Corporate Disclosure and Green Finance Market: A Legal Perspective

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Overview

Finance is an essential key in the move towards a climate-neutral. The 2015 Paris Agreement on climate change - the first international legally binding treaty on climate change - calls for the mobilisation of private sector financing to support the needed investments in green technologies and infrastructure that will be necessary to realise its carbon emissions goals. Within this context, a critical issue that must be kept in mind when considering the ways in which climate change could be tackled is the financial gap that an economy faces. The financial gap is a direct consequence of the significant amount of capital and investments needed in order to achieve net-zero greenhouse gas emissions., as it has been said that government funds might be insufficient to cover these significant investments. Therefore, green financial sources, specifically from the private sector, will be crucial in closing this financial gap.

As a means of addressing the financial gap issue, the introduction of Corporate sustainable financial tools, such as corporate green bonds, was necessary to enable investments on behalf of the private sector. Indeed, the issuance of corporate green bonds especially has been estimated to supply up to 84% of the private, third-party capital required to finance the development needed to transition towards a Net-Zero Economy. Green bonds were firstly introduced in 2007, however, the entrance of corporations into the green bonds market was the turning point in its growth. Ever since the green bond market has continued to grow significantly, it is the corporate green bonds that constitute the biggest share of the current green bonds market and accounted for 36% of the total issuance of green bonds in the market in 2015.

On the other hand, the securities market is already described as complex, thus, growing participation in the corporate green financial market has further resulted in disclosure becoming a pressing policy-makers concern. In that, labelling financial products as green seem to raise more funds and give certain privileges to corporations due to the strong investor demand. This has been considered from the experience of the first issuers of green bonds who noticed that these bonds were oversubscribed as opposed to conventional bonds. Reasoning to why, issuing and investing in corporate green products contributes to strengthening relationships between corporations, investors, debt providers, and local authorities. Accordingly, there is a likelihood that these financial tools will be misused to serve the interests of corporations or investors, in which disclosure plays a key role to enhance the integrity of the market.

Corporate disclosure is naturally incorporated in the process of issuing green financial instruments, however, applying the regular disclosure techniques is not enough to enhance the integrity of the market nor to make a sustainable green market in the long run. Accordingly, a specified set of disclosure obligations are being adopted by new policies, starting with the Green Bond Principles (GBPs), published by the International Capital Market Association (ICMA), which is a step towards a common issuance policy that encourages transparency and disclosure procedures. Moreover, the European Green Bond Standard (EUGBS), was announced by the European Commission as a part of its Green Deal investment plan for 2020.

Methods

The paper employs a doctrinal approach to analyse regulatory initiatives on green financial instruments.

Results

Indeed, disclosure obligations under the current regulations seem to lack two core elements: First, the correct scope of disclosed information. In the absence of an international consensus on specific characteristics of green projects, or even a definition of what exactly green instruments mean, irrelevant or misleading information will be disclosed. In that sense, applying disclosure while leaving it to companies to define what green means or, more precisely, what type of projects fall under the category of green, will affect the integrity along with the liquidity of the market.

Secondly, while the disclosure is naturally incorporated in the issuance of corporate green financial tools, such a mandatory form of disclosure is imperative at this stage. However, mandatory disclosure needs to include non-monetary information on the funded projects.

Conclusions

To conclude, this paper critically discussed the type and extent of disclosure applied by regulations in the process of issuing corporate green financial tools. It could be suggested that further examination must be carried out on the use of these tools to re-fund green projects; it could be understood that using these tools to refinance such projects without clear or strict conditions could severely heighten concerns surrounding greenwashing. Finally, the concept of a corporate green market seems to serve the common good. However, are corporations actually that eager to serve the interests of society?

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