CLIMATE TRANSITION PLANS
CHARTING A GREENER FUTURE

Matthew Townsend, Danae Wheeler and Jasmin Fraser of Allen & Overy LLP discuss climate transition plans and their importance for UK companies in the context of the UK's climate change and net-zero commitments.

The Glasgow Financial Alliance for Net Zero (GFANZ) describes net zero as a set of goals, actions and accountability mechanisms to align an organisation's business activities with a pathway to net-zero greenhouse gas (GHG) emissions that delivers real-economy emissions reductions in line with achieving global net zero (*www.gfanzero.com*).

However, recent findings show that, while 68% of FTSE All-Share companies have published some form of net-zero target, and almost half have set interim goals for 2025 to 2035, less than 20% have formulated and published a climate transition plan (*www.fca.org.uk/publication/discussion/dp23-1_updated.pdf*). Of those public-facing transition plans, variations in detail, scope and quality make credibility difficult to assess (*https://transitiontaskforce.net/about/*).

This article examines:

- The UK's net-zero commitments and the current regulatory requirements as regards climate transition plans.
- The work of the Transition Plan Taskforce (TPT), focusing on the elements of its disclosure framework for gold-standard net-zero transition plans (the framework).
- The practical steps that organisations should consider when drawing up a transition plan and the challenges that they may face when doing so.

REGULATORY CONTEXT

The Climate Change Act 2008 (2050 Target Amendment) Order 2019 (*SI 2019/1056*) commits the UK to achieving net-zero GHG emissions by 2050 (*www.practicallaw.com/w-021-3702*). The UK has also pledged to reduce its GHG emissions by at least 68% from 1990 levels by 2030, as part of its nationally determined contribution under the Paris Agreement (*see News brief "Reflections on COP26: a long path ahead", www.practicallaw.com/w-033-4735*).

Alongside the government, a number of UK entities have made commitments to reaching net zero, such as Rolls-Royce Holdings plc, AstraZeneca plc and Unilever plc. Further to this, as of November 2021, two-thirds of FTSE 100 companies signed up to the United Nation's Race to Zero Campaign, the largest global alliance committed to achieving net-zero carbon emissions by 2050 at the latest. In this context, organisations are under increasing pressure and scrutiny to not only "talk the talk" but also "walk the walk".

Shortly after the United Nations Climate Change Conference 2021, known as COP26, the UK government established the TPT and tasked it with developing a gold standard for transition plans that is applicable to the UK but globally transferable (*www.practicallaw.com/w-035-6423*). This gold standard is intended to support the UK's 2050 net-zero pledge by ensuring that organisations demonstrate greater transparency and accountability as to how they will decarbonise. The intention is for gold-standard transition plans to channel the flow of capital towards those organisations with credible plans.

The TPT published the framework, alongside the associated sector-neutral implementation guidance (the guidance) and a technical annex (the annex), for consultation on 8 November 2022 (*https://transitiontaskforce.net/publications-2/*) (*see "TPT framework" and "TPT guidance" below*). The framework states that a transition plan is integral to an organisation's overall strategy, setting out its plan to contribute to, and prepare for, a rapid global transition towards a low GHG-emissions economy.

The consultation on the framework and guidance has now closed, and the finalised framework and guidance are expected in the summer of 2023, with sector-specific guidance to be published later in 2023. Consultation on the sector-specific guidance is expected to start in summer or autumn 2023. The Financial Conduct Authority (FCA) plans in 2023-2024 to consult on changes to its Listing Rules to reference the International Sustainability Standards Board (ISSB), as well as consider the TPT outputs to strengthen transition plan disclosure expectations of listed companies, asset managers and asset owners.

Nevertheless, and despite the absence of a final framework, the FCA has announced that financial firms and listed companies in the UK should push ahead with developing their transition plans before the formal rules are finalised (*www.fca.org.uk/publications/newsletters/primary-market-bulletin-42; www.practicallaw.com/w-038-3336*). Along similar lines, the Investment Association has published a statement encouraging companies to publish transition plans before they become mandatory (*www.ivis.co.uk/media/13898/ia-shareholder-priorities-and-ivis-approach-for-2022.pdf*).

WHO, WHAT AND WHEN

UK businesses need to consider how the requirements to disclose transition plans will affect them, taking into account the FCA's expectations for listed companies, asset managers and regulated asset owners.

Voluntary transition plans

Many UK firms are already publishing commitments to achieve net zero on a voluntary basis, with some taking the additional step to publish transition plans voluntarily. This shift has partly been spurred on by the Say on Climate initiative, shareholder-requisitioned resolutions, and in response to other stakeholder pressures (*see feature article "Shareholder activism: here to stay", www.practicallaw.com/w-033-2333*). In the UK, it is reported that there were 24 board-proposed Say on Climate resolutions for UK listed companies in 2021, with this number increasing to over 40 in 2022 (*see feature article "AGM climate resolutions: facing the challenge", www.practicallaw.com/w-035-5610*).

