COMMODITIES BULLETIN
JULY 2023

Welcome to the July 2023 edition of the HFW Commodities bulletin.

In the opening article, I reflect on some of the legal risks and other supply chain issues affecting those seeking to secure supply of critical minerals. Following on from this, London Partner Barry Vitou explains his prediction that the focus on ESG regulation and enforcement will only become greater and offers some suggestions for how businesses can prepare. Next, Geneva Partner Sarah Hunt, Senior Associate Jason Marett and Associate Christian Iovene consider one such regulation, the newly in force EU Deforestation Regulation. They also consider the latest on this issue from Switzerland and make recommendations on approaching supply chain due diligence. We then change topic as London Partner and fraud specialist Rick Brown asks the question "You have been defrauded. What do you do?" We close with an article from our Singapore office, co-authored by Partner Peter Zaman, newly promoted Senior Associate Jefferson Tan and Associates Christopher Ong and Farah Majid. They give us a "101" on carbon rating agencies.

As always, team news and information on where to find us next can be found on the back page. Enjoy reading this edition – your comments and feedback are always welcome!

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CRITICAL MINERALS – SUPPLY CHAIN ISSUES

The need for secure supplies of critical minerals is increasingly in focus following growing pressure to meet net zero emissions targets and the energy crisis. In the last 12 months, both the UK[1] and the EU[2] have published strategies for securing a diversified, affordable and sustainable supply of raw materials.

In the context of unveiling the EU's Critical Raw Minerals Act, Ursula von der Leyen stressed the need for the EU to increase production in addition to diversification of supply. This was seen in some quarters as a challenge to both China and the USA, with the latter adjudged to have stolen a march through the Inflation Reduction Act. Increased isolationism may bring both increased regulation and increased tariffs in an already established global trading market.

China has form for restricting access to critical minerals as a diplomatic bargaining tool – and only this month has announced export restrictions on gallium and germanium. Those with long memories will recall that China's relationship with Russia in relation to oil goes back over 30 years. Given the current political climate, the two countries' potential cooperation on critical minerals is on the minds of many countries.

Pending the investment necessary for Europe and other countries to develop new mining and extraction projects, critical minerals are often sourced from emerging markets. Investment by manufacturers themselves in a mine or project is becoming increasingly popular, however there are legal risks associated with contracts which are often subject to local law and the jurisdiction of the local courts.

Recent examples of the regulatory risks of sourcing directly from producers in certain jurisdictions include Zimbabwe, the sixth biggest producer of lithium ore, banning exports of the critical metal in March. Furthermore, manufacturers have to be mindful of the impact of sanctions on supply: many force majeure clauses (or equivalent) can be invoked where a party to a contract is the subject of sanctions, meaning that performance can be suspended or avoided entirely, without penalty on either party. But whilst this means that the buyer can avoid sanctions breaches, it does not assist with guaranteeing security of supply.

Securing supplies of commodities that are likely to see significant price rises as governments attempt to deliver on net zero obligations can be achieved in a number of ways – from traditional financing in developing jurisdictions to equity stakes in mines. Long -term offtake agreements at fixed prices were profitable tools in the 1970s oil crisis and remain equally relevant today. Latin America has untapped critical mineral resources, including copper and lithium, but significant investment will be required to scale existing production to meet global demand levels. It may be a supplier's market, but it is a buyer's investment opportunity.

Such investments are, of course, rarely risk free. The potential for governments to implement export controls of critical resources are ever-present and often used, whilst nationalisation is also a threat. In May, for example, the Chilean government moved to take state control of lithium projects within the country.

In developing countries, meanwhile, corruption and conflict are twin dangers, particularly in areas where mining has already led to environmental damage and human rights abuses. Investing in local emerging markets comes with reputational risks. With the growing global focus on ESG, it is vital to ensure compliance with the standards that the buyer would expect, rather than relying on local standards which may put much needed economic investment ahead of environmental or health and safety criteria.

In extreme scenarios, the contract can be seen as merely the starting point for the negotiation where either the project requires further investment than originally thought, or where a competing buyer offers to offtake the commodity for a higher price. A buyer who has already invested potentially significant

sums can face practical and legal difficulties in enforcing their rights to the commodity as it is mined or extracted, rights which even if they are enforceable, can take years (and involve large legal costs) to realise. Understanding both the counterparty and jurisdiction specific issues together with the right contract terms can go some way to mitigating these inherent risks.

