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Corporate Carbon Counting Under Scrutiny—Comments Requested on Pending Updates to the Greenhouse Gas Protocol

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Energy, Environmental, Environmental, Social, and Governance (ESG), Securities and Capital Markets, and Public Policy practices

The Greenhouse Gas Protocol (“GHG Protocol” or “Protocol”)—a leading standard setter for measuring and managing corporate greenhouse gas emissions, borne of a partnership between World Resources Institute (WRI) and the World Business Council for Sustainable Development (WBCSD)—has opened [stakeholder surveys](#) concerning the revision of its Corporate Accounting and Reporting Standard, Guidance on Scope 2 Emissions, and the Scope 3 Standard and Scope 3 Calculation Guidance.

The GHG Protocol’s standards and guidance are a foundational element of the Science Based Targets initiative (SBTi), which helps shape and verify corporate emissions reductions targets and ensure they are aligned with the goals of the 2015 Paris Agreement. The Protocol is the preferred carbon accounting mechanism of major corporations: in 2016, over 92% of Fortune 500 companies that reported emissions data to CDP did so according to the GHG Protocol accounting standards. Yet the Corporate Accounting and Reporting Standard has not been revised since 2004, and the Guidance for Scope 2 emissions—i.e., emissions associated with a company’s electricity, heat, and steam—and Scope 3 (supply chain) emissions have not been revised at all since they were first published in the early 2010s.

The [stakeholder surveys](#) solicit feedback on and suggestions for potential revisions. The [stated goal](#) of the surveys is to “understand user needs, identify and address any gaps, and align with best practice approaches” to ensure that the Protocol effectively provides a “rigorous and credible accounting foundation for business to measure, plan and track progress toward science-based and net-zero targets in line with the global 1.5°C goal.” Interested parties will have until February 28, 2023, to submit their comments.

This stakeholder process is a unique opportunity for businesses, NGOs, academia, and government officials to shape the future of corporate sustainability reporting. Four topics have emerged as leading issues.

I. Ensuring that the GHG Protocol harmonizes with mandatory reporting regimes

In the March 2022 announcement of the stakeholder survey process, the GHG Protocol announced that “a key focus will be to ensure harmonization and alignment with accounting rules under development through major disclosure initiatives” These disclosure initiatives are varied, spanning sectors and jurisdictions, but a key commonality is their reliance on the GHG Protocol’s current framework.

For instance, in the United States, the Securities and Exchange Commission (SEC) [proposed a rule](#) earlier this year, which would require (among other things) the disclosure of Scope 1, 2, and 3 greenhouse gas emission data. In its proposal, the SEC explicitly incorporated and adopted many concepts developed by the GHG Protocol.¹ More recently, the U.S. Government [released a proposal](#) that would require major government suppliers and contractors to set science-based emissions reduction targets aligned with the Paris Agreement, as well as disclose their greenhouse gas (GHG) emissions and climate risks. This proposal would explicitly require contractors to follow the GHG Protocol’s Corporate Accounting and Reporting Standard. Also, as detailed in a [prior Covington post](#), the European Commission is soon expected to adopt the European Sustainability Reporting Standards (“ESRS”), a key component of which is a climate change reporting standard that—like the SEC’s proposal—incorporates key concepts from the GHG Protocol.

This proliferation of reporting regulations has moved the GHG Protocol’s voluntary framework closer to a mandatory one and entrenched its influence across legal systems. The GHG Protocol’s ongoing survey provides a unique opportunity for companies to reflect on how these emerging rules interact, in a forum that will be sympathetic to cross-jurisdictional concerns.

II. The role of Renewable Energy Certificates (“RECs”) in the Scope 2 emissions guidance

A. RECs Currently Have an Important Role in Scope 2 Emissions Reporting

The Greenhouse Gas Protocol’s [current Scope 2 Guidance](#) (published in 2015) articulates a framework for entities to report GHG emissions associated with Scope 2 emissions—that is, indirect emissions from the consumption of purchased electricity, steam, heat, and cooling. Currently, an entity may report Scope 2 emissions via either a location-based method (based on average energy generation emissions in an entity’s geographic area) or a market-based method (based on emissions emitted by specific generators from which the entity purchases RECs).

RECs are instruments that renewable electricity generators issue and sell to other entities, which may or may not be bundled with a contract for the direct purchase of power. The current guidance explains that the sale of RECs sends signals about the demand for renewable energy,

¹ See Securities and Exchange Commissions, Proposed Rule, The Enhancement and Standardization of Climate-Related Disclosures for Investors, at 34 (March 21, 2022) ([link](#)).

and those signals drive changes in production. Because RECs are designed to create a demand-side market signal, the current guidance does not require entities to prove additionality for RECs. That is, an entity need not prove that the emissions reductions incorporated into the megawatts of a given REC would not otherwise have occurred. (In contrast, a few other reporting regimes, such as the Net Zero Carbon Buildings Framework of the UK Green Buildings Council, [include](#) this additionality requirement.)