Shareholder support for board-led proposals has been relatively strong, with 75% of proposals receiving shareholder approval of 87% or higher (*www.isscorporatesolutions.com/library/the-rise-of-say-on-climate-proposals/*). The number of Say on Climate resolutions requisitioned by shareholders of UK listed companies also increased from 30 in 2020 to 58 in 2021 and to over 74 in 2022.

Current requirements

In the UK, companies with a UK premium listing, companies with a standard listing of shares (other than investment entities or shell companies) and asset managers are required to make "comply or explain" disclosures in their annual reports in relation to the Task Force on Climate-Related Financial Disclosures (TCFD) recommendations and recommended disclosures (*Listing Rules (LR) 9.8.6R(8) and 14.3.27R*) (*www.practicallaw.com/w-034-1875; see feature articles "Climate-related financial risk: spotlight on reporting", www.practicallaw.com/w-014-2731 and "Climate change reporting: preparing for a zero-carbon future", www.practicallaw.com/w-022-4370*).

Where a listed company is headquartered, or operates, in a country that has made a net-zero commitment, the Listing Rules require it to assess the extent to which it has considered that commitment in developing and disclosing its transition plan, or explain why it has not done so (*LR 9.8.6FG and 14.3.32G*).

While the TCFD recommendations require the disclosure of the actual and potential impacts of climate-related risks and opportunities on an organisation's businesses, strategy and financial planning, they do not expressly require the publication of a transition plan. However, the TCFD's guidance on transition plans (the TCFD guidance), published on 14 October 2021, notes that the TCFD believes that its recommendations implicitly cover the key aspects of transition plans (*https://assets.bbhub.io/company/sites/60/2021/07/2021-Metrics_Targets_Guidance-1.pdf*).