This is not the first time that the world has faced an energy crisis and time will tell whether lessons from history have been learned or whether mistakes will be repeated. Governments need current global production capacity to increase significantly – possibly by as much as 450% - to meet net zero targets. There is an opportunity to pre-regulate the mining and import/export of critical minerals to provide clarity to all parties. Whether this will happen remains to be seen.

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1. UK Critical Minerals Strategy published on 22 July 2022
2. EU Commission proposals for Critical Raw Materials Act published on 16 March 2023

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BE PREPARED: ESG REGULATORY ENFORCEMENT IS ON THE RISE

Regulatory enforcement action around ESG is in its infancy. However, it would be a mistake to presume that the present limited (albeit rising) levels of enforcement will remain.

Barry Vitou, head of HFW's Global Investigations and White Collar practice, was invited to speak on the rising tide of regulatory enforcement against greenwashing at the recent World Law Forum in London. He shared his view that ESG enforcement in general is likely to be the largest area for enforcement in the future - and that it will be greater than any previous area of focus. A summary of the reasons behind this view is given below.

First, there have already been some notable cases which indicate a future direction of travel. For example, the Deutsche Bank subsidiary fund business DWS is under investigation in Germany and the US amidst allegations that it misled investors about its "green" investments. This followed widely reported allegations made by DWS's ESG officer, Desiree Fixler, who acted as a whistleblower.

Second, regulators have signalled their intent to focus on ESG claims. For example:

- In the UK, the FCA has hired Ms. Fixler to sit on it ESG advisory board and has warned businesses about unrealistic ESG claims.
- The UK Competition and Markets Authority has recently focussed on greenwashing in the fashion industry.
- Given that ESG claims are frequently made against a backdrop of sales and marketing to sway customers keen to do the right thing when they buy products and services, it is perhaps unsurprising that the UK's Advertising Standards Authority (ASA) has censured a number of companies for their green claims. ASA cases range from financial institutions to supermarkets.
- The European Supervisory Authorities (the European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority (the ESAs)) published progress reports on greenwashing in their sector in June this year and have said that they are working to meet stakeholders' expectations that they will ensure consumer and investor protection, support market integrity and maintain a trusted environment for sustainable finance. The ESAs are taking a coordinated approach, with plans to publish final greenwashing reports in May 2024 and to consider final recommendations, including on possible changes to the EU regulatory framework.

From a regulatory enforcement perspective, whether that be environmental, social or governance regulation, we are at an early stage and looking at an emerging picture. Some may argue that we have seen this movie before: consultants created a whole industry from concerns about the Y2K date changeover, then bribery and overseas corruption followed and now ESG is today's hot topic. Yet of all of these, ESG is likely to come out on top for one reason: public opinion.

ESG issues capture the public imagination as no other issue has done before. Y2K turned out to be a non-event and bribery and corruption is not very relatable but in contrast, we are seeing historic levels of public engagement on ESG issues. There is now a myriad of environmental activist groups capturing the headlines, with cities and motorways regularly brought to a standstill. The impact of social media and the internet means that ESG related images and stories are shared instantly around the globe. For example, Greta Thunberg has become a household name all over the world.

This matters because lawmakers and enforcement are reactive not proactive, reflecting the social and political mores of the day and responding to public demand. Accordingly, we can expect more laws, more regulation and more

enforcement. Enforcement will be both government and government agency driven but also, as is increasingly the case, outsourced.

Although some at the World Law Forum bemoaned the slow speed of change, anecdotally we heard that financial institutions are already changing their approach, with some refusing to offer banking services to certain businesses if they determine that they are involved in polluting industries. Large global brands are beginning to demand assurance from their suppliers about the integrity of their supply chains. Failure to comply with demands risks being dropped as a supplier. And the risks associated with getting it wrong are high profile: recent events concerning the CBI and Odey Asset Management are a sobering reminder of how quickly things can change. Adverse media stories around ESG issues can cripple an organisation.

While the pace of change may be slow, public demand will drive government and outsourced enforcement around ESG issues like no other. If businesses do not take ESG seriously, customers and counterparties may simply vote with their feet.

