

## Sustainable Finance in Africa: A Comparative Overview

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### Abstract

The international community has introduced many policies and strategies to transform the economy into a green and sustainable economy. As finance is the economy's lifeblood, reform in the financial sector is vital to achieving sustainable development. The financial industry has two main aims in promoting sustainable finance. To protect itself from risks that emanate from the climate crisis and to positively contribute to transforming the economy into a green and sustainable economy. Some African countries have introduced legal and policy frameworks to reorient the financial industry into a more sustainable path. This article examines the experience of five African countries: South Africa, Nigeria, Ghana, Kenya and Ethiopia. African banks and financial institutions voluntarily join international initiatives and adapt to international standards. This shows that the industry is open to embracing the inevitable change that determines the future of finance in domestic and international markets. African countries are also taking essential steps with a growing interest in doing more. African countries can benefit from the new trends in the financial market. However, lack of resources, proper policy and legal frameworks, and lack of qualified experts are still challenging the transformation to sustainable finance in Africa. The African Union is thus expected to coordinate the efforts of individual countries to transform the continent's financial sector into a more sustainable path. So far, only a few AU initiatives concerning sustainable finance exist.

### Keywords:

sustainable development, green finance, financial regulation, ESG, inclusive finance, Africa

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## 1. Introduction

The industrial revolution has transformed our way of life in many ways. It has brought prosperity and abundant wealth to some parts of the globe. However, material prosperity and industrialisation have affected the ecology of the Earth. The current production model and consumption are unsustainable. There is a scientific consensus that the current mode of production and consumption trend exposes current and future generations to multiple risks of climate change, depleting resources, pollution, and other unintended consequences. The international community calls for a development model that considers the ecological cost of production and consumption. The generic term commonly used to describe this new strategy is sustainable development.

Given finance's crucial role in allocating resources and facilitating development, governments are interested in using their regulatory powers to change how the financial industry operates. The financial sector is expected to provide the required finance to support the transition to a green economy and, at the same time, to protect itself from risks that come from the transition and natural disasters that may affect the ability of companies to pay back their debts.

In some developed countries, the private sector is already reorienting its resources to investments classified and recognised as sustainable investments. Governments have already introduced policies and laws to enable the private sector to redirect investment to the most sustainable projects. Regulators are involved in a different capacity in transforming the financial industry to a more sustainable path. Some countries have enacted mandatory laws that require financial institutions to consider climate change in all their decisions. Some countries prefer to introduce laws that require more transparency and accountability by demanding disclosure and reports on actions that the

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financial sector has taken to deal with the risks associated with climate change. International organisations and associates also play a vital role in introducing standards and guidance that financial institutions apply.

This article examines the policy and legal frameworks of five African countries –Nigeria, South Africa, Ghana, Kenya and Ethiopia. The first four countries are selected considering the essential steps they have taken to introduce policies and laws that focus on sustainable finance. Ethiopia is included to highlight how a country without specific laws that deal with sustainable finance may still use the existing legal framework to encourage financial institutions to consider sustainability in their business activities. The discussions are descriptive. However, a crucial comparative overview has been offered. The potential of the African Union to transform the African financial sector into a more sustainable path has also been explored.

The remaining part of the article is organised as follows. Section 2 provides a general overview of sustainable finance. Section 3 highlights African countries' experience and the African Union's policy directions. The fourth section describes and compares the policy and legal frameworks of Nigeria, South Africa, Ghana, and Kenya. Section 5 provides how the laws in Ethiopia may be used to enable financial institutions to consider sustainability in carrying out their business. A conclusion and the way forward are provided in the final section.

## 2. The Concept of Sustainable Finance: Overview

### 2.1 Core features of sustainable finance

There is yet to be a universal definition of sustainable finance that can be relied on to explain the concept without risking understating or overstating the objectives it aspires to achieve.<sup>1</sup> European Commission defines it as “the process of taking environmental, social and governance (ESG) considerations into account when making investment decisions in the financial sector,

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#### Frequently used acronyms

CSR	Corporate Social Responsibility
ESG	Environment, Social and Governance
EU	European Union
NDC	Nationally determined contribution
SRI	Socially Responsible Investment
SFDR	Sustainable Finance Disclosure Regulation

<sup>1</sup> Stephen K Park (2023). ‘Sustainable Finance in Global Capital Markets’. IHY Chiu, & IG MacNeil (Eds.), *Research Handbook on Global Capital Markets Law*: Edward Elgar Publishing.