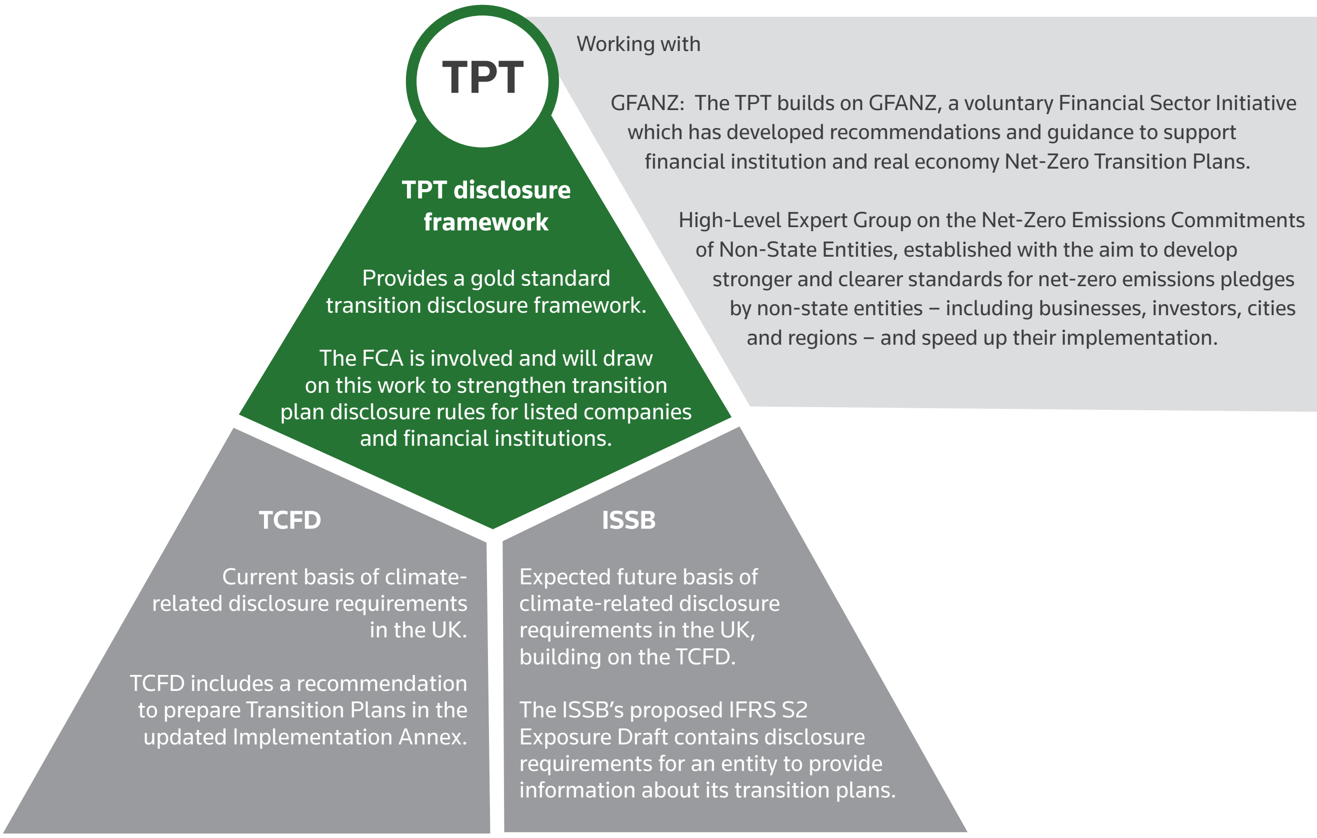
Future requirements

The view of the UK regulators is nevertheless clear, with the FCA expecting asset managers, asset owners and listed companies to disclose their transition plans in accordance with the TCFD guidance (*www.practicallaw.com/w-034-1875; www.fca.org.uk/publication/policy/ps21-23.pdf; www.fca.org.uk/publication/policy/ps21-24.pdf*). Further to this, in its consultation paper on the proposed new sustainability disclosure requirements and investment labelling regime, the FCA discusses expanding the regime to the disclosure of transition plans by building on the current TCFD-aligned disclosure rules and drawing on the outputs of the TPT (*www.practicallaw.com/w-037-7171*).

Notably, on 13 January 2023, the then Department for Business, Energy & Industrial Strategy (BEIS) published its report on an independent review of the UK's delivery on net-zero commitments and set out the organisations that fall within the scope of publishing a mandatory transition plan: that is, listed companies, asset managers and regulated asset owners, financial institutions, and private firms (*www.practicallaw.com/w-038-6378; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128689/mission-zero-independent-review.pdf*). Further details as to which private firms would be expected to report was omitted. BEIS recommended that the requirements should apply more extensively to financial institutions and private firms and should also apply on a phased basis to larger firms and then to smaller firms.

While an exact date for mandatory requirements is unclear, it will likely be soon after the framework and guidance are finalised.

Relationship to other standards



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TPT FRAMEWORK

It is useful to note the TPT's relationship with other relevant sustainability disclosure standards (*see box "Relationship to other standards"*). Among others, the TPT is working with GFANZ and the ISSB, which also sit on the TPT Steering Group. This co-ordination helps to ensure harmonisation as between the different reporting requirements, with the framework designed to be consistent with the TCFD and the ISSB, although the framework provides further detail and specificity to meet the needs of the UK market (*https://transitiontaskforce.net/wp-content/uploads/2022/11/TPT-Disclosure-Framework.pdf*).

Further to this, the annex maps each of the framework's elements against the TCFD recommendations and the ISSB's exposure draft of International Financial Reporting Standard (IFRS) S2 "Climate-related Disclosures" (*www.practicallaw.com/w-035-6511*). It is evident that the TPT goes above and beyond the recommendations and guidance of the TCFD and ISSB.

The framework is grounded in three principles, which reflect key requirements across the lifecycle of a transition plan: ambition, action and accountability. It emphasises that all economic actors must develop a more broad-based approach to transition planning, rather than exclusively focusing on net-zero targets.

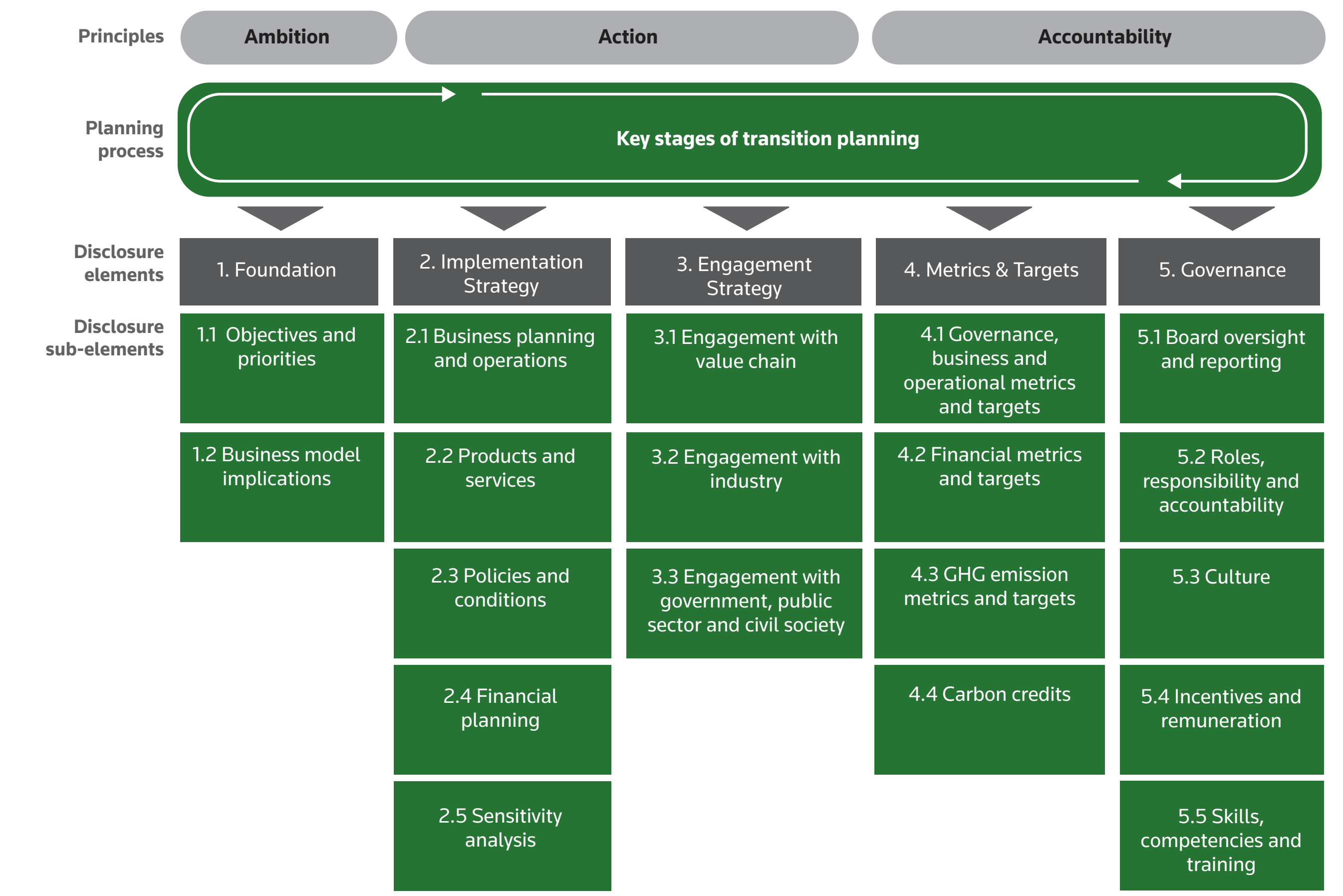
The framework is separately built around five disclosure elements, which reflect the key components of a transition plan as recommended by GFANZ (*see box "The TPT disclosure framework"*).

