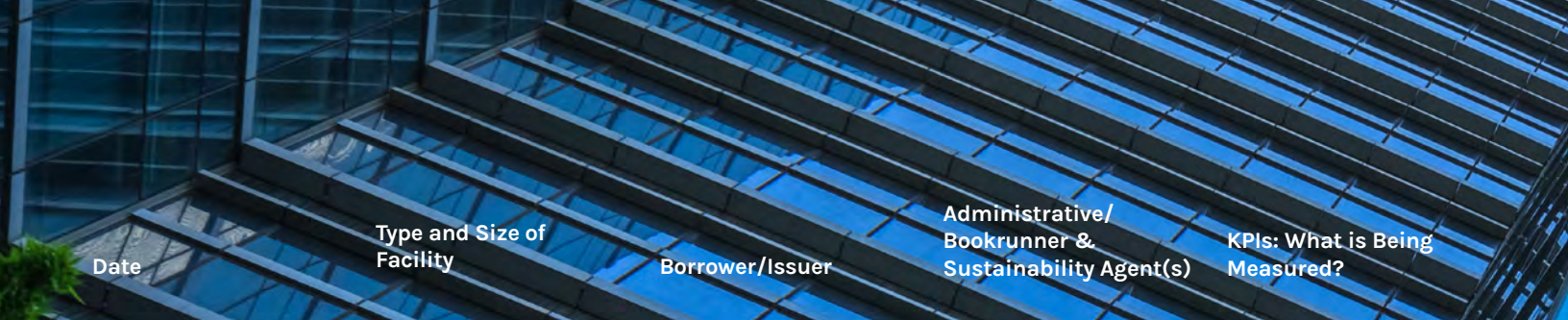
<https://tereos.com/en/press-releases/tereos-takes-out-the-first-sustainability-linked-loan-in-the-brazilian-sugar-and-ethanol-sector-with-a-new-us-105-mi-longterm-financing/>

Pricing increase depending on SPT performance.

Annual

External

<https://www.novartis.com/news/media-releases/novartis-reinforces-commitment-patient-access-pricing-eur-185-billion-sustainability-linked-bond>



Date	Type and Size of Facility	Borrower/Issuer	Administrative/ Bookrunner & Sustainability Agent(s)	KPIs: What is Being Measured?
Announced October 9, 2020	£2.25B Revolving Credit Facility	Tesco PLC <i>UK</i>	BNP Paribas, Coordinator and Sustainability Coordinator	Three KPIs: reduction in greenhouse gas emissions; renewable electricity sourced; and food surplus safe for human consumption redistributed to humans or animals.
Announced October 13, 2020	£500M Single-Tranche Sustainability Linked Bond	Enel Finance International N.V. <i>Europe</i>	Barclays, BNP Paribas, Bank of America Merrill Lynch, Citi, Crédit Agricole CIB, Deutsche Bank, Goldman Sachs International, HSBC, J.P. Morgan, Morgan Stanley, Natixis, Société Générale Corporate & Investment Banking	Renewable installed capacity percentage.
Announced December 4, 2020	\$1.4B Credit Facility	Downer <i>Australia</i>	BNP Paribas, as Joint Bookrunner and Sustainability Coordinator	Four KPI metrics: two related to reduction of greenhouse gas emissions targets and two related to health, safety and well-being of employees, including D&I.
Announced January 21, 2021	€750M Benchmark 8.5-Year Sustainability Linked Bond	Tesco <i>UK</i>	BNP Paribas, Joint Sustainability Structuring Advisor	Scope 1 and 2 greenhouse gas emissions reductions.
Announced February 18, 2021	\$10.1B Sustainability Linked Revolving Credit Facility	Anheuser-Busch InBev SA/NV <i>Europe</i>	ING and Banco Santander, as Joint Sustainability Coordinators	4 KPIs: Improved water efficiency; increased PET recycled content in PET primary packaging; renewably sourced purchased electricity; and greenhouse gas emissions reductions.
Announced March 2021	\$1B Senior Unsecured Sustainability Linked Bond	Pilgrim's Pride Corp. <i>U.S.</i>	— — — — —	Scope 1 and 2 greenhouse gas emission intensity reductions across global operations.

Effect of Targets on
the Facility

Reporting
Requirements

Review

Online Links

Pricing increase or
decrease depending on
SPT performance.

<https://www.tescopl.com/news/2020/tesco-renews-25bn-committed-facility-establishing-link-to-sustainability-targets/>

Pricing increase depending
on SPT performance.