Being prepared

In view of all this, businesses should prepare themselves now for the future increase in ESG regulation. There are simple steps you can take to do so. Here are some suggestions:

- Stress test your supply chains to identify the greatest areas of risk.
- Conduct and record due diligence around your supply chains.
- Review relevant contracts and update contractual provisions where necessary.
- Ensure you have good internal processes in place to verify and take responsibility for any public ESG claims made by your business.
- Make sure your directors understand their duties in relation to ESG issues.
- Train your staff to prevent mistakes.
- Monitor regulatory developments in your sector.

For more information, please speak to Barry or one of our team here at HFW, or ask for our ESG Services brochure.

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THE EU DEFORESTATION REGULATION COMES INTO FORCE

On 31 May 2023, the European Parliament and the Council of the European Union adopted the new EU Deforestation Regulation (Regulation) which entered into force on 29 June 2023.[1]

For more information about the Regulation, how it works, the due diligence requirements and penalties for infringement, please see Anthony Woolich's article in our **February 2023 bulletin**. In brief, it prohibits the placing on the internal market, or export from the EU, of seven commodities if they are produced on land deforested since 31 December 2020. The seven commodities are cattle, cocoa, coffee, palm oil, rubber, soy and timber and the Regulation also includes products derived from these commodities, such as beef, chocolate, furniture, leather, paper and tyres. It will apply to various industry players incrementally over time[2] and it is anticipated that it will become *"a global benchmark"*, paving the way for much more legislation of a similar form.[3]

We are seeing rapidly increasing concern from clients over compliance as consumer awareness and concern over environmental issues impacts every aspect of business. Reputation remains of great importance in global trade. In this article, we consider the key impacts we expect to see in several affected commodities markets, similar legislation under discussion in Switzerland and how to approach due diligence in your supply chains.

Coffee

The Regulation means that all coffee to be traded between EU importers or exporters will need to be able to be traced to the farm where it was grown so that it can be verified that the coffee has not been farmed on deforested land. Much coffee is currently sourced through intermediaries who aggregate coffee into blends from a collection of sources (mostly small farms) and these sorts of coffees will not be easily traceable. This method of sourcing has been used previously to keep costs down as most European consumers have not been willing to pay a premium for sustainably sourced, traceable coffee.

In the short term, the additional obligation to trace coffee beans is likely to make the production process more bureaucratic and limit profits by increasing costs. In the long term, it is anticipated that the Regulation will allow coffee farms to diversify and move towards agroforestry, which can help to tackle climate change. Additionally, we expect to see new opportunities to produce sustainable coffee, providing better incomes for farmers.

Cattle

Cattle farming is the largest driver of deforestation globally. The biggest impact of the Regulation is likely to be experienced in Brazil[4] where there is a complex supply chain structure which tends to be highly fragmented. For example, the nature in which cattle are traded means that they are likely to have been produced across various farms. This makes full traceability hard to achieve.

As with the production of coffee, the movement towards deforestation-free cattle farming is expected to incentivise production in agroforestry systems for small producers, as well as incentivising other methods of rural development, such as environmental tourism.

Palm oil

The largest suppliers of palm oil to the EU are Indonesia and Malaysia. Both countries have argued that the new Regulation is protectionist and discriminatory and blocks EU market access.

Reporting obligations will be more onerous in higher risk countries and there could be some initial advantage for smallholders in the global marketplace as they will have six months longer in which to comply with the new Regulation (see footnote 2).

It is hoped that the Regulation will prompt further action towards the sustainable production of palm oil in other markets. This has been seen before, when voluntary pledges to eliminate palm oil

linked to environmental and labour exploitation made by US and EU importers spread to other markets such as China and South Korea.[5]

Swiss law

Switzerland has not yet adopted similar legislation to the Regulation. However, Motion 22.4318, requiring the implementation of such legislation, was filed in the Swiss Parliament on 6 December 2022 and the Swiss Federal Council (Swiss executive power) stated that implementation should be discussed once the final version of the Regulation had been adopted. Given that has now happened, we should expect that discussions will happen shortly.

Supply Chain Due Diligence

The Regulation is the latest in a succession of regulations and laws which underscore the need to ensure that businesses understand and undertake due diligence on their supply chains.