Foundation

The first component of a transition plan is the foundation, which should:

- Set out the organisation's objectives and priorities (the objectives) for:
  - setting targets, both interim and long term, to reduce GHG emissions;
  - responding to physical and transition risks, as well as opportunities arising from the transition; and
  - using the other levers that it has available to help embed and accelerate the transition; for example, investment in low-carbon technologies, and lending and investment objectives.
- Describe any trade-offs between the objectives, such as possible increases in short-term emissions that result from actions that are necessary for delivering long-term emissions reductions, and how they will be embedded in the organisation's business strategy.
- Include an overview of the key implications for the business model, such as resource allocation, acquisitions and divestments, and operational and capital expenditure, and of the material interdependences for the natural environment and stakeholders.
- Outline an organisation's ambition with regard to achieving decarbonisation, responding to climate-related risks and opportunities, and contributing to economy-wide transition. This ambition will be guided by the organisation's size,

The TPT disclosure framework



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the sector in which it operates and the location of its business activities.

Implementation strategy

The second component is the implementation strategy, which includes:

- Disclosing the roadmap of short, medium and long-term actions that the organisation is taking, or plans to take, in order to implement its transition strategy and achieve the objectives, and timelines to manage or phase out GHG or carbon-energy intensive assets.

- Setting out the organisation's plans to change its portfolio of products or services to support the objectives and, where possible, quantifying the impact of these planned changes towards achieving the objectives.

- Outlining the internal policies and conditions that are used to guide business planning and actions, including:

  - the policies governing an organisation's internal operations, such as protecting biodiversity;

  - decision-making relating to the value chain, such as climate-related requirements and due diligence; and

  - investment conditions and engagement, such as public commitments to align lobbying with environmental considerations.

- Describing how the actions will be resourced, as well as the projected impact of the actions on the organisation's financial position, performance and cash flows, including providing quantitative information where it is able to do so.

- Disclosing the key assumptions that underline the plans, the timeframes over which they are expected to occur and how assumptions are reflected in the organisation's financial statements (the sensitivity analysis). Notably, the sensitivity analysis is an additional step to the scenario analysis required by the TCFD, and can indicate the ambition, robustness and feasibility of achieving the plan (*see "Forward-looking analysis" below*).

Engagement strategy

The next component describes the engagement strategy, which includes:

- Explaining the current and planned engagement activities with downstream and upstream entities in the value chain to drive reductions and deliver the objectives.

- Setting out current and planned engagement and collaboration with peers in the industry, such as trade organisations.

- Disclosing any current and planned engagement with governments, regulators, public sector organisations and civil society.

Metrics and targets

The fourth component entails disclosing certain metrics and targets, including:

- The governance, business, operational and financial metrics and targets that are used to assess progress towards the organisation's strategic ambition and objectives, and to report against these on at least an annual basis. This should include the objectives of targets, and whether the targets are absolute or intensity-based.

- The GHG metrics and targets that are used to assess progress towards its strategic ambition and the objectives, and to report against these on at least an annual basis.

- The intended use of carbon credits which are used by the organisation to assess progress towards its strategic ambition and the objectives, and to report against these on at least an annual basis.

Governance

The final component deals with governance matters and entails:

- Disclosing board-level oversight of the plan, for example: the arrangements for approval, whether and how targets are reviewed (that is, by the board or a board committee), the monitoring arrangements, and how transition plans are considered within wider strategy and decision making.