External

<https://www.enel.com/content/dam/enel-common/press/en/2020-October/Sustainability-linked%20bond%20sterling.pdf>

Pricing increase or
decrease depending on
SPT performance.

External

https://cib.bnpparibas.com/sustain/bnp-paribas-guides-sustainable-loan-for-downer_a-3-3883.html

Pricing impact depending
on SPT performance.

Annual

External

https://cib.bnpparibas.com/sustain/tesco-issues-uk-s-first-rated-corporate-sustainability-linked-bond_a-3-3948.html

Pricing increase or
decrease depending on
SPT performance.

https://www.ab-inbev.com/content/dam/abinbev/news-media/press-releases/2021/02/ABI%20Sustainability-Linked%20Loan%20Announcement_EN_vfinal.pdf

Pricing increase depending
on sustainability
performance.

External

<https://www.bloomberg.com/news/articles/2021-03-25/pilgrim-s-pride-offers-record-sustainability-linked-junk-bond>
<https://www.meatpoultry.com/articles/24734-pilgrims-pride-releases-sustainability-linked-bond-plan>



Date

Type and Size of Facility

Borrower/Issuer

Administrative/
Bookrunner &
Sustainability Agent(s)

KPIs: What is Being Measured?

**Announced
March 31, 2021**

\$4.4B 5-Year Revolving
Credit Facility

BlackRock, Inc.
U.S.

Wells Fargo Bank,
National Association, as
Administrative Agent

Wells Fargo Securities, LLC
and Citigroup Global Markets,
Inc., as Sustainability
Structuring Agents

3 KPIs: Black, African
American, Hispanic and
Latino Employment Rate;
Female Leadership Rate;
and Sustainable Investing
AUM Amount (i.e., the
amount of assets under
management that employ
'Dedicated Sustainable
Investments' as defined in
and as disclosed annually
under Code # FN-AC-410a.1
in the SASB Aligned Report).

**Announced
April 1, 2021**

\$400M Senior
Unsecured Notes

Solaris Midstream
Holdings, LLC
U.S.

J.P. Morgan, as sole
sustainability linked bond
structuring agent

Large-scale produced
water recycling.





Effect of Targets on
the Facility

Reporting
Requirements

Review

Online Links

Pricing impact depending
on SPT performance.

Annual

External

<https://www.sec.gov/Archives/edgar/data/0001364742/000119312521107747/d113222dex101.htm>

<http://www.solariswater.com/solaris-midstream-holdings-llc-completes-landmark-offering-of-sustainability-linked-bonds/>





Endnotes

- ¹ John Hale, *A Broken Record Flows for U.S. Sustainable Funds Again Reach New Heights*, Morningstar (Jan. 28, 2021), <https://www.morningstar.com/articles/1019195/a-broken-record-flows-for-us-sustainable-funds-again-reach-new-heights>.
- ² Brooke Sutherland, *What Does ESG Really Mean? Take Your Pick*, Bloomberg (Feb. 26, 2021), <https://www.bloomberg.com/opinion/articles/2021-02-26/what-does-esg-mean-for-manufacturers->.
- ³ Matthew Toole, *Sustainable Finance Surges in 2020*, Refinitiv (Feb. 4, 2021), <https://www.refinitiv.com/perspectives/market-insights/sustainable-finance-surges-in-2020/>.
- ⁴ Veronika Henze, *Sustainable Debt Breaks Annual Record Despite Covid-19 Challenges* BloombergNEF (Jan. 11, 2021), <https://about.bnef.com/blog/sustainable-debt-breaks-annual-record-despite-covid-19-challenges/>.
- ⁵ Matthew Kuchtyak & Swami Venkataraman, *Moody's – Sustainable Bond Issuance Hits Record High in Q3 as Green Bonds Recover*, Moody's Investor Service, Inc. (Nov. 16, 2020), https://www.moodys.com/research/Moodys-Sustainable-bond-issuance-hits-record-high-in-Q3-as--PBC_1253782.
- ⁶ Veronica Henze, *Record Month Shoots Green Bonds Past Trillion-Dollar Mark*, BloombergNEF (Oct. 5, 2020), <https://about.bnef.com/blog/record-month-shoots-green-bonds-past-trillion-dollar-mark/>.
- ⁷ Jennifer Nastu, *Sustainable Finance Expected to See 55% Growth in 2021, Says Credit Agricole Group*, Env'tl. Leader (Jan. 20, 2021), <https://www.environmentalleader.com/2021/01/sustainable-finance-expected-to-see-55-growth-in-2021-says-credit-agricole-group/>.
- ⁸ *Social Impact and Sustainability: Sustainable Finance*, BCG (Jan. 2021), <https://www.bcg.com/en-us/capabilities/social-impact-sustainability/how-sustainable-finance-is-shifting-future-of-investing>; *Sustainable Reality – Analyzing Risk and Returns of Sustainable Funds*, Morgan Stanley Institute for Sustainable Investing (Aug. 2019), https://www.morganstanley.com/content/dam/msdotcom/ideas/sustainable-investing-offers-financial-performance-lowered-risk/Sustainable_Reality_Analyzing_Risk_and_Returns_of_Sustainable_Funds.pdf; Elizabeth Schulze, 'Sustainable' investors match the performance of regular investors, new IMF research finds, CNBC: Investing (Oct. 10, 2019), <https://www.cnbc.com/2019/10/10/imf-research-finds-esg-sustainable-investment-funds-dont-underperform.html>.
- ⁹ *Sustainable Signals: Individual Investor Interest Driven by Impact, Conviction and Choice*, Morgan Stanley Institute for Sustainable Investing (Sept. 11, 2019), https://www.morganstanley.com/pub/content/dam/msdotcom/ideas/sustainable-signals/pdf/Sustainable_Signals_Whitepaper.pdf.
- ¹⁰ Iman Ghosh, *Visualizing the Global Rise of Sustainable Investing*, Markets Insider (Feb. 5, 2020), <https://markets.businessinsider.com/news/stocks/rise-of-sustainable-investing-1028875504>.
- ¹¹ F. Norrestad, *Value of sustainable finance commitments made by the world's largest banks 2019*, Statista (Nov. 9, 2020), <https://www.statista.com/statistics/1088414/value-of-sustainable-finance-commitments-made-by-the-worlds-largest-banks/>.
- ¹² From 2021 onward, an EU plan will establish performance thresholds and minimum safeguards to help investors and companies transition into a greener economy. See Silvia Amaro, *Unregulated 'greenwashing'? ESG investing is under the microscope as the money rolls in*, CNBC: Investing (Oct. 14, 2020), <https://www.cnbc.com/2020/10/14/esg-investing-meaning-is-under-the-microscope-as-the-money-rolls-in.html>.

