ILLUSTRATION: TOMASZ WALENTA

How to Avoid GREEN

Corporate claims around climate change are coming under increasing scrutiny in Asia. A report co-written by the Asia Investor Group on Climate Change (AIGCC) outlines the steps companies and investors need to take to avoid greenwashing.
By **STACEY CHOW.**

GLOBALLY, CORPORATE CLAIMS AROUND SUSTAINABILITY and climate change have come under intense scrutiny. The gap between corporate pledges and concrete actions is being challenged, and claims are questioned for their credibility as well as impact. Accusations of greenwashing are increasingly prevalent, with regulatory enforcement, litigation and investor activism all on the rise. • To understand the issue of greenwashing in Asia, Brunswick's Stacey Chow interviewed Asia Investor Group on Climate Change's CEO Rebecca Mikula-Wright and Director of Policy Anjali Viswamohanan about a recent report the AIGCC co-authored with the nonprofit ClientEarth titled, "Greenwashing and how to avoid it: an introductory guide for Asia's finance industry." The report outlines the regulations in different markets across Asia, practical guidance on how to prevent greenwashing and the implications of these trends for corporates with a presence in Asia. • In this interview, Mikula-Wright and Viswamohanan emphasize that transparency in reporting, accountability of actions, internal alignment and "radical collaboration" are the keys to ensuring a company is seen as credible on climate change.

What motivated AIGCC to collaborate with ClientEarth on this report on how to avoid greenwashing?

REBECCA MIKULA-WRIGHT: AIGCC members tell us what priorities they need to address within their businesses, as it relates to addressing climate change in their portfolios. It started coming up as something that investors were thinking about. We always try to get ahead of issues before they become more mainstream. In our policy and regulatory engagement around the region, the issue of greenwashing was coming up in discussions. This report aims to provide a practical guide for investors.

ANJALI VISWAMOHANAN: Since the first version in English was released last April, there's been some very positive response—not only from companies and investors but also from regulators to understand where the concerns are.

We've since produced regional versions. We did one in Japanese last year, with a chapter that's focused on what's happening in Japan on greenwashing. We are planning to do another one in Chinese this year. Everyone is interested to understand where the enforcement actions are happening, what the future trends are likely to be and what they should be watching out for. All this information is important for regulators, investors and companies.

What are the different types of greenwashing and the consequences for companies or financial markets? On the flip side, what consequences would greenhushing cause?

AV: What we've done in the report is talk about where the enforcement trends have been on greenwashing, in terms of classifying greenwashing cases. We see greenwashing at an overall entity level in terms of brand greenwashing—what an organization pitches about what they are and what they're trying to do. Then there's a sub-layer to that, product-level greenwashing, where you say that you have a "green product," but it's not based on proper evidence. The third type is greenwashed financing, where a company says that financing is being put into green objectives when it is not. And last is financial reporting greenwashing, where a company's financial report shows claims in accordance with green objectives, when they're actually not.

We're seeing cases in each of these four categories across the globe. Greenwashing is a big risk because incorrect information distorts where capital is going, making it challenging for investors to understand the performance of companies. This results in an uneven playing field and reduces investor confidence.

With greenhushing, entities are underreporting on sustainability or ESG to prevent more scrutiny. This is a rising trend that we're seeing across different types of stakeholders: governments, companies and financial institutions.

For Asia, the opportunity for ESG, sustainability and transition is huge and leaders in the space can attract capital. The opportunity cost of greenhushing is high so we don't see it as a huge risk, but there might be companies that do it.

RMW: Investors have been asking companies for many years about disclosure. If the companies themselves don't disclose, investors will make their own assumptions, which could be incorrect. So it's in companies' best interests to disclose and be as transparent as possible, particularly on climate. As part of the Climate Action 100+ initiative, there's a clear ask for the disclosure of governance and business strategy to reduce the emissions across companies. With greenwashing now surrounding that, it really highlights the issue of the lack of reporting. This is going to come more to the fore when we see the mandatory reporting that's currently voluntary in many markets come through. We are trying to get ahead of that to support disclosure.

WASHING

"GREENWASHING IS A BIG RISK BECAUSE INCORRECT INFORMATION DISTORTS WHERE CAPITAL IS GOING, MAKING IT CHALLENGING FOR INVESTORS TO UNDERSTAND THE PERFORMANCE OF COMPANIES."

Anjali Viswamohanan

Globally, research shows that up to 40% of green claims are misleading. How prevalent is greenwashing across the Asia-Pacific region? What are the two stages of greenwashing you've outlined in the report?