In this context the World Wildlife Fund (WWF) has published useful guidance on the topic of due diligence specifically related to deforestation and the OECD has published guidance for responsible agricultural supply chains. These are both useful starting points if you are reviewing your existing practices in connection with deforestation and seeking to comply with the new regulations. The WWF guidance offers a seven-step plan whilst the OECD guidance contains a five-step approach but there is much overlap between them. Common denominators include having specific policies, the identification of risk, mitigating and responding to risk and reporting on the supply chain.

Recommendations include audits, on-site investigations and consultations with government authorities, civil society, members of the affected community and workers' organisations at local, national and international level. As ever, a key component will be to ensure that in addition to having a robust compliance process, there is strong record-keeping of the steps undertaken in accordance with that process.

We can assist with ensuring that stakeholders within the UK, EU and Switzerland comply with sustainability obligations by setting up traceability systems and ensuring the KYC processes are properly followed through. Careful compliance with regulations and policies will be increasingly important given the increase in focus on ESG regulation enforcement discussed by Barry Vitou in the previous article.

Conclusion

Given that the EU is the largest trade bloc in the world, the Regulation is an important step in guiding the global commodities market towards a more sustainable future. The responsibility for enforcing it lies with the Member States and their competent authorities.[6] With it having just kicked in on 29 June 2023, it is important to ensure systems are put into place now, before regulators start checking compliance in a more aggressive way. HFW can advise importers and exporters of their compliance obligations and importantly assist in the creation and implementation of a deforestation compliance programme in conjunction with your other existing compliance processes.

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1. Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union Market and the export from the Union of certain commodities and products associated with deforestation and forest degradation (Repealing Regulation (EU) No 995/2010). Published into the Official Journal of the European Union on 9 June 2023.
2. Operators and traders will have 18 months to adhere to the new Regulation (see Article 38(2)), with micro-undertakings and small undertakings having 24 months (see Article 38(3)).
3. Mercedes Ruehl, Alice Hancock and Emiko Terazono, *'EU deforestation law triggers ire of its trading partners'* (Financial Times, 6 February 2023) **https://www.ft.com/content/c2f2eea9-1eb5-478f-ac53-5666776c0a35 accessed 19 June 2023**.
4. Dane Stone, *'EU Zero Deforestation Regulation: how will the cattle industry react?'*(Competere, 21 March 2023) **https://www.competere.eu/eu-zero-deforestation-regulation-how-will-the-cattle-industry-react/ accessed 19 June 2023**.
5. Financial Times **EU deforestation law triggers ire of its trading partners | Financial Times (ft.com)**
6. Paragraph 61 of council journal

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YOU HAVE BEEN DEFRAUDED. WHAT DO YOU DO?

Fraud is a significant issue in commodity trading and financing, especially in relation to metals. Nickel is a common target, likely because of its high value combined with the fact that it is common practice to pack it in bags amidst relatively low security. Recent high profile examples have included the LME's discovery of bags full of stones rather than nickel at one of its warehouses and the systemic fraud uncovered by Trafigura in relation to containerised nickel.

This article considers what happens when a fraud is suspected or has been uncovered. We also look at insolvency proceedings, which often follow in fraud's wake.

Timing

The most important advice when a fraud is detected or suspected is to act quickly. Timing can have a critical impact on your ability to trace assets or funds and ultimately, to recover.

Criminal fraud

As well as bringing a private criminal action in the commercial courts, fraud can also be reported to the police. If they pursue a prosecution, the claimant will be the state rather than the victim of the fraud. Whilst the victim may thus lose agency in the proceedings, this option has the advantages that the state will fund the claim and the authorities have far wider powers of investigation than any private claimant. If a fraudster is convicted, the criminal court can make an order to compensate the victim (similar to an award in damages in a civil claim), as well as imposing an unlimited fine or hefty prison sentence.

There is no legal obligation to report fraud to the police in England. Claimants can choose to pursue claims in either of the civil or criminal courts. They can in theory be run in parallel but in practice, an application could be made to stay one set of proceedings, pending resolution of the other.

Civil fraud

Under English law, the burden of proof in civil fraud is significantly lower than in criminal fraud, being *"on the balance of probabilities"* rather than *"beyond reasonable doubt"*. Claimants will therefore have a better chance of recovering their money in the civil courts and will be able to direct strategy in the proceedings (but will have to fund them).