- 13 Farah Imrana Hussain, *Green loans: Financing the transition to a low-carbon economy*, World Bank Blogs (Apr. 27, 2020), <https://blogs.worldbank.org/climatechange/green-loans-financing-transition-low-carbon-economy>.
- 14 Climate Bonds Initiative, *Explaining Green Bonds*, <https://www.climatebonds.net/market/explaining-green-bonds> [hereinafter *Explaining Green Bonds*].
- 15 PIMCO, *Understanding Green, Social and Sustainability Bonds*, <https://www.pimco.com/en-us/resources/education/understanding-green-social-and-sustainability-bonds/>.
- 16 *Explaining Green Bonds*, Rapid growth of the green labelled market.
- 17 ICMA, Sustainable bonds database, <https://www.icmagroup.org/sustainable-finance/green-social-and-sustainability-bonds-database> (2021).
- 18 Climate Bonds Initiative, *The Role of Exchanges in Accelerating the Growth of the Green Bond Market* (May 2017), <https://www.climatebonds.net/files/files/RoleStock%20Exchanges.pdf>.
- 19 Kathleen Bochman, Steven Bocamazo & Darcie Sunnerberg, *Beyond the Label: An Assessment of the Green Bond Market* (Mar. 2020), <https://info.loomissayles.com/beyond-the-label-an-assessment-of-the-green-bond-market> [hereinafter *Beyond the Label*]; ICMA, *The Green Bond Principles Voluntary Process Guidelines for Issuing Green Bonds* (June 2018), <https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/green-bond-principles-gbp/> [hereinafter *ICMA Green Bond Principles*].
- 20 Climate Bonds Initiative, *Green Bond Principles & Climate Bonds Standard*, <https://www.climatebonds.net/market/best-practice-guidelines>.
- 21 ICMA, Sustainable Finance, <https://www.icmagroup.org/sustainable-finance/>.
- 22 *ICMA Green Bond Principles* at 4.
- 23 *Id.* at 3.
- 24 *Beyond the Label* at 5.
- 25 *Id.*
- 26 *ICMA Green Bond Principles* at 4.
- 27 Sustainalytics, *About Green Bond Principles* (Nov. 2019), <https://www.sustainalytics.com/sustainable-finance/2019/11/20/about-green-bond-principles/>.
- 28 Liam Jones, *\$1 Trillion Mark Reached in Global Cumulative Green Issuance: Climate Bonds Data Intelligence Reports: Latest Figures*, Climate Bonds Initiative (Dec. 15 2020), <https://www.climatebonds.net/2020/12/1trillion-mark-reached-global-cumulative-green-issuance-climate-bonds-data-intelligence>.
- 29 Apple, *Annual Green Bond Impact Report*, (Fiscal Year 2020 Update) at 4, https://s2.q4cdn.com/470004039/files/doc_downloads/additional_reports/Apple_GreenBond_Report_2020.pdf.
- 30 Bank of America Press Release, *Bank of America Issues Fifth Corporate Green Bond for \$2 Billion* (Oct 25, 2019), <https://newsroom.bankofamerica.com/press-releases/environment/bank-america-issues-fifth-corporate-green-bond-2-billion>.
- 31 PepsiCo, *2020 Green Bond Report* (Oct. 2020) at 6, <https://www.pepsico.com/docs/album/esg-topics-policies/pepsico-2020-green-bond-report.pdf>.
- 32 Verizon, *Green Bond Report* (Feb. 6, 2020) at 3, https://www.verizon.com/about/sites/default/files/Green_Bond_Report_02052020_0.pdf.
- 33 Volkswagen, *Volkswagen presents Green Finance Framework* (Mar 5, 2020) at 2, https://www.volkswagenag.com/en/news/2020/03/volkswagen_green_finance_framework.html.
- 34 Apple, Inc. Preliminary Prospectus Supplement (To Prospectus dated April 28, 2016) (June 13, 2017), <https://www.sec.gov/Archives/edgar/data/320193/000119312517201958/d412075d424b2.htm>.
- 35 *ICMA Green Bond Principles* at 4.
- 36 *Id.*
- 37 *Id.* at 6.
- 38 Sustainalytics, *Second Party Opinions for Green and Sustainability Bonds* (2021), <https://www.sustainalytics.com/sustainable-finance/green-climate-sustainability-bonds-second-party-opinion/#:~:text=A%20second%2Dparty%20opinion%20of,in%20your%20green%20bond%20issuance>.
- 39 *ICMA Green Bond Principles* at 4.
- 40 *ICMA Green Bond Principles* at 4.
- 41 Environmental Finance, *Sustainable Bonds Insight* (2020) at 23, <https://www.environmental-finance.com/assets/files/research/sustainable-bonds-insight-2020.pdf>.