B. The Protocol is Considering a Change to the Role of RECs

As part of its revisions, the Protocol appears to be reevaluating whether and how RECs should be counted. In its March 2022 announcement, the Protocol announced a study on scope 2 to be conducted by Anders Bjørn, a postdoctoral fellow studying the link between reported corporate emissions and global emissions. In the summer, a study co-authored by Bjørn [appeared in Nature](#) suggesting that RECs do not lead to GHG emissions reductions. The study argued that: (1) emissions reductions in RECs may be non-additional, so entities get to count emissions reductions that are not real; and (2) even an additional emission reduction will be double-counted if one company claims RECs using market-based accounting while other companies count that same renewable energy using the average emission factors in location-based accounting. The study proposed either that market-based accounting for Scope 2 should be disallowed or that companies should have to demonstrate additionality for any RECs they claim.

Questions 36 and 37 in the Protocol's [Scope 2 survey](#) address these and similar concerns about RECs. Specifically, these questions ask whether there is “empirical support for the premise that [the current] market-based scope 2 accounting framework results in collective changes in low-carbon energy supply and global atmospheric GHG emission reductions.” It then asks what changes might be necessary and why, offering the opportunity of responding either with brief comments or “a more detailed proposal.”

C. Proposed Changes Would Significantly Impact Reportable Scope 2 Emissions

Both of the proposals offered by the *Nature* study—disallowing market-based accounting entirely or requiring a demonstration of additionality—would significantly change corporate plans to reduce emissions. Of the sample of companies examined in the *Nature* study, 89% purchased RECs in the 2015–2019 period. When the contribution of RECs to their Scope 2 emissions reductions was removed, median market-based emission reduction declined from 30.2% to 8.5%. Leading edge companies are increasingly seeking to align their renewable generation resources with their load, so that they can be sure that their energy needs are met by renewable energy during all hours and they can substantiate their representations to customers and investors in this regard. However, achieving that end could be more challenging than seeking to advance net zero ambitions by purchasing RECs produced by renewable energy projects, without regard to their additionality. Accordingly, how RECs feature in GHG emissions reporting is a critical issue that will be addressed as part of the revisions to the GHG Protocol. This same issue and the contribution that RECs and other instruments can play in supporting companies' net-zero strategy will also figure prominently in the Federal Trade Commission's recently announced [request for comments](#) on the efficacy of the FTC's Green Guides, where the FTC has requested input on whether to augment existing guidance on “climate-change related claims” such as “net zero,” “carbon neutral,” “low carbon,” and “carbon negative.”

III. Revisions to the calculation of Scope 3 Emissions

The GHG Protocol’s current [Scope 3 Guidance](#) (published in 2011) and [Scope 3 Calculation Guidance](#) (published in 2013) create a framework for entities to report and calculate GHG emissions associated with Scope 3 emissions—that is, all indirect emissions (other than those in Scope 2) that occur in a company’s value chain. The guidance divides Scope 3 emissions into 15 categories that are either upstream or downstream of the company’s production:

Upstream	Downstream
emissions from purchased goods and services	downstream transportation and distribution
capital goods	processing of sold products
fuel- and energy-related activities (not included in scope 1 or scope 2)	use of sold products
upstream transportation and distribution	end-of-life treatment of sold products
waste generated in operations	downstream leased assets
business travel	franchises
employee commuting	investments
upstream leased assets	

For each of these fifteen categories, the Guidance prescribes a time boundary to account for all emissions related to the entity’s activities in the reporting year, even if those emissions occurred in a prior year or are expected to occur in a future year. Also, for each category, the Calculation Guidance prescribes a specific set of available methods of calculating emissions. For example, emissions from purchased goods and services can be reported using the supplier-specific method (with data from a specific supplier), the hybrid method (with some supplier-specific data and secondary information to fill in gaps), the average-data method (with data on the mass of goods and average emissions factors), or the spend-based method (with data on the economic value of goods and average emissions factors).

The Scope 3 survey asks for many types of feedback to help the GHG Protocol modify this guidance. For example, the Protocol asks whether any of the calculation methods associated with the fifteen categories of Scope 3 emissions should be removed, added, or modified (see questions 23-25). The survey also asks for “gaps or challenges” in using the current calculation guidance and solicits suggestions for improvements (question 26). More generally, the survey

asks about an entity’s challenges complying with the Scope 3 standards and any suggested solutions, as well as whether and when “industry-specific guidance” would be helpful (questions 15-16).

IV. Market-based accounting methods for Scope 1 and 3 Emissions

Finally, the GHG Protocol is conducting a [fourth survey](#) to gather general perspectives on market-based accounting approaches. As described above, market-based accounting methods involve the use contractual instruments or offset credits to measure emissions performance, and the GHG Protocol allows these approaches for Scope 2 emissions. However, current guidance does not include any market-based accounting approaches for reporting direct (Scope 1) or supply chain emissions (Scope 3). This survey asks stakeholders for feedback on whether and how a variety of market-based accounting methods—including offset credits, inset credits, supply shed/value chain interventions, mass-balance certification, and book-and-claim certificated—might be applied to Scope 1 and 3 emissions reporting.

V. Corporations Should Take Advantage of this Rare Opportunity to Shape Carbon Rules

The [GHG Protocol surveys](#) provide a once-in-a-decade opportunity for businesses and other stakeholders to shape the future of corporate sustainability reporting. The opportunity is all the more important as jurisdictions increasingly adopt mandatory regulatory regimes based on the GHG Protocol’s standards and guidance.

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If you have any questions concerning the material discussed in this client alert, please contact the members of our Energy, Environmental, ESG, Securities and Capital Markets, and Public Policy practices:

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