There is no single civil cause of action for "fraud". A number of possible claims are available, including fraudulent misrepresentation, deceit, conspiracy, procuring breach of contract, bribery, corruption or breach of fiduciary duty. The facts and issues in each fraud will determine which cause of action is best and this will affect which limitation periods apply and which remedies are available. Remedies can include rescission[1], restitution, recovery of assets or damages.

A benefit of English law is that a range of emergency interim relief injunctions can be obtained quickly and without notice if needed, including the following:

- **Freezing orders** are available where the claimant suspects that the fraudster may attempt to dissipate its assets once made aware of the proceedings. They prevent the fraudster from attempting to move or sell any of the assets within its control. The order will initially be given on an interim basis and in exchange for a cross-undertaking in damages.
- **Norwich pharmacal orders** are made against third parties innocently caught up in the fraud for the provision of information or disclosure. In fraud cases they can be brought against a bank, where it is suspected that the proceeds of fraud have entered the banking system. Such information can help in understanding the identity of the fraudster and where to bring the claim.
- **Search orders** are made where claimants want to preserve evidence because they have grounds to suspect that the fraudster may attempt to destroy it once made aware of the claim. They enable the claimant's solicitors to carry out pre-defined searches at the fraudster's premises.

Insolvency

Frauds beget insolvencies. Any strategy for recovery by a claimant should have in place contingency for the company under whose watch the fraud took place falling into insolvency. Indeed, one option the claimant should consider is to bring a winding up petition itself, triggering insolvency proceedings.

When an insolvency event is triggered, creditors will be ranked, with the liquidators and their fees at the top, employees owed wages next, then secured lenders, unsecured lenders and, finally, shareholders.

Where the spectre of insolvency is looming, consider the following options:

- The general strategy is either to get in and get out quickly, or to improve your ranking. A proprietary order of the court (such as a charging order) attached on an asset belonging to the fraudster will in effect give the claimant a rank in insolvency equivalent to that of a secured creditor.
- You may have contractual options available:
  - Some sale contracts (for example BP's GTCs) define insolvency as a default event, entitling the non-defaulting party to terminate, suspend delivery and set-off payments made by the defaulting party against their liabilities. Be aware that for some contracts, some termination provisions in the event of insolvency may not be enforceable in some jurisdictions, including England and Wales, Australia and the USA.
  - Consider your security: can you call on a standby letter of credit, or a third party or parent guarantee?
  - Vessel owners or time charterers can exercise their powers of lien over a voyage charterer's cargo, with a view ultimately to selling it and settling the debt.
- Section 44 of the Sale of Goods Act 1979 provides specific protections to an unpaid seller whose buyer goes into insolvency, allowing them to stop goods in transit and resume possession until payment is made.

Where an insolvent fraudster is based across several jurisdictions, there are international schemes which assist in coordinating insolvency proceedings. Notable among these is the UNCITRAL Model Law (to which the UK is a signatory along with several other territories, including Australia, the BVI and California). In England the UNCITRAL Model Law has been introduced by the Cross Border Insolvency Regulations 2006 which allow office holders in other jurisdictions[2] to apply to the English courts to have their own insolvency proceedings recognised, participate in English proceedings and potentially to seek to have the English assets of the insolvent fraudster distributed to creditors abroad. Creditors, wherever they may be, can submit proof of debt forms in separate foreign insolvency proceedings if they wish, on the basis that this may maximise their recovery. However, they will not be able to recover more than the actual debt they are owed.

Conclusion

On uncovering a fraud it is important to know that there is a variety of weapons in your armoury. You can bring a claim in the criminal or the civil courts; you can look to your contract; and you should have an eye to the possibility of insolvency proceedings too. The most important advice is to act quickly.

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Research conducted by George Lawrence, Trainee Solicitor.

1. An equitable remedy which aims to bring the parties back to the positions they were in before the contract was formed, with the contract treated as if it had never come into existence.
2. Without the need for reciprocity – i.e. a non-signatory to the UNCITRAL model laws can still benefit from the UK being a signatory.