- Explaining the senior management roles for the execution of the transition plan, as well as wider control, review and accountability mechanisms.

- Describing how the organisation is trying to build a culture to support the implementation of the transition plan, dealing with, for example, communications, HR policies and review systems.

- Describing whether the organisation has put in place remuneration and incentives that are aligned with the objectives.

- Describing how the organisation will ensure that it has the appropriate skills, competencies and knowledge to deliver the transition plan successfully.

TPT GUIDANCE

The guidance, which supports the framework, sets out the key stages in preparing a transition plan, the associated processes as to where and how to disclose transition plans against the framework, and an overview of how external stakeholders might use transition plans to inform their strategic decision making (*https://transitiontaskforce.net/wp-content/uploads/2022/11/TPT-Implementation-Guidance-1.pdf*).

Current position

Using the foundations of the TCFD, organisations should start by assessing climate-related risks and opportunities, decarbonisation levers and their emissions footprint and analysing interdependencies.

Ambition

The next stage is to set the objectives and GHG reduction targets, and to develop a decarbonisation prioritisation. The guidance suggests seeking feedback on the proposed objectives with key stakeholders early on in the process. The decarbonisation prioritisation will be influenced by:

- The materiality of the emissions profile across scope 1 (direct emissions from owned or controlled sources), scope 2 (indirect emissions from the generation of purchased electricity, steam, heating and cooling consumed by the business) and scope 3 (all other indirect emissions that occur in the business's value chain).

- The strategic lever assessment.

- The objectives.

- The GHG reduction targets.

Action plan

The next stage is to design a strategic roadmap that is detailed at the activity level, and a change-management programme that outlines responsibilities for delivery and addresses the gaps that have been identified. Organisations need to ensure that their transition plans respond to the changing climate, consider material interdependencies, financial planning and the sensitivity analysis, and develop an engagement programme.

Accountability

In order to ensure accountability, organisations need to monitor and report on outcomes, assess approaches to internal and external assurance, review and improve monitoring processes, define roles and responsibilities and build awareness and capacity to deliver the transition.

Usefully, the TPT builds on existing transition plan methodologies, guidance and frameworks, and the guidance draws on the outputs of these throughout as follows:

- Assessing climate-related risks and opportunities: TCFD and Carbon Disclosure Project.

- Emissions and target setting: the GHG Protocol and the Science-based Targets initiative (*https://ghgprotocol.org/; https://sciencebasedtargets.org/*).

- Abatement and decarbonisation activities: GFANZ, the Voluntary Carbon Markets Integrity Initiative and the Integrity Council for the Voluntary Carbon Market (ICVCM) (*https://vcmintegrity.org/; https://icvcm.org/*).

- Metrics and targets: GFANZ and the Climate Financial Risk Forum (*www.fca.org.uk/transparency/climate-financial-risk-forum*).

- Governance and change management programmes: GFANZ.

KEY FEATURES

It is evident that the narrative with regard to transition planning in the UK is shifting from a somewhat surface-level focus, consisting of the publication of net-zero statements, to a focus on substance; that is, how these statements will be achieved in practice.

It is the authors' expectation that mandatory transition plan requirements are likely to be introduced shortly after the framework and guidance are finalised. Organisations may therefore wish to consider some of the practical steps highlighted below (*see also box "Transition plan"*).

Risks and opportunities

To identify risks and opportunities, an organisation can use the scenario analysis that is performed as part of its TCFD reporting process. Where scenario analysis has not been performed, an organisation should translate climate risks and opportunities into principal business risks and opportunities; for example, operational, financial and reputational issues.