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leading to more long-term investments in sustainable economic activities and projects.”<sup>2</sup> World Bank uses a similar definition to explain sustainable finance.<sup>3</sup>

Schoenmaker and Schramade noted that sustainable finance “looks at how finance (investing and lending) interacts with economic, social, and environmental issues”.<sup>4</sup> Park states that “sustainable finance seeks to deploy financial capital in a manner that promotes or at least does not harm economic prosperity, environmental protection, and social justice.”<sup>5</sup> Claringbould *et al.* consider sustainable finance as “supporting the necessary investments to make an orderly, successful transformation to a more sustainable economy while preserving the stability of the financial system.”<sup>6</sup> On the other hand, Migliorelli argues that current definitions of sustainable finance lack clarity and risk, creating misconceptions.<sup>7</sup>

The underlying principles, values and objectives of sustainable finance are enshrined in international documents like Sustainable Development Goals, the Paris Agreement, and UN Guiding Principles on Business and Human Rights.<sup>8</sup> Sustainable finance includes principles, strategies, norms, and cultures that help the financial market direct investment towards projects that enhance sustainability.<sup>9</sup> Sustainable finance also endeavors to develop methods and approaches to identify, evaluate and integrate risks that emanate from climate crisis into the decision-making process.<sup>10</sup>

## 2.2 Sustainable finance, CSR and ESG

Sustainable finance is closely related to the long-standing concepts of Corporate Social Responsibility (CSR), impact investing, and other related

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<sup>2</sup> European Commission, see [https://finance.ec.europa.eu/sustainable-finance/overview-sustainable-finance\\_en](https://finance.ec.europa.eu/sustainable-finance/overview-sustainable-finance_en). Accessed on 18.07.2023.

<sup>3</sup> World Bank Group, <https://www.worldbank.org/en/topic/financialsector/brief/sustainable-finance>. Accessed on 18.07.2023.

<sup>4</sup> D Schoenmaker & W Schramade (2018). *Principles of sustainable finance*, Oxford University Press. p.4

<sup>5</sup> Stephen K. Park. *supra* note 1, p. 5.

<sup>6</sup> D Claringbould, M Koch & P Owen (2019), ‘Sustainable finance: The European Union’s approach to increasing sustainable investments and growth–opportunities and challenges’, *Vierteljahrshefte zur Wirtschaftsforschung* 88, no. 2: 11-27. P. 25.

<sup>7</sup> M Migliorelli (2021). ‘What do we mean by sustainable finance? Assessing existing frameworks and policy risks’, *Sustainability*, 13(2), 975. (977).

<sup>8</sup> Stephen Park, *supra* note 1.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

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concepts.<sup>11</sup> Sustainability, ESG and CSR are closely connected concepts. For some researchers, sustainable finance is a part of the broader area of corporate social responsibility.<sup>12</sup> However, they are not the same. There are essential differences among them.<sup>13</sup> As MacNeil & Esser noted, CSR developed on the basis that corporate entities and their boards would lead in the framing and implementation of CSR policies; and ESG, in contrast, was based on the premise that the supply of finance would be the primary driver of behavioural change and that investors would be the agents of change.<sup>14</sup>

Sustainability is an umbrella concept that corporations and their financiers use to internalise externalities and integrate ESG into their business and financial models.<sup>15</sup> “Though initially defined in terms of the natural environment, it evolved into a more encompassing concept that embraced the larger social and stakeholder environment.”<sup>16</sup>

Corporate Social Responsibility is a concept that has a long history.<sup>17</sup> Initially, it was a narrow concept that extended the responsibility of directors and managers of companies beyond profit maximization.<sup>18</sup> Over time, the concept has evolved into a broad concept and has become the epicentre of corporate governance. Most large companies nowadays expressly embrace a corporate purpose concept by including nonprofit motives as part of a *raison d’être*.<sup>19</sup> CSR is thus viewed as an integral part of corporate governance. It is believed that CSR helps companies remain in business in the long term, and companies that disregard ESG face a challenge to staying competitive in the market in the long run. However, it is worth mentioning that there are noticeable differences among scholars, business leaders, NGOs, and

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<sup>11</sup> I MacNeil & IM Esser (2022). ‘From a financial to an entity model of ESG’, *European Business Organization Law Review*, 23(1), 9–45.