- ⁴² Luxembourg Stock Exchange, *Luxembourg Green Exchange FAQs* (2021) <https://www.bourse.lu/faq-lgx-bonds> (Relevant FAQ question and answer was: “6. What are the entry requirements of a bond to be displayed on LGX?”)
- ⁴³ *ICMA Green Bond Principles* at 5.
- ⁴⁴ *ICMA Green Bond Principles* at 5.
- ⁴⁵ *ICMA Green Bond Principles* at 5.
- ⁴⁶ *ICMA Green Bond Principles* at 5.
- ⁴⁷ *ICMA Green Bond Principles* at 5; see also *Beyond the Label: An Assessment of the Green Bond Market* at 9.
- ⁴⁸ *ICMA Green Bond Principles* at 5.
- ⁴⁹ *ICMA Green Bond Principles* at 5.
- ⁵⁰ *ICMA Green Bond Principles* at 5.
- ⁵¹ *ICMA Green Bond Principles* at 5.
- ⁵² *ICMA Green Bond Principles* at 5.
- ⁵³ See, e.g. Prudential, *Green Bond Framework* (Feb. 2020), <http://q4live.s22.clientfiles.s3-website-us-east-1.amazonaws.com/600663696/files/events/PRU-Green-Bond-Framework.pdf> at 5; Visa, Inc., *Visa Inc. (“Visa”) Green Bond Framework* (March 2020), <https://usa.visa.com/dam/VCOM/download/corporate-responsibility/green-bond-framework.pdf> at 10 and 11; AES Corp., *AES Green Financing Framework*, <https://www.aes.com/sites/default/files/2021-02/AES-Green-Financing-Framework.pdf> at 8.
- ⁵⁴ SEC Press Release No. 2021-24, *SEC Announces Enforcement Task Force Focused on Climate and ESG Issues* (Mar. 4, 2021), <https://www.sec.gov/news/press-release/2021-42>.
- ⁵⁵ *Id.*
- ⁵⁶ See LSTA, *Guidance on Green Loan Principles* (Feb. 2021) at 2, <https://www.lsta.org/content/guidance-on-green-loan-principles-glp/> [hereinafter *Guidance on Green Loan Principles*].
- ⁵⁷ See *Id.* at 1.
- ⁵⁸ LSTA, *Green Loan Principles Supporting Environmentally Sustainable Economic Activity* (Feb. 2021), <https://www.lsta.org/content/green-loan-principles/> [hereinafter *LSTA Green Loan Principles*].
- ⁵⁹ *Id.* at 2.
- ⁶⁰ *Id.*