CARBON RATING AGENCIES 101

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2022 saw the emergence of carbon rating agencies as an important part of the voluntary carbon market ecosystem. However, despite their importance, not much has been written on carbon rating agencies by third parties. In this article, we look at the fundamentals of carbon rating agencies – what they are and what they do.

What is a carbon rating agency?

A carbon rating agency is an organisation that evaluates the 'quality' and performance of one or more of the following: carbon credits/offsets or emission removal or reduction projects. Examples include BeZero, Calyx Global and Sylvera.

Carbon rating agencies are relevant to the voluntary carbon market ecosystem, in particular in respect of voluntary carbon market projects, because they provide an independent third-party assessment. The type of assessment provided depends on the stage that a project has reached and in particular, whether credits have already been issued or not. This will also impact the choice of audience for such an assessment and the rating it produces.

What is a rating?

A rating is a grade granted by a carbon rating agency at the end of an assessment process on certain matters. Examples are set out in figure 1 below.

Why are ratings important?

Proponents have argued that carbon ratings instil greater confidence in the market as they are a proxy for quality. For instance, in Hong Kong a "*taxonomy by referencing foreign carbon rating agencies*" has been proposed so that "*buyers [can] understand the distinctions among various kinds of carbon credits, helping them to find the most suitable or the most legally-compliant products*".[9] It has also been suggested that the emergence of carbon rating agencies "*is a sign that the market is maturing*" since ratings do "*a valuable job in helping buyers understand what they consider might be a different kind of credit versus the other*".[10]

Figure 2 below summarises the arguments made in the market on the types of assessment that a carbon rating agency could do (Type A and Type B) and the benefits which have been proffered in respect of such assessments.

Additional Comments

The market has thus far focused on the role of carbon rating agencies in the Type A context. However, BeZero has recently announced the development of its "BeZero Carbon Ex Ante Rating" for credits which have not yet been issued, i.e. in the Type B context.

Some questions remain in relation to carbon rating agencies, including how to rate a 'rater' (i.e. a carbon rating agency), what could be the framework for doing so and what factors should be taken into account; and whether it is desirable (for example, from a 'conflicts of interest' perspective) for a carbon rating agency that is involved in a Type A context to also be involved in a Type B context. Further, on a more practical level, will carbon rating agencies still have a role to play once the carbon credits with the Core Carbon Principles label come online? We will explore these in a subsequent article.

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Rating Agency	Ratings	Reflection	Criteria
BeZero[1]	AAA (high) AA (moderate)[2] A (low)	Reflective of the likelihood of the *credit* achieving 1 tonne of CO2e avoidance or removal.	Once qualified,[3] it is rated against six components:[4] • Additionality • Over-crediting • Non-permanence • Leakage • Perverse Incentives • Policy
Calyx Global[5]	A+ (highest) to E (lowest)	Reflective of the confidence in whether the *credit* represents a unique, permanent, metric of CO2e emission reduction or removal.	It consists of three components: • **Carbon program level screening** • **Methodology level assessment**, by using Calyx Global's GHG Integrity Framework which assesses: – Additionality – Baseline – Project emissions – Leakage – Permanence – Overlapping claims • **Project level rating**, by using Calyx Global's Project-level Assessment Frameworks that are derived from the GHG Integrity Framework but with more granular guidance for specific project activity types.
Sylvera[6]	AAA (highest) to D (lowest)	Reflective of the likelihood that the project has delivered on its claim to avoid or remove GHGs and is highly additional with low permanence risks.[7]	It consists of three components:[8] • **Carbon score:** Whether a project is accurately reporting on its activities which directly translates to its overall avoidance (meaning reduction) or removal of CO2, and other GHGs, measured in CO2 equivalent (CO2e). • **Additionality:** Additionality of the project's activities and over-crediting risk. • **Permanence:** Whether the GHGs avoided or removed by a carbon project are likely to be maintained for an atmospherically significant period of time, usually about a century, taking into account natural risks and those related to people.