<sup>12</sup> Stephen K Park (2018). ‘Investors as regulators: green bonds and the governance challenges of the sustainable finance revolution’, *Stan. J. Int’l L.* 54(1)

<sup>13</sup> MacNeil, & I.M, Esser, *supra* note 11

<sup>14</sup> *Id.*, p.16.

<sup>15</sup> *Ibid.*

<sup>16</sup> AB Carroll (2008). ‘A history of corporate social responsibility: Concepts and practices’, *The Oxford handbook of corporate social responsibility* p. 12.

<sup>17</sup> Carroll, *Id.*

<sup>18</sup> P. Cochran, (2007). ‘The evolution of corporate social responsibility’, *Business Horizons* 50 (6): 449–454.

<sup>19</sup> H Fleischer, (2021). ‘Corporate purpose: A management concept and its implications for company law’, *European Company and Financial Law Review*, 18(2), 161-189.

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policymakers on what companies' responsibility should be to society and the environment.<sup>20</sup>

The main argument against CSR comes from those who believe that a company's board of directors and management have a specific mandate and their only business is to do business. According to this view, directors, shareholders, employees, and creditors, are expected to protect the company's interests. Directors' performance can be easily appraised on the company's financial performance. The argument forwarded from this perspective states that if we require company directors to consider ESG issues –that are not always easy to evaluate– it may be challenging to assess the performance of the company's leadership. Some also argue that the directors and the management may abuse their power and use CSR as a cover to transfer funds to institutions and NGOs that are related to them in one way or another.<sup>21</sup> This view holds that business entities must develop a corporate purpose and clear guidelines on how the company invests in ESG.

CSR may have different forms. Companies may avoid activities that hurt society and the environment directly or indirectly or provide solutions to the problems they have created though they may not be required to do so by law. This is the limited action companies require to maintain their goodwill and obtain the social license they need to continue operating in the long run. Companies may also support the community to help them deal with social and environmental problems the company does not cause. The company may invest to improve society's welfare and protect the ecosystem. Companies may also directly invest in social or environmental activities (based on broader goals rather than fixations on a short-term economic or financial return), and this is done out of moral or social responsibility commensurate with good corporate citizenship. In most cases, CSR is considered part of the corporate governance and decisions are made at the institutional level.<sup>22</sup>

Socially Responsible Investment (SRI) has recently evolved as a specific response to investing in a way that is more aligned with ESG. In SRI, investors may apply a negative screening or positive screening method. *Negative screening* is an approach in which investors avoid businesses that are considered socially and environmentally unwanted.<sup>23</sup> *Positive screening* is an

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<sup>20</sup> H Liang & L Renneboog (2020). 'Corporate social responsibility and sustainable finance: A review of the literature', *European Corporate Governance Institute–Finance Working Paper*, (701).

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> P. Cochran, *supra* note 18. 449–454.

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approach in which investors invest only in companies with a good ESG record. Investors may be willing to forgo a financial interest to promote socially and environmentally sound investment.<sup>24</sup> However, firms need to remain profitable to be sustainable, and finding the nexus between profitability and sustainability is vital for sustainable investment to become mainstream.<sup>25</sup> The main challenge in this regard is the lack of relevant data, expertise, proper techniques and models to assess the risks involved in sustainable investment and the returns from these investments.<sup>26</sup>

Finance plays a vital role in the transition to sustainable development.<sup>27</sup> Although the direct impact of finance on the environment may seem to be limited, it substantially indirectly affects the ESG because it plays a central economic role. Finance has the following purposes in any modern economy. It evaluates assets and risk, facilitates trade, mobilises saving, and evaluates investments' profitability.<sup>28</sup> The Financial culture, structure and practice affect a country's development path.<sup>29</sup> Replacing the course of development that prioritises economic growth and gives little attention to the ecosystem and other social objectives with a new trend of sustainable development that considers the ecosystem as its epicentre requires a change in the financial system.

As economic growth and profit have been the main drives of the financial system for so long, ecological and social issues have not been considered or given proper attention by financial architectures. "The financial system is inherently embedded in an economic model focused on growth. To support growth, finance has excelled in creating financial value and profit."<sup>30</sup> The current culture, structure and practice of the financial system created a

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<sup>24</sup> M Jansson, & A Biel (2011). 'Motives to engage in sustainable investment: A comparison between institutional and private investors', *Sustainable Development*, 19(2), 135-142.