RMW: In terms of the growing claims, it's hard to quantify as it's not being tested by regulators yet across Asia. We are seeing it being tested in markets like Australia, for example, with the regulators cracking down. It could be very similar and there might be an opportunity to get ahead with that disclosure piece. Asia is in an early stage in terms of how companies are greening their work and the development of taxonomies. That will provide the greater guidance people are looking for, but we cannot wait for that. It's definitely going to get there, but it's just about how effectively it's been tested. It remains to be seen but regulators are certainly aware of this and conscious of the risks.

AV: On the two stages of greenwashing, we are seeing claims being made at the company level that get translated into information that goes into the product level that financial institutions are creating, and then that gets into the broader market. But there are a number of ways to guard against those risks translating from a company level through more engagement between companies and financial institutions to understand where companies are heading with this and what they are using that money for.

At the financial institutions level, there needs to be more diligence on what products they're putting out there. That's also helpful because a number of regulators are putting in guidelines that financial institutions need to follow to ensure they meet the objectives they claim. It's working in multiple ways to guard against it, at a company level but also at a financial institutional level, to prevent it from getting into the market.

The report mentions that greenwashing does not require intentionality. Can you talk about that?

AV: At first, in response to consumer activism, companies wanted to use certain terminology such as "clean," "green" or "reusable"—and perhaps they thought these words accurately described the products. But increasingly over time, there is more scrutiny over what companies are saying and there's a need to prevent this sort of misinformation from getting into the market. So now you need to focus on disclosure, to ensure that whatever claims you are making, you are able to provide information to back them up. I think they're looking at it at two levels: What you need to do internally to back a claim, and then what you are putting out in public. And I think that's a good approach.

RMW: A lot of this is about capacity building within corporates and across the organization. This is not only the remit of an ESG or sustainability person or the marketing department. It needs to be a company-wide approach, across the board level and embedded within the entire organization. Everybody needs to be on board internally and have the correct internal governance systems in place.

How are government authorities in the Asia-Pacific region looking at greenwashing? How do these regulations and enforcement actions differ from other regions such as the EU and the US?

RMW: Investors have been asking regulators globally for a consistent approach to disclosure and regulations across global markets. It takes a lot of capacity, time and resources for them to have to comply if regulations are different in every single market. So we've been coordinating the advocacy around the need for global comparability across disclosure standards. We now have the International Sustainability Standards Board (ISSB), which is looking to be adopted across markets, and mandatory climate disclosure coming in and other ESG disclosures as well. We're seeing taxonomies, ratings of product and fund labeling starting to evolve around identifying and preventing greenwashing.

Markets such as Japan, Singapore, China, Hong Kong, Thailand, India and the Philippines have all enacted laws to prevent greenwashing at this point. Other laws are also coming in to address potentially deceptive claims that are not specifically labeled as greenwashing. In China and Australia, we've seen cases of regulators really increasing enforcement of environmental regulations, and they're signaling they're going to continue to do that. Overall, I think there's heightened awareness from regulators.

AV: Some markets are looking at this through a different lens. For instance, some are looking at service providers that are providing ratings or classification of companies. We've seen a crackdown in India on ESG ratings providers. Obviously, the concerns for regulators globally are quite similar—you want to protect your economy and ensure that capital is flowing to enable the transition. In terms of overall trends in Asia, a number of markets are making it easier to enforce greenwashing-related claims. For example, South Korea has draft legislation that will penalize companies for greenwashing. This trend is percolating across Asia.

RMW: In Australia, we've also seen heightened awareness for the financial sector, around product-disclosure statements, net-zero claims and other language being used. There's been a broad sweep of different claims that have been aired. It's a bit of a shot across the bow for companies, a wake-up call to take this seriously, to be specific with their claims, focus

"WE ARE RUNNING OUT OF TIME AND REGULATIONS ARE CATCHING UP, SO THE PRESSURES ARE COMING FROM ALL ANGLES."

Rebecca Mikula-Wright

on better disclosure, governance and frameworks, in advance of these disclosure regulations.

In the US and parts of the EU, we are seeing a rising backlash against ESG and ESG investments. Do you think Asia will avoid this trend?

RMW: Globally, there is still a very large cohort of support towards ESG and growing funding flows at a global level. In the US, it's quite politically motivated and that connection has been made well by the media. The EU is starting to enforce some of the regulations that are coming in.

There are actually some lessons from this type of backlash. As economies and industries are transitioning, how are those workforces being consulted? It's really critical that workers understand what the transition means to them, in terms of potential job losses, new opportunities and why this needs to be done. So different stakeholders need to be brought into those conversations to avoid potential conflict.

The impacts of climate are escalating in Asia, it's affecting businesses and daily lives. The need to act is only increasing and along with that, the need to increase the communication, particularly from government at all levels down, so there's more understanding of why there's a need to act and the benefits of countering climate risks to societies and economies.

