

# Climate risk disclosure and materiality: Two pressing problems

Paul A. Griffin

Distinguished Professor

University of California, Davis, CA USA



# Strong support for a global standard

- IASB, CDSB, GRI, VRP
- SEC, IOSCO
- G7, CDP
- USA, NZL



# The last mile to effective implementation

- Construct framework that helps achieve a net zero 2050 economy
- Develop a legal standard for materiality of non-financial disclosures



# Two pressing problems

- Need to align corporate governance systems globally
- Define what is material for climate risk disclosure



# Social disclosure mechanisms

- Sensitive foreign payments
- FCPA
- Section 1502 on conflict minerals disclosure
- Regulation SD



# Align corporate governance systems

- Blockholder model
- Dispersed shareholder model
- Without a global governance model, there can be no effective global disclosure framework.



# Corporate governance is changing

- TCFD designed for dispersed shareholder model
- US moving to a blockholder system
- Elsewhere, actions suggest trending to a dispersed shareholder model





# Overcome conflicts of interest

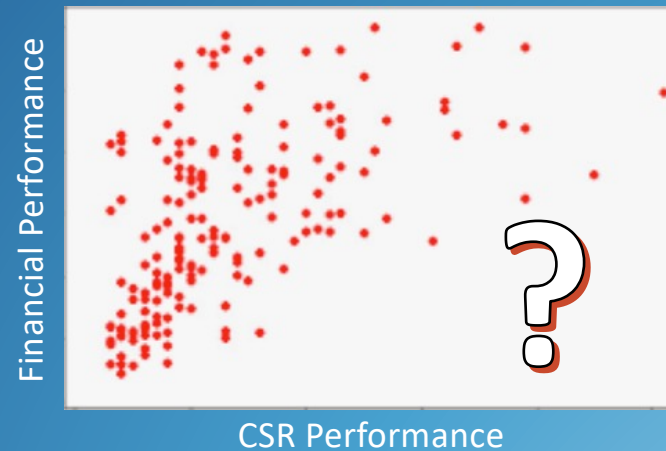
- Blockholder firms are effecting change
- Blockholder firms have financial interests in ESG metrics
- Shareholder resolutions favor blockholder interests





# CSR disclosure and financial performance

- Weak link from studies and meta-studies
- No natural experiment designs to establish causation
- Commercial interests trump CSR/ESG interests



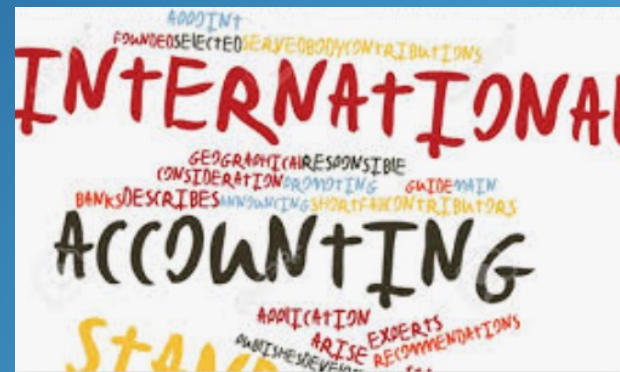
# ESG metrics create uncertainty

- Perverse incentives for ESG/TCFD disclosure
- TCFD disclosure could add to market volatility
- How best to align TCFD disclosure to ESG metrics?



# Slow pace of convergence

- Converging governance systems can be painstakingly slow
- GAAP vs. IFRS
- IFRS harmonization since 2005
- Societal and cultural differences can hinder



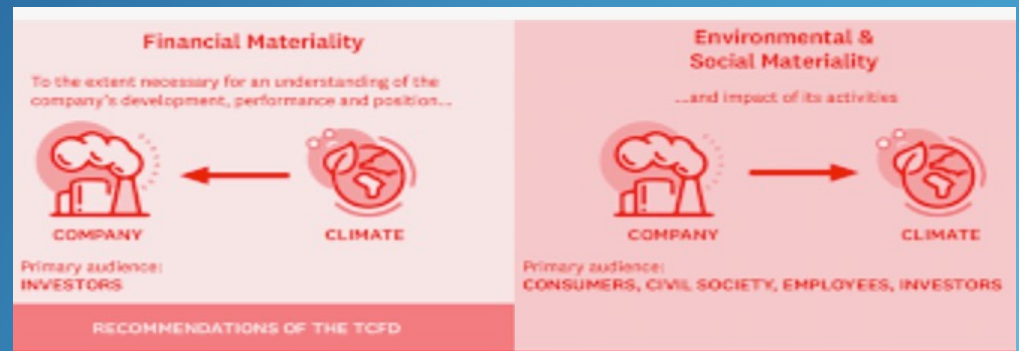
# Financial materiality

- TSC Industries v. Northway 1976
- SEC Release 33-9106
- FASB Concepts Statement 2



# Evolving views on materiality

- Financial materiality:  
Traditional view
- Double (or triple)  
materiality
- Exogenous versus  
endogenous relations



# Why are materiality criteria so vague?

- No bright line criteria for decision making
- Stay with financial materiality to achieve something?





# Will the courts eventually decide?

- Expansion of the TSC vs. Northway “reasonable person” criteria
- Relaxation of “fraud-on-the-market” doctrine
- Scientific evidence to establish “proximate causation”





# Two kinds of proximate causation

- Technical causation
  - E.g., Extend duty of care
- Financial causation
  - E.g., Lower the threshold for market sensitivity
- Equate materiality to compliance with statute



# Recognize known trends and uncertainties

- Extreme weather
- Stranded asset risk
- Emissions litigation risk
- Climate vulnerability
- Provide for safe harbor



# To conclude

- We need a hybrid governance model to make TCFD disclosure effective for net zero 2050
- We need new science-based guidance from the courts that expands criteria for materiality for net zero 2050



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