<sup>25</sup> DA Zetzsche & L Anker-Sørensen (2022). 'Towards a Smart Regulation of Sustainable Finance'. In *the Palgrave Handbook of ESG and Corporate Governance* (pp. 87-113). Cham: Springer International Publishing.

<sup>26</sup> DA Zetzsche & L Anker-Sørensen (2022). 'Regulating sustainable finance in the dark. *European Business*', *Organization Law Review*, 23(1), 47-85.

<sup>27</sup> B.J. Richardson (2005). 'The Equator Principles: The voluntary approach to environmentally sustainable finance', *European Energy and Environmental Law Review*, 14(11).

<sup>28</sup> D Loorbach, D Schoenmaker & W Schramade (2020). *Finance in transition: Principles for a positive finance future*, Rotterdam: Rotterdam School of Management, Erasmus University.

<sup>29</sup> Ibid.

<sup>30</sup> D. Loorbach *et al*, *supra* note 28. P.21.

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separation of finance and ethics, a general lack of responsibility, and a system that functions primarily virtually and independently from the real economy.<sup>31</sup>

The transformation to a green economy is so costly that it requires more than seven trillion dollars yearly to meet the targets the international community plans to achieve in 2030.<sup>32</sup> Therefore, countries must mobilize the vast resources to meet the Paris Agreement's and UNSDG's objectives. The financial industry is the best positioned to guide the private sector to change its course and to invest in sustainable projects and assets. The financial sector must lead in directing resources to more sustainable projects.

As clarified in the Paris Agreement, the existing path needs to be changed for finance to minimise greenhouse gas emissions.<sup>33</sup> Therefore, Sustainable finance aspires to change the current system that neglects social and ecological realities. It aspires to replace short-termism and narrow approaches by focusing on maximising shareholder values and upholding a long-term, sustainable model that improves every society's shared future. Sustainable finance is not yet considered an independent objective of financial regulation.<sup>34</sup> However, recently, it has been recognized that sustainable finance has an enormous impact on realizing the main objectives of financial regulation.<sup>35</sup> Therefore, the financial industry must consider ESG in all its decisions to achieve financial stability and avoid systemic financial crises.

The private sector has shown an encouraging interest in diverting investment into more sustainable investments.<sup>36</sup> Investors have shown a greater interest in dealing with systemic risks that come with climate change.<sup>37</sup> Institutional Investors, in particular, have started to collect and analyses data to understand the risk from climate change, regulations that may affect the specific business and potential legal actions in their decision to invest in a particular sector.<sup>38</sup>

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<sup>31</sup> *Id.*, p. 32.

<sup>32</sup> G Contreras, JW Bos & S Kleimeier (2019). Self-regulation in sustainable finance: The adoption of the Equator Principles', *World Development*, 122, 306-324.

<sup>33</sup> Paris Agreement, (2015). Available at <https://unfccc.int/process-and-meetings/the-paris-agreement>. Accessed on 05.07.2023.

<sup>34</sup> V Colaert (2022). 'The Changing Nature of Financial Regulation: Sustainable Finance as a New EU Policy Objective', *Common Market Law Review*, 59(6).

<sup>35</sup> *Ibid.*

<sup>36</sup> Jansson & Biel, *supra* note 24.

<sup>37</sup> Park, *supra* note 12.

<sup>38</sup> Gregory Unruh *et al* (2016). 'Investing for a sustainable future: Investors care more about sustainability than many executives believe', *MIT Sloan Management Review*, 57(4).

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### 3. Sustainable Finance in Africa: An Overview

#### 3.1 Overview of challenges

The Paris Agreement allows countries to determine their contribution to control climate change. Every country can develop a nationally determined contribution (NDC) that indicates the detailed activities and targets it plans to execute for mitigating or adapting climate change effects. Most of these adaptation and mitigation activities need resources to be implemented, and most African countries lack the required resources. African countries need around USD 250 billion annually to support and meet their NDC.<sup>39</sup> Africa needs more than USD 2.5 trillion to support its NDC and development goals in 2030.<sup>40</sup> Africa needs an additional USD one trillion to recover from the impact of the Covid crisis.<sup>41</sup>

Africa must create jobs that provide opportunities to its people, which must be done sustainably. However, the financial burden of new technologies and the required human resources are significantly high and sometimes inhibiting. Public funds are limited, and most governments struggle to pay debts and cover the people's basic needs. This clarifies that financing African green development is beyond available public funds, and engaging the private sector is indispensable.