Transition plan

Transition plan element	Practical guidance
Identify how steps set out in the transition plan will be financed.	Organisations should consider the level of ambition and whether it will be achievable in light of available finance and short and long-term resourcing plans. These decisions sit against a backdrop of increasing scrutiny from stakeholders that are lobbying for more ambitious decarbonisation strategies. Organisations should also disclose how they expect their financial position and performance to change in light of the actions to support their transition plan objectives (the objectives) (*see "Foundation" in the main text*).
Cover governance and accountability mechanisms that support delivery of the transition plan and robust periodic reporting.	The board and senior management will be expected to take ownership of the transition plan. Disclosures are expected in regard to the organisation's arrangements and processes for board approval of the transition plan, and whether these arrangements are reflected in board mandates and other policies. The Financial Conduct Authority views remuneration as a crucial tool to help align corporate outcomes with long-term sustainability aims (*www.fca.org.uk/publication/discussion/dp23-1_updated.pdf*).
Emphasise actions that can be expected to make significant contributions to an economy-wide transition.	Transition plans must detail short and long-term actions that can contribute to transitioning the wider economy. The Transition Plan Taskforce (TPT) framework seeks to capture organisations that may report low emissions but that enable and accelerate the transition. While an organisation may reduce its scope 3 emissions by investing in low-emitting companies and divesting from high-carbon assets, these actions may result in paper decarbonisation; that is, reductions for that organisation but which do not contribute to global reductions in emissions. Conversely, a strategy of pursuing investments in climate solutions in "hard to abate" sectors may fail to deliver a comparable material reduction in scope 1, 2 and 3 emissions in the short term, but may contribute materially to the economy-wide transition.
Include any transition-relevant actions that are material to the organisation's long-term enterprise value, resulting from an examination of all material interdependencies.	Disclose material interdependencies that may affect an organisation, including those that relate to the natural environment, workers, suppliers, communities and consumers.
Develop the transition plan on the basis of defined assumptions and an analysis of dependencies and uncertainties.	Transition plans will be grounded in a number of assumptions relating to governmental policy, regulatory action, consumer preferences and stakeholders. Organisations need to be agile and assess the sensitivity of the transition plan to changes in assumptions. An organisation will also have to disclose the impact on its ability to achieve the objectives if its assumptions are proven to be incorrect. This sensitivity analysis is likely to prove challenging.
Describe implications to the business model.	Organisations will need to summarise how their business model may be affected by the transition plan; for example, where product or service offerings may need to be altered to divest high-emitting investments, or where expenditure will be required to reduce greenhouse gas (GHG) emissions.
Disclose policies and procedures.	Organisations will be required to disclose key internal policies that align their activities to the strategic ambition of their transition plan and the objectives. This may include policies in regard to energy usage, deforestation, safeguards to address the risk of significant harm to the natural environment and certain stakeholders, and climate-related requirements for suppliers. Organisations should start to put these policies in place, if they do not already have them.

Transition plan (continued)

Transition plan element	Practical guidance
Describe engagement with value chain and industry.	Organisations will be required to disclose current and planned engagement activities with other organisations in their value chain or portfolio. No such requirement exists under the Task Force on Climate-Related Financial Disclosures (TCFD) framework. Organisations should identify any business relationships in their value chain that do not align with the objectives. They should consider whether those relationships could be brought in line or, alternatively, whether exit routes are available. Organisations are likely to require suppliers to disclose their emissions in order to further their own reporting. This can assist organisations in determining which suppliers or customers are exposed to higher transition risks. The UK has not introduced, or stated that it plans to introduce, an equivalent to the EU's proposed Corporate Sustainability Due Diligence Directive, reflecting a preference for voluntary due diligence. However, as value chains have increasingly been in the spotlight for their human rights and environmental impacts, this may open the door to similar legislation in the UK.
Describe how the organisation ensures that it has the appropriate skills, competencies and knowledge to deliver the objectives.	Organisations should consider whether they need to roll out training or onboard new employees and senior staff to ensure that they have the capacity and knowledge to deliver, and expertise to achieve, the objectives.
Disclose verification or assurance, where obtained.	The TPT expects disclosures of the level of assurance or verification, the scope of engagement, the identity of the provider and the outcome of the engagement. The benefits of obtaining assurance services, such as enhanced credibility, will need to be considered against other factors such as time and cost. The UK currently has no external assurance requirements, and no plans to mandate external assurance, on sustainability information. This position differs from that under the Corporate Sustainability Reporting Directive (*2022/2464/EU*), where sustainability reporting must first be subject to limited assurance, before transitioning to a reasonable assurance approach.
Reduction of GHG emissions – scope 1, 2 and 3 and the use of carbon credits.	Organisations will be required to consider scope 1, 2 and 3 emissions. An organisation will need to undertake sufficient analysis to enable it to disclose the required metrics on GHG emissions and emission reduction targets, including the metrics used to assess progress. Transparency as to where scopes or categories of emissions are excluded from its reduction targets is important. Where a transition plan includes GHG information provided by an organisation in the value chain, an explanation as to the basis of this measurement is required. Organisations should consider how to verify the figures provided. Organisations should prioritise decarbonisation through direct abatement rather than buying carbon credits. Organisations will therefore have to look at their strategy to decarbonise, to the extent one exists, and consider any overexposure to decarbonisation through credit schemes. The purchase of carbon credits is additional to, and not a replacement for, GHG reduction efforts. The framework goes a step further than the TCFD, requiring separate disclosure of carbon credits from GHG emission reduction targets.
Placing the transition plan after development.	It is recommended that disclosure against the framework should be integrated with, and build on broader climate-related disclosures in a reporting organisation's general purpose financial reports, such as a UK listed company's annual report. Transition plans should be published in a single standalone document that sits alongside an organisation's annual financial report. Where an organisation prepares a long-form TCFD or sustainability report outside of the general purpose financial reporting, the transition plan should be clearly separate.
Engagement with stakeholders.	Engaging with stakeholders is important. The UK Corporate Governance Code encourages listed companies to engage with their shareholders, particularly in relation to any potentially contentious resolutions, which could include transition plans. Where shareholder approval of a transition plan has been sought, the nature of this engagement should be disclosed.

The results should indicate an organisation's ability to decarbonise its operations and value chain.