- ⁶¹ *Guidance on Green Loan Principles* at 3.A.I.
- ⁶² *LSTA Green Loan Principles* at Section 1.
- ⁶³ *Id.* at Section 2.
- ⁶⁴ *Guidance on Green Loan Principles* at 3.B.II.a.
- ⁶⁵ Press Release, Int'l Cap. Market Ass'n., *ICMA publishes a Compendium of international policy initiatives and best market practice for sustainable finance* (Feb. 20, 2020), <https://www.icmagroup.org/News/news-in-brief/icma-publishes-a-compendium-of-international-policy-initiatives-and-best-market-practice-for-sustainable-finance/> [<https://www.icmagroup.org/media/icma-news-archive/>].
- ⁶⁶ Cf. to *Guidance on Green Loan Principles* at 2.a.1. Section 2(a)(1) above, see Practical Law Finance, *Loan Agreement: Affirmative Covenants*, Thompson Reuters (Mar. 2021), <https://us.practicallaw.thomsonreuters.com/6-382-8184>.
- ⁶⁷ See Loan Market Ass'n, *Guidance on the application of the Green Loans Principles in the Real Estate Finance Investment Lending context Green Buildings* (Oct. 2020), Section 4, https://www.lma.eu.com/application/files/2316/0552/7456/01_LMA_Case_Study_REF_Investments_Green_Buildings_V06.pdf.
- ⁶⁸ See *LSTA Green Loan Principles* at Section 4.
- ⁶⁹ *Id.*
- ⁷⁰ *Id.* "Review."
- ⁷¹ *Id.*
- ⁷² *Id.*
- ⁷³ *Id.*
- ⁷⁴ *Id.*
- ⁷⁵ *Id.*
- ⁷⁶ See *LSTA Green Loan Principles* at Section 3.D.
- ⁷⁷ *Id.*
- ⁷⁸ Climate Bonds Initiative, *Climate Bond Standard Version 3.0* (Dec. 2019), Part D at 23, <https://www.climatebonds.net/climate-bonds-standard-v3>.
- ⁷⁹ Clara Denina, *Social Bond Issuance Soars on Back of Coronavirus Crisis*, Reuters (Oct. 19, 2020), <https://www.reuters.com/article/us-social-bonds-data/social-bond-issuance-soars-on-back-of-coronavirus-crisis-idUSKBN274256>.
- ⁸⁰ *Id.*
- ⁸¹ Dan Murphy, 'Social Bonds' are Surging as Conscious Investing Turns Mainstream, CNBC (June 23, 2021, 1:37 AM), <https://www.cnbc.com/2020/06/23/social-bonds-are-surging-as-conscious-investing-turns-mainstream.html>.
- ⁸² ICMA, *Social Bond Principles: Voluntary Process Guidelines for Issuing Social Bonds* (SBP) (June 2020) at 3, <https://www.icmagroup.org/assets/documents/Regulatory/Green-Bonds/June-2020/Social-Bond-PrinciplesJune-2020-090620.pdf>.
- ⁸³ *Id.* at 4.
- ⁸⁴ *Id.*
- ⁸⁵ ICMA, *Sustainability Bond Guidelines* (June 2018) at 2, <https://www.icmagroup.org/assets/documents/Regulatory/Green-Bonds/Sustainability-Bonds-Guidelines-June-2018-270520.pdf> [hereinafter ICMA Sustainability Bond Guidelines].
- ⁸⁶ SLLs have been referred to with other names in the market, such as Key Performance Loans and ESG Loans, but the SLLPs have recommended using the term "sustainability linked loans" to "build a common language and understanding in the market". See LSTA, *Guidance on Sustainability Linked Loan Principles* (May 2020) at Section 2.F, <https://www.lsta.org/content/guidance-on-sustainability-linked-loan-principles-sllp/> [hereinafter LSTA SLL Guidance].
- ⁸⁷ An article published on October 29, 2020 reports that the top 5 industries accessing Green Loans (i.e., renewable industry, power generation, utilities, real estate and financial services) comprise 87% of all issuances whereas the top 5 industries accessing SLLs (i.e., utilities, transportation and logistics, chemicals, industrial other, and food & beverage) comprise only 41% of all issuances. See Ebba Ramel and Jacob Michaelson, *The sustainable loan market: A snapshot of recent developments*, Nordea (Oct. 29, 2020), <https://insights.nordea.com/en/sustainability/sustainable-loan-market/>.
- ⁸⁸ ICMA, *Sustainability Linked Bond Principles: Voluntary Process Guidelines* (Feb. 2021), <https://www.icmagroup.org/assets/documents/Regulatory/Green-Bonds/June-2020/Sustainability-Linked-Bond-Principles-June-2020-171120.pdf> [hereinafter ICMA Sustainability Linked Bond Principles].
- ⁸⁹ ICMA, *Sustainability Linked Bond Principles: Related Questions* (Feb. 2021) at Section 2-1, www.icmagroup.org/assets/documents/Sustainable-finance/Sustainability-Linked-Bond-Principles-Related-questions-February-2021-170221v3.pdf, [hereinafter SLBP Related Questions].