The private sector in Africa is not well developed, and it has a lot of limitations. Corporate governance in Africa has a long way to go to introduce accountability and transparency. Full transparency and reporting are yet to be developed.

Africa is not benefiting as much as it should from the funds that private investors release as green finance. Sub-Saharan Africa is one of the minor beneficiaries of the green bond Markets.<sup>42</sup> Limited availability of human resources that understand green bonds, lack of proper economic policies, and

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<sup>39</sup> Sandra Guzmán *et al* (2022). 'The State of Climate Finance in Africa: Climate Finance Needs of African Countries', *Climate Policy Initiative*.

<sup>40</sup> *Ibid.*

<sup>41</sup> European Investment Bank, Finance in Africa: for green, smart and inclusive private sector development. 2021. Available at <https://www.eib.org/en/publications/economic-report-finance-in-africa-green-smart-inclusive-private-sector-development>. Accessed on 10/10/2022

<sup>42</sup> JE Tyson (2021). Developing green bond markets for Africa', *The Joint FSD Africa ODI*.

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lack of political stability are some challenges in developing green bond markets in Africa.<sup>43</sup>

### 3.2 The finance sector's potential role in supporting green objectives

The financial industry has a better record in the private sector as it applies the Basle accords.<sup>44</sup> Therefore, focusing on the financial sector to generate the required finance to support green economic objectives is sound and more practical. The financial industry can contribute significantly to a sustainable economy. There are already some positive signs in this regard. "African financiers are beginning to grasp opportunities in green finance, and banks are increasingly aware of the need to address the risks posed by climate change".<sup>45</sup> Furthermore, the African Development Bank launched the Green Bank Initiative in 2022 alongside the COP 27 conference. USD 1.5 billion trust fund will back the initiative, and it is expected to generate USD 3 trillion in climate finance to support the transformation to a sustainable economy in the continent.<sup>46</sup>

Sustainable finance can potentially contribute to Africa's aspiration for sustainable development. Researchers have indicated that sustainable finance helps deal with the resource curse (underperformance despite abundant resources) in Ghana and Nigeria and may promote healthier development. It is provided that "Sustainable finance would help attract foreign investors, mobilise funds for sustainable growth, and promote the formation of strong financial institutions. Furthermore, through equitable social financing, appropriate sustainable finance will raise living standards and guarantee sustainability."<sup>47</sup>

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<sup>43</sup> Prosper Babon-Ayeng *et al.*, (2022). 'Socio-political factors underlying the adoption of green bond financing of infrastructure projects: the case of Ghana', *Journal of Capital Markets Studies*, 6(3), 304-319.

<sup>44</sup> T. Ricks (2016). 'From the Abuja Treaty to the Sustainable Development Goals: Realizing Economic Integration in Africa', *NCJ Int'l L.*, 42, 249.

<sup>45</sup> European Investment Bank, Finance in Africa: for green, smart and inclusive private sector development. 2021. Available at <https://www.eib.org/en/publications/economic-report-finance-in-africa-green-smart-inclusive-private-sector-development>. Accessed on 10/10/2022.

<sup>46</sup> <https://allafrica.com/stories/202211170458.html>.; <https://www.afdb.org/en/news-and-events/african-development-bank-launches-model-deploying-green-financing-across-continent-56903>. Accessed on 14.06.2023.

<sup>47</sup> OA Shobande & JO Enemona (2021). 'A multivariate VAR model for evaluating sustainable finance and natural resource curse in West Africa: evidence from Nigeria and Ghana', *Sustainability*, 13(5), 2847.