There's actually a really good opportunity for Asia to learn the lessons from other markets and get it right. Asia is also very good at leapfrogging and can use the disclosure frameworks to do so.

What challenges do financial institutions face if they're unable to fulfill their net-zero commitments, particularly across Scope 3 emissions?

RMW: Investors who signed up to these initiatives actually have an advantage, because of the process we've gone through with them to create the frameworks to really test this, to make sure it works in practice. It really takes them on that journey, the runway to net zero. Scope 3 is the big challenge out there at the moment, but it's not unlike the governance conversation we were having five, 10 years ago. We're starting to work through the Scope 3 challenge of not having the data, by exploring how to engage with a company's supply chain to obtain that data. That's becoming part of the structure of mandatory reporting.

AV: It's important to acknowledge that investors cannot achieve their net-zero targets in a way that benefits society if policy does not actually support the achievement of net zero overall. So investors

PHOTOGRAPHS: COURTESY OF AIGCC

need to be actively engaging with policymakers on this, so that investors, companies, policymakers can move together.

If a company is accused of greenwashing, how would their boards be impacted?

RMW: This will vary by jurisdiction, but we see potential actions taken against fiduciaries around failing to manage or disclose risks. Investors are already holding companies and directors to account through voting as part of the normal shareholder process. This trend raises the question around the governance of the board—how it's operating top-down. Are goals fully embedded throughout the organization, and what are the implications for trustees for failing to act? We've seen shareholder lawsuits in Australia that come back to accountability at the board level.

What will be the next frontier for greenwashing claims?

AV: We are already seeing some of the trends in the net-zero space. There's a need to watch out for "transition washing," more accountability in how money is being provided as transition finance helps high-emissions corporations with a clear, accountable transition plan. There's greenwashing by association, where a company in your portfolio is engaging in greenwashing and, by association, your institution is being accused of greenwashing. You need to engage with companies in your portfolio to ensure that what they're telling you is actually right based on disclosure.

Another one is greenwashing via offsets. We're seeing more guidance being provided to anyone that's committed to net zero regarding where you can use offsets credibly. We are also seeing greenwashing claims by competitors—where a company accuses a rival company, leading to investigations.

There are now claims being made in the area of nature, and more accountability is needed for these claims. There are going to be a number of frontiers where greenwashing will come up, as the level of involvement of companies and investors in transition really expands.

RMW: Another area is the attention on the capital expenditure towards targets—that disclosure is very low right now. Investors are also looking at "just transition" and how companies are incorporating the "social (S) element" around people, the jobs related to the transition of a business or industry.

Additionally, investors are asking for greater clarity around lobbying activities and whether a company's lobbying activities are positive or negative towards climate. It's really around the transparency and disclosure.

"INVESTORS NEED TO BE ACTIVELY ENGAGING WITH POLICYMAKERS ON THIS, SO THAT INVESTORS, COMPANIES, POLICYMAKERS CAN MOVE TOGETHER."
Anjali Viswamohanan

What advice would you provide to companies on how to prevent greenwashing?

AV: The report covers this in specific detail. At a very high level, companies should ensure the accuracy of any statement they're putting out that has a link to ESG or sustainability. It has to be credible and make sense internally. They also need to go back and look at past statements they've made to ensure they are aligned with what the company's doing now. More transparency is key; provide as much information as possible on the objectives that you're trying to integrate into the product you're putting out on the market.

There's a need to ensure that action is integrated across the whole of the company and not just one department, to ensure that you have the capacity to act internally on what you have promised externally. In the case that you don't have the information to substantiate a particular aspect of what you're saying, be upfront and clear about why you don't have that detail.

It's important to know that regulations and guidelines around greenwashing are evolving fast, so monitor what is being discussed in each jurisdiction that you are active in and be aware of what the expectations are. If you've made a net-zero commitment, know the expectations of how you're supposed to act and make sure you're meeting them.

Lastly, look at the fiduciary duty and your legal duty internally to ensure that your whole process is covered.

RMW: I would add that investors have really reaped the benefits of collaboration by working on these challenges together. So I would encourage companies to look to do the same within their industries—use their industry bodies (associations) to help them get across these regulations, to collaborate with investors and regulators.

We are running out of time and regulations are catching up, so the pressures are coming from all angles. We need these sort of radical collaborations—between investors and companies, and also between policymakers and regulators—to become the norm so that we can achieve what we have to on climate.

If we get the individual collaborations within those different groups, and then collectively as well, that's when we can really move the dial and make the progress that we need to on climate. ◆

STACEY CHOW is a Partner in Brunswick's ESG & Sustainable Business Practice, based in Hong Kong. She was previously at the World Economic Forum and the World Bank, with nearly 20 years of experience in sustainable development and public-private partnerships.