- ⁹⁰ *ICMA Sustainability Linked Bond Principles* at 2.
- ⁹¹ *ICMA Sustainability Linked Bond Principles* at Section 1.
- ⁹² *Stitching Luxury and Science into the Sustainability Linked Bond Market*, BNP Paribas (Sept. 24 2020), https://cib.bnpparibas.com/sustain/stitching-luxury-and-science-into-the-sustainability-linked-bond-market_a-3-3754.html [hereinafter *Stitching Luxury*].
- ⁹³ Valeria A. Potenza, *Sustainability Linked Bonds: Just Barely Green*, Xtract Research (Feb. 19, 2021) at 2, <https://www.xtractresearch.com/SpecialReports/view/id/8402032?type=.pdf> [Subscription required].
- ⁹⁴ *ICMA Sustainability Linked Bond Principles* at Section 1.
- ⁹⁵ *ICMA Sustainability Linked Bond Principles* at Section 2.
- ⁹⁶ *SLBP Related Questions* at 4.
- ⁹⁷ *SLBP Related Questions* at 4.
- ⁹⁸ *SLBP Related Questions* at 4.
- ⁹⁹ *SLBP Related Questions* at Section 3-2.
- ¹⁰⁰ *ICMA Sustainability Linked Bond Principles* at Section 2.
- ¹⁰¹ *ICMA Sustainability Linked Bond Principles* at Section 2.
- ¹⁰² *SLBP Related Questions* at Section 6-6.
- ¹⁰³ *ICMA Sustainability Linked Bond Principles* at Section 2.
- ¹⁰⁴ *ICMA Sustainability Linked Bond Principles* at Section 2.
- ¹⁰⁵ *SLBP Related Questions* at Section 1-6.
- ¹⁰⁶ *Id.*
- ¹⁰⁷ *ICMA Sustainability Linked Bond Principles* at Section 2.
- ¹⁰⁸ *ICMA Sustainability Linked Bond Principles* at Section 3.
- ¹⁰⁹ *SLBP Related Questions* at Section 4-1.
- ¹¹⁰ *Stitching Luxury*.
- ¹¹¹ See, e.g., *Sustainability Linked Bond Principles* at Section 1. Sometimes, these coupon step-ups seem to have a *de minimis* impact. For example, Level 3 Financing, Inc.’s January 11, 2021 SLB offering includes a premium, but failure to achieve the SPTs does not trigger a step-up until July 16, 2026; and the first par call date is January 15, 2026, which is before the premium will ever kick in. Level 3 Financing, Inc. – 2021 Offering Memorandum.
- ¹¹² *SLBP Related Questions* at Section 4-1.
- ¹¹³ *SLBP Related Questions* at Section 2-2.
- ¹¹⁴ *ICMA Sustainability Linked Bond Principles* at Section 3.
- ¹¹⁵ *SLBP Related Questions* at Section 2-2.
- ¹¹⁶ *SLBP Related Questions* at Section 2.
- ¹¹⁷ *ICMA Sustainability Linked Bond Principles* at Section 4.
- ¹¹⁸ *Id.* at Section 4.
- ¹¹⁹ *Id.* at Section 5.
- ¹²⁰ *Id.* at Section 2.
- ¹²¹ *Id.*
- ¹²² *Id.* at Section 5.
- ¹²³ *Id.*
- ¹²⁴ *Id.* at Appendix II.
- ¹²⁵ See LSTA, *Sustainability Linked Loan Principles: Supporting environmentally and socially sustainable economic activity*, (May 2020) at Introduction, <https://www.lsta.org/content/sustainability-linked-loan-principles-sllp/> [hereinafter the LSTA SLL Principles].
- ¹²⁶ LSTA, *Guidance on Sustainability Linked Loan Principles* (May 2020) at Section 2(g), <https://www.lsta.org/content/guidance-on-sustainability-linked-loan-principles-sllp/> [hereinafter the SLL Guidance].
- ¹²⁷ *Id.*
- ¹²⁸ *LSTA SLL Principles*, Core Components at 2.
- ¹²⁹ See *SLL Guidance* at Section 3(b)(l)(a). As an example of a SLL fitting within a company’s sustainability strategy, Xylem, Inc.’s CFO, Mark Rajkowski is quoted in connection with the company’s SLL as saying “We are excited to be the first water technology company in the U.S. to secure a sustainability-improvement loan that rewards our continued efforts to integrate sustainability and social value creation across our operations, and helps advance our strategy and mission to solve global water challenges.” Jenny Rider, *Xylem Signs First-of-its-Kind Revolving Credit Facility in U.S. to Couple Interest Rates with Sustainability Performance*, Xylem News Room (May 3, 2019), <https://www.businesswire.com/news/home/20190305005450/en/Xylem-Signs-First-of-its-Kind-Revolving-Credit-Facility-in-U.S.-to-Couple-Interest-Rates-with-Sustainability-Performance>.