Figure 1

Issue / Matter	Type A - Projects which have already issued credits	Type B - Projects which have not yet issued credits
Target audience	• Purchasers (in particular purchasers who seek to retire and make claims in respect of such credits).	• Investors and financiers • Purchasers who pre-purchase credits on a forward basis (whether or not for their own use).
Areas of focus for the assessment:	• Provide assurance to *buyers* that the credits they are buying would, based on the assessment, constitute those that are of a high 'quality' – quality here would typically refer to a review of the project's additionality, baselines, leakage and permanence concerns. • Bring credibility to the project developers of such projects.	• Provide a view on the project's ability to meet its (i) self-imposed emission reduction or removal targets, and (ii) where the project seeks to achieve certain co-benefits, co-benefit targets – a form of 'project execution risk'. • Examine project implementation risk – for example, the project's resources and infrastructure needs to achieve the aforesaid targets. • Act as a pathway for projects which meet such standards to be granted with the requisite ratings once the credits are issued.

Figure 2

1. BeZero, BeZero Carbon Rating (22 Nov 2022).
2. BeZero Carbon may apply '+' (plus) or '-' (minus) signs for 'AAA' and 'AA' ratings to reflect comparative standing within the category.
3. BeZero requires the project to satisfy certain 'qualifying criteria' to be eligible for a rating: see BeZero Qualifying Criteria.
4. BeZero, BeZero Carbon Rating Analytical Framework (13 Mar 2023).
5. Calyx Global, Calyx Ratings Explained; and Calyx Global, How Calyx Ratings Work.
6. Sylvera, Sylvera carbon credit ratings: 4 key terms to know (31 Jan 2022).
7. Sylvera, Sylvera Carbon Credit Ratings: Frameworks & Processes White Paper (12 Apr 2022); but note that at other parts (including on the website), Sylvera suggests that the rating is on the credits themselves.
8. Sylvera also scores co-benefits, i.e. the additional impacts of the project on the biodiversity and local community, but this does not go into the Sylvera rating itself.
9. Our Hong Kong Foundation, Can the voluntary carbon market be established in SAR? (12 Sep 2022).
10. Quantum Commodity Intelligence, Carbon ratings agencies provide 'valuable' role - Verra CEO (25 Jan 2023).

Where you can meet the team next

- We will be hosting an in-person only EU ETS and Shipping panel discussion on 19 July at 4:30pm in our new London office. Join our partners Peter Zaman, Alessio Sbraga, Adam Topping and special guest Martin Crawford-Brunt as they discuss some of the practical issues for market participants arising from the inclusion of the shipping sector in the EU ETS.
- Our annual HFW evening on the "Bateau Geneve" will be taking place on 26 September 2023.
- We are looking to host the next round of our Commodities Global Compliance Forum in October.
- Legislation on the digitalisation of trading documents is imminent. We will be hosting a webinar at which we will be able to give expert advice for you and your business. Please contact us **here** if you would like to attend.

For more information on upcoming HFW events, click here.

Team News

- Our London office has moved to 8 Bishopsgate - a landmark new development that is the city's most sustainable tall office tower. Read more about our office move **here**.
- Congratulations to Sucafina, Rabobank and all lenders involved in the USD 275m sustainability-linked Latin America coffee financing - winner of Soft Commodity Deal of the Year at the TXF Global Commodities Finance Conference 2023 in Amsterdam! HFW was delighted to act as international legal counsel to Sucafina on this innovative and industry-leading financing with a globally diverse group of 10 banks. Read more about the deal **here**.
- Jason Marett is featured in the June 2023 edition of Gaftaworld, discussing the steps the agri-sector can take to reduce the risk of greenwashing accusations in trade finance. Read the article **here**. Jason was also quoted in a recent GTR article on greenwashing in trade finance. Read more **here**.
- Brian Perrott and Amanda Rathbone wrote a piece on the impact of the need for energy security on progress towards decarbonisation. You can read their article in the **Energy Industry Times**.
- Sarah Taylor wrote for Comment Central on why security of supply of critical minerals must be a priority. You can read the full article **here**.
- Adam Topping wrote in City AM, on the impact of the regulation of cryptoassets, considering whether new regulations are required to protect consumers and market integrity. You can read the full article **here**.
- We recently published the July 2023 edition of the Commodities Case Update which provides a summary of twelve key recent cases relevant to the commodities sector. Read the full update **here**.

HFW has over 600 lawyers working in offices across the Americas, Europe, the Middle East and Asia Pacific. For further information about our commodities capabilities, please visit hfw.com/Commodities.

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