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### **3.3 Sustainable finance in SDGs, regional integration pursuits and Agenda 2063**

African Union has introduced the Green Recovery Action Plan (2021-2027) to support the sustainable recovery of Africa from COVID-19 and climate change.<sup>48</sup> The action plan recognises that African countries are not on the right track and may not meet the objectives of SDG 2030, Agenda 2063 and the Paris Agreement. The action plan has identified the following five areas of priority:

- Climate finance, including increasing flows, efficiency, and impact of funding;
- Supporting renewable energy, energy efficiency and National Just Transition Programmes;
- Nature-based solutions and focus on biodiversity through work on sustainable land management, forestry, oceans and eco-tourism;
- Resilient agriculture by focusing on inclusive economic development and green jobs; and
- Green and resilient cities, focusing on water (flooding and water resources) and enhancing information, communication and technology.

The African economy and financial sector are generally yet to be harmonised. There is relatively low regional coordination regarding financial regulation. The African Union has a limited institutional and legal framework to introduce laws and regulations that help financial institutions reorient their investment to sustainable investment. However, some emerging continental as well as regional institutions can be used to leverage and coordinate efforts to make sustainable finance the mainstream in the financial industry. We will briefly discuss regional agreements and conventions that lay out the master plan for the future of African economic integration.

The African economic community was established in 1991 in Abuja. A treaty commonly referred to as the Abuja treaty. The treaty aspires to harmonise social and economic policy in Africa with a single market, a central bank, and a single currency. It is envisaged that an economic community will be created stage by stage by enhancing and perfecting the existing regional economic communities. The Abuja treaty has laid the foundation for subsequent actions that harmonises African policies and laws. Therefore, Africa aspires to have an integrated and harmonised financial market and development policy. However, there are only a few rules that are, in reality,

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<sup>48</sup> [https://au.int/sites/default/files/documents/40790-doc-AU\\_Green\\_Recovery\\_Action\\_Plan\\_ENGLISH1.pdf](https://au.int/sites/default/files/documents/40790-doc-AU_Green_Recovery_Action_Plan_ENGLISH1.pdf). Accessed on 14.06.2023.

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harmonised. Corporate governance and economic laws still need to be harmonised and coordinated. This has caused severe problems in promoting sustainable long-term development goals in the continent.

The African Continental Free Trade Agreement (AFCFTA) is another critical development in creating one economic community and integrating African policies. The African free trade agreement will be the most significant, bringing together 1.3 billion people and a GDP of 2.6 trillion. The deal is expected to boost the African economy and improve the lives of millions. Trade is one of the leading causes of environmental degradation and greenhouse gas emissions. Therefore, the appropriate measures must be taken to ensure AFCFTA enhances, not compromises, the Paris Agreement and other related international and regional agreements.

AU has introduced Agenda 2063 as part of its aspiration to harmonise and coordinate member states' development policies.<sup>49</sup> Agenda 2063 is intended to overhaul the African Union to achieve grand objectives, transforming Africa into the future powerhouse. Agenda 2063 has seven visions and 18 goals. It also includes 161 targets that African countries should meet. The Agenda has introduced 15 flagship projects that the union plans to launch in the coming years (which include African financial institutions).

Agenda 2063 outlines African ambitions. Agenda 2063 uses the motto 'The Africa We Want', indicating that Africa is not delivering what its inhabitants deserve due to multifaceted challenges. Agenda 2063 underlines that all nations and their people should aspire to build a "prosperous Africa based on inclusive growth and sustainable development". For obvious reasons, the document has focused more on the social and security problems the continent is struggling with than climate change. Nhamo argued that Agenda 2063 appears as if what is worrying the continent (from discourse perspectives) is more social than environmental and economic issues.<sup>50</sup>

### **3.4 African financial institutions and harmonising investment laws**

The African financial institutions were established in 2000 in Lome, Togo. The African Central Bank (ACB), The African Monetary Fund (AMF), The African Investment Bank (AIB), and the Pan African Stock Exchange (PASE) are the prominent institutions that are open for signature and ratification by member states.<sup>51</sup> The main objective of these institutions is to implement the

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<sup>49</sup> <https://au.int/en/agenda2063/overview>.

<sup>50</sup> Godwell Nhamo (2017). 'New global sustainable development agenda: A focus on Africa', *Sustainable Development*, 25(3), 227-241.

<sup>51</sup> <https://au.int/en/ea/epr/aufi>. Accessed on 015.02.2023

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Abuja treaty of 1991 that aspires to establish the African Economic Community.