- ¹³⁰ *LSTA SLL Principles* at Section 1.
- ¹³¹ See *SLL Guidance* at Section 3(b)(l)(b).
- ¹³² See *LSTA SLL Principles* at Section 2.
- ¹³³ See, generally, the *SLL Principles* and *SLL Guidance*.
- ¹³⁴ See *LSTA SLL Principles* at Section 2.
- ¹³⁵ *Id.*
- ¹³⁶ See, e.g., ING Capital LLC has acted in the role of “Sustainability Agent” for both Xylem, Inc.’s 2019 SLL (See the 3/5/19 Five-Year Revolving Credit Agreement (Exhibit 10.34 to Xylem, Inc.’s Annual Report for fiscal year 2019 on Form 10-K), <https://www.sec.gov/Archives/edgar/data/1524472/000152447219000015/xyl03052019exhibit1034.htm> [hereinafter the Xylem SLL]) and Johnson Controls Plc’s 2020 SLL (See 12/5/19 Credit Agreement (Exhibit 10.1 to Johnson Controls Plc report on Form 8-K, <https://www.sec.gov/Archives/edgar/data/833444/000119312519308301/d838920dex101.htm>) where the administrative agents have been Citibank, N.A. and JPMorgan Chase Bank, N.A., respectively).
- ¹³⁷ See Lauren Fletcher, *Food business bank on sustainability linked loans*, Financial Times (Sept. 23, 2020), <https://www.ft.com/content/d0c721fc-2eae-4501-b95b-1660c81b05ed> [hereinafter Financial Times Article].
- ¹³⁸ See the Xylem SLL, definition of “Sustainability Rating” at Article I, p. 32.
- ¹³⁹ The Xylem SLL, definition of “Applicable Percentage” at Article I, p. 4.
- ¹⁴⁰ *Id.*
- ¹⁴¹ See Practical Law Finance, *What’s Market: Green and Sustainability Linked Loans*, Thompson Reuters (Sept. 30, 2020), [https://content.next.westlaw.com/w-020-8513?isplcus=true&transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://content.next.westlaw.com/w-020-8513?isplcus=true&transitionType=Default&contextData=(sc.Default)&firstPage=true); see, e.g., the *LSTA SLL Principles*, Appendix 1.
- ¹⁴² See generally, the *LSTA SLL Principles* and the *SLL Guidance*.
- ¹⁴³ The *SLL Guidance* at 4; one example of clause (c) can be seen in TORM Company’s 2020 SLL where the relevant KPI is reductions in carbon emissions, aligning with the International Maritime Organization’s 40% greenhouse gas reduction target by 2030. See Jasmina Ovcina, *TORM signs 1st sustainability linked loan*, Offshore Energy (Nov. 11, 2020), www.offshore-energy.biz/topic/business-finance/.