Decarbonisation levers

The ability of an organisation to decarbonise will be case specific, although the process should be guided by a review of GFANZ's four financing strategies: climate solutions, aligned financing, aligning financing and managed phase-out.

Environmental interdependencies

The guidance considers the benefits of conducting a nature impact materiality assessment in line with the Taskforce on Nature-related Financial Disclosures (TNFD) in order to analyse the interdependencies between climate action, the natural environment and stakeholders.

While the full framework of the TNFD is expected in September 2023, and is currently intended to be market-led and voluntary, there have been calls from the head of the UN Convention on Biological Diversity for mandatory reporting in line with TNFD (*www.practicallaw.com/w-036-3929*). It is inevitable that TNFD reporting will move to a stronger legal footing in the future, as has been the case with the TCFD framework. Organisations would be wise to familiarise themselves with the TNFD framework and integrate any assessment findings within their transition plans.

Social interdependencies

The guidance suggests that organisations may consider the risks and opportunities for their workforce, suppliers, affected communities and customers that may arise from their interim and long-term targets, and define those impacts by reference to the Just Transition business guide (*https://justtransitioninitiative.org/resource-library/just-transition-a-business-guide/*) (*see box "Transition plan"*).

CHALLENGES IN PRACTICE

In light of the current versions of the framework and guidance, there may be challenges in regard to the effective implementation of a transition plan.

Forward-looking analysis

Scenario analysis will be familiar to organisations that are used to the TCFD, although the level of detail that the framework requires and the preparation of a sensitivity analysis are new.

Scenario analysis. Most climate scenarios performed to date have been macro-assessments. Organisations could benefit from considering a number of helpful resources, including:

- The scenarios portal of the Network for Greening the Financial System (*www.ngfs.net/ngfs-scenarios-portal/*).
- The Paris Agreement Capital Transition Assessment produced by 2° Investing Initiative (*https://2degrees-investing.org/resource/pacta/*).
- The TCFD Use of Scenario Analysis in Disclosure of Climate-related Risks and Opportunities (*www.tcfdhub.org/scenario-analysis/*).

Care should be taken to ensure that the models and data used are up to date and reflect the latest technological changes.

Sensitivity analysis. A sensitivity analysis is used to assess how different values of a set of independent variables affect a specific dependent variable. In the context of transition plans, sensitivity analysis allows an organisation to explore how a potential range of outcomes of future events, such as policy outcomes and the physical and transition risks that arise from the changing climate and demand shifts, may affect its ability to implement and deliver its transition plan.

A sensitivity analysis requires identifying the judgments that underpin assumptions, including a consideration of whether they are realistic, and the impact that they may have on the transition plan if, for example, they are not realised. The guidance outlines several examples of key assumptions:

- Policy and regulatory change will be an important driver of the rate of economy-wide transitions and will have an impact on transition plans across the board (*see "Regulatory changes" below*).
- Technological innovation and developments will influence the financial cost of an organisation's transition and the pace of achievement. Transition plans that rely on rapid or overly ambitious technological developments, such as the extensive use of carbon capture and storage, will likely be subject to additional scrutiny.
- Assumptions relating to the physical impacts of climate change will be more important for some industries than others. For example, organisations involved in agriculture may include assumptions relating to rainfall and drought, and those located on low-lying plains or with operations closer to the equator may have assumptions relating to flood risk or impacts on workforce productivity.
- Organisations are also likely to have to consider shifting client and consumer demands; for example, a decreasing demand for air travel or plastic products.

Risks of getting it wrong

An essential concern for organisations will be the repercussions of making errors, miscalculations or over-ambitious statements in their transition plans; for example, through inadequate reporting, omitting data or setting targets that are not achievable. In this context, the framework and guidance put a strong emphasis on board and senior accountability.

This nervousness should be understood in the context where the role of the courts, as regards climate change, is coming into sharper focus (*see feature article "ESG litigation risks: building momentum", www.practicallaw.com/w-035-5489*). Faced with more sophisticated claims in respect of the environment and human rights, the courts are being tested as to how far they will adapt longstanding principles of liability to concerns over climate and human rights.

More specifically, cases are emerging that are designed to test the boundaries of directors' duties as regards climate change, with the February 2023 claim in the High Court against Shell plc's 11 board directors being a noteworthy example (*www.clientearth.org/latest/press-office/press/clientearth-files-climate-risk-lawsuit-against-shell-s-board-with-support-from-institutional-investors/*). The claim, which alleges that Shell's directors failed to adopt and implement a Paris Agreement-aligned energy transition strategy and are therefore in breach of the Companies Act 2006, presents a potential opportunity for the court to opine on the nature and scope of directors' duties in the context of the energy transition.

Greenwashing. While regulatory frameworks differ across countries with regard to marketing and consumer protection, the concept of greenwashing, that is, the practice of making misleading or unsubstantiated claims about the environmental or social benefits of a product, service or activity, transcends boundaries (*see Exclusively online article "Misleading environmental claims: the dos, don'ts and pitfalls of green claims", www.practicallaw.com/w-031-4434*). Greenwashing can also involve using vague or ambiguous terms that lack clear standards or verification (*see feature article "ESG standards and ratings: know the score", www.practicallaw.com/w-035-4811*).