The Pan African Investment Code (PAIC) is another essential document that aspires to harmonise international investment laws on the continent. PAIC is drafted taking into consideration the spirit of the SDGs and agenda 2063.<sup>52</sup> The Code links investment with sustainable development and provides that member states should promote, facilitate, and protect investments that foster sustainable development.<sup>53</sup>

The draft code includes provisions that demand investors and states to pay adequate attention to environmental, social, and governance issues. It embodies a provision that regulates corporate social responsibility and an obligation to disclose data concerning ecological risks. The draft code clarifies that investors should support and enhance human rights and refrain from any act that violates national and international human rights obligations. The draft code has made clear the aspiration and intentions of AU to promote inclusive economic growth that considers the people's environmental, social, and cultural rights.<sup>54</sup> Rameau highlights the objectives of the Code as follows:<sup>55</sup>

PAIC is a model investment treaty drafted from the perspective of lesser-developed countries under the auspices of the AU. The main objective of the PAIC is to promote sustainable development in Africa. It is written by Africans and from the African's perspective. The African perspective is that a good investment in Africa promotes sustainable development.

The preamble in PAIC indicates that the Code takes into consideration SDGs. It provides “Taking into account the Sustainable Development Goals (SDGs) and the Investment Policy Framework for Sustainable Development of the United Nations Conference on Trade and Development (UNCTAD)”.

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<sup>52</sup> R Rameau (2020). ‘The African Perspective: The Development of Investment Laws, the Pan-African Investment Code (PAIC), and the African Continental Free Trade Area in the “New Economic World Order”.’ In *Proceedings of the ASIL Annual Meeting* (Vol. 114, pp. 62-67). Cambridge University Press.

<sup>53</sup> Draft Pan African Investment Code, available at: <https://au.int/en/documents/20161231/pan-african-investment-code-paic>. (Accessed on 12/10/2022). Article one of the draft codes provides, 'The objective of this Code is to promote, facilitate and protect investments that foster the sustainable development of each Member State, and in particular, the Member State where the investment is located'

<sup>54</sup> Ibid. See Articles 22, 23, 24, 30 and 32

<sup>55</sup> Rameau, *supra* note 52

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Furthermore, Article 22(3) expressly provides that “Investors shall contribute to the economic, social and environmental progress with a view to achieving sustainable development of the host State.” Article 30 demands that both the state and investors provide essential support for the transfer of environmentally sound technologies. The Code provides, “Investors are encouraged to provide adequate financial resources, including for the transfer of technology, needed for implementing measures to assist the Member States that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to, or mitigation of those adverse effects.”

Article 37 of the Code requires member states not to compete by compromising environmental protection or introducing less strict laws. The Code provides, “In this regard, Member States shall not encourage investment by relaxing or waiving compliance with domestic environmental legislation.” Suppose a Member State considers that another Member State has encouraged such relaxation or non-compliance. In that case, it may request consultations with the other Member States, and the two Member States shall consult to avoid any such encouragement. The Code also requires Member States and investors to conduct an Impact Assessment (EIA) on investment projects. The Code requires the state and the investor to carry out their own EIA on the project. However, the Code does not provide the standards or any international standard that a state should apply in evaluating investments.

Generally, the African Union, as an organisation, is not actively engaged in transforming the region's financial industry into a more sustainable business model. AU could have used the existing institutional framework and policy framework to coordinate the efforts of its member states and other regional and international organisations to support the shift to sustainable finance. However, so far, the role of AU is minimal.

### **3.5 Pursuits toward rules and frameworks that promote sustainable finance**

A baseline survey conducted in 2021 has shown that many African countries are keen to introduce regulations and guidelines that require the financial sector to consider sustainability seriously. However, only a few countries have introduced such regulations and guidelines. Kenya, Nigeria, South Africa, Ghana, Egypt, Mauritius, Morocco, and Zimbabwe are leading in taking concert actions.<sup>56</sup>

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<sup>56</sup> UNEP-FI, *Climate Risk Regulation in Africa’s Financial Sector and Related Private Sector Initiatives*. 2021. <https://www.unepfi.org/wordpress/wp->

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Recently, some African countries have started to reform their laws or introduce new rules to introduce sustainable finance concepts in their financial industry. Central Banks or other regulatory authorities have taken vital initiatives. The influence of international development actors is an essential element that pushed African regulators to introduce new rules and guidelines. Banks are motivated to consider suitability-related risks, particularly climate change risks, in