- ¹⁴⁴ See the LSTA SLL Principles at Section 3.
- ¹⁴⁵ See the SLL Guidance at Section III.
- ¹⁴⁶ The SLL Guidance at 6; for example, Xylem, Inc. is required to give prompt written notice of any change in its “Sustainability Rating” and a failure to do so (and to remedy such failure within 30 days) is an event of default under the loan agreement. See the Xylem SLL at Section 5.6(d) and Article VIII(e).
- ¹⁴⁷ See Ex. 99-2: Second Amended and Restated Credit Agreement with JPMorgan Chase Bank, N.A., as administrative agent to Simon Property Group, Report on Form 8-K, (March 16, 2020), Article I, definition of “Sustainability Report,” https://www.sec.gov/Archives/edgar/data/1022344/000110465920033723/tm2012793d1_ex99-2.htm [hereinafter the Simon Property Group SLL].
- ¹⁴⁸ The SLL Guidance at Section III. An example of other standards are the Poseidon Principles for ship finance https://www.poseidonprinciples.org/download/Poseidon_Principles.pdf.
- ¹⁴⁹ See, generally, Section 4 of the LSTA SLL Principles and Section III of the SLL Guidance.
- ¹⁵⁰ Johnson Controls Plc’s SLL, definition of “KPI Metrics Auditor” at Article I.
- ¹⁵¹ The LSTA SLL Principles at Section 4.
- ¹⁵² See Nadia Humphreys, *The EU Taxonomy for Sustainable Finance: FAQs for Financial Market Participants*, Bloomberg Prof. Serv. (Mar. 9, 2020), <https://www.bloomberg.com/professional/blog/the-eu-taxonomy-for-sustainable-finance-faqs-for-financial-market-participants/>. For example, the SEC’s OCIE has already begun conducting exams for reviewing ESG disclosures, and managers should expect this trend to continue, SEC Press Release No. 2020-4, *SEC Office of Compliance Inspections and Examinations Announces 2020 Examination Priorities* (Jan. 7, 2020), <https://www.sec.gov/news/press-release/2020-4>.
- ¹⁵³ Regulation (EU) 2019/2088 of the European Parliament and of the Council, *Sustainability-Related Disclosures in the Financial Services Sector*, Official Journal Of The European Parliament (Nov. 27, 2019), 2019 O.J. (L 317/1) at Article 20, <https://eur-lex.europa.eu/eli/reg/2019/2088/oj> (EU) [hereinafter 2019 Disclosure Regulations].
- ¹⁵⁴ European Commission, *Reflection Paper Towards a Sustainable Europe by 2030* COM (2019) 22 final (Jan. 30, 2019) at Section 3.2.2, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52019DC0022&from=EN>.
- ¹⁵⁵ See Disclosure Regulations at art. 2, 3, 5 and 6.
- ¹⁵⁶ *Id.* at art. 1 (21).
- ¹⁵⁷ *Id.* at art. 3.
- ¹⁵⁸ *Id.* at art. 3, 4.1.
- ¹⁵⁹ *Id.* at art. 6.1.
- ¹⁶⁰ *Id.*
- ¹⁶¹ See, e.g., *id.* at art. 8. Despite the UK’s withdrawal from the EU, the Disclosure Regulations are likely to be “onshored” by the UK. This means it will be implemented in the UK and will apply to UK institutions. *Overview of the EU Disclosure Regulation*, LexisNexis (Sept. 22, 2020), <https://www.lexisnexis.co.uk/blog/financial-services/overview-of-the-eu-disclosure-regulation>.
- ¹⁶² European Commission, *EU Taxonomy of Sustainable Activities, “Why a EU Taxonomy,”* https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en#why [hereinafter the EU Taxonomy].
- ¹⁶³ *Id.* at “What is the EU Taxonomy.”
- ¹⁶⁴ *Regulation (EU) 2020/852 of the European Parliament and of the Council Establishment of a Framework to Facilitate Sustainable Investment, and amending Regulation (EU) 2019/2088*, Official Journal of the European Parliament (June 18, 2020), 2020 O.J. (L 198/13) at Article 9, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&qid=1615172802797&from=EN> (EU) [hereinafter 2020 EU Taxonomy].
- ¹⁶⁵ 2020 EU Taxonomy at (35); see also 2019 Disclosure Regulations at Article 2a.
- ¹⁶⁶ 2020 EU Taxonomy at Article 3c.
- ¹⁶⁷ See, generally, EU Technical Expert Group on Sustainable Finance, *Technical Report Taxonomy: Taxonomy: Final Report of the Technical Expert Group on Sustainable Finance* (March 2020), including Section 1.2.1, https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy_en.pdf.





Vinson & Elkins

Join Us on LinkedIn
Vinson & Elkins

Follow Us on Twitter
@vinsonandelkins

Vinson & Elkins LLP Attorneys at Law Austin Dallas Dubai Houston London
Los Angeles New York Richmond Riyadh San Francisco Tokyo Washington

[velaw.com](https://www.velaw.com)

This information is provided by Vinson & Elkins LLP for educational and informational purposes only and is not intended, nor should it be construed, as legal advice.

Prior results do not guarantee a similar outcome. © 2022 Vinson & Elkins LLP