Ensuring that the information contained within a transition plan is truthful and an accurate reflection of how the organisation intends to transition is therefore essential. Statements in the transition plan should be clear and unambiguous, and careful effort should be taken to ensure that material information is not hidden or omitted. Further to this, the framework indicates that standalone transition plans should be updated periodically, either when significant changes to the transition plan materialise or at least once every three years. In the interim, progress against the transition plan and content that is considered material to investors should be reported on an annual basis as part of annual TCFD or ISSB-aligned disclosures in the general purpose financial reporting.

While transition plans may be a tool to reduce the risks of greenwashing by substantiating claims made, if transition plans are based on loose assumptions, lack crucial information or cannot be verified, an organisation may come under fire from all angles, including from stakeholders, the general public and regulators.

More specifically, the Competition and Markets Authority (CMA) published a Green Claims Code on 20 September 2021 and, together with the Advertising Standards Authority, can take enforcement action on misleading environmental claims (*www.gov.uk/government/publications/green-claims-code-making-environmental-claims*). Furthermore, the new Digital Markets, Competition and Consumer Bill, which is due to come into force later in 2023, is expected to empower the CMA to enforce UK consumer law through administrative proceedings and fine companies up to 10% of their global turnover for breaches, rather than the CMA having to take enforcement action through the courts.

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Regulatory changes

To enable the UK to meet its net-zero commitments, governmental policy will be introduced to incentivise those industries with greater GHG emissions to transition. The regulatory and policy changes underway will need to be reflected in an organisation's transition plan. Policies will likely encompass a stick-and-carrot approach, including subsidies in relation to climate solutions, shifting consumer demands, and phasing out or prohibiting certain activities.

The framework requires the intended use of carbon credits in achieving a transition plan's objectives to be disclosed separately from scope 1, 2 and 3 emission reductions plans, with the purchase of carbon credits being regarded as additional to, and not as a replacement of, these efforts. Changing standards, such as the ICVCM, which plans to finalise a set of core carbon principles in 2023, and the regulation of voluntary carbon markets, may further affect transition plans that require these to achieve their objectives.

Organisations that operate internationally, and with a range of entities within their value chain, will have to account for policy and regulatory change in the various jurisdictions in which they operate. Engagement with local industry bodies and governments can provide insight into the direction of travel and priorities.

Harmonisation

The TPT expects to update the annex in 2023, on completion of the finalised framework and following publication of the finalised IFRS S2. Accordingly, organisations that are preparing transition plans based on the current framework and guidance should be aware of ISSB developments to ensure that their transition plans can be readily adapted once the standards are finalised and incorporated by the TPT.

Organisations that operate internationally, consideration should consider the differing requirements and demands across jurisdictions in relation to transition plans.

On 21 March 2022, the US Securities and Exchange Commission (SEC) published a proposal that would require US registrants that have developed transition plans, or publicly set climate-related targets or goals, to make certain disclosures to enable investors to understand those aspects of the registrants' climate risk management (*www.sec.gov/news/press-release/2022-46*). The SEC has indicated April 2023 as the target date for adoption.

Closer to home, the EU's proposed Corporate Sustainability Due Diligence Directive would require large companies to have transition plans that align their strategy and business model with limiting global warming to 1.5°C (*see News brief "Corporate sustainability due diligence duty: gathering momentum", www.practicallaw.com/w-034-8795*).

Similarly, the Corporate Sustainability Reporting Directive (*2022/2464/EU*), which came into force in January 2023, requires undertakings to report on sustainability matters in accordance with binding reporting standards being prepared by the European Financial Reporting Advisory Group (EFRAG) (*see feature article "Sustainability in supply chains: due diligence in focus", www.practicallaw.com/w-035-5415*).

On 23 November 2022, the EFRAG submitted its first set of draft European Sustainability Reporting Standards to the European Commission. One such standard requires in-scope undertakings to report on their transition plan for climate change mitigation, which includes:

- Identifying levers for the transition plan, investments and funding.

- Formulating a plan to reach the alignment of the business with the EU Taxonomy Regulation (*2020/852/EU*) requirements.

- Reporting annually on the progress made.

CONTINUED PRESSURE

Since 2020, the Say on Climate initiative has encouraged listed companies to submit a climate transition action plan to an advisory vote by shareholders at the company's AGM. While the resolutions differ depending on the type of company and the priority of the institutional investor, themes arising from recent Say on Climate resolutions generally include the annual disclosure of climate transition plans (*see "Voluntary transition plans" above*).

The authors expect regulators, investors and other interested stakeholders to continue pressuring boards and management to be accountable for climate risk and strategy through their transition plans. This is likely to continue to play out in shareholder and board meetings and, potentially, in the public arena. Transition plans should be flexible and responsive, setting out an effective roadmap to the organisation's low-carbon future which is consistent, credible and ambitious. The role of the TPT in this regard is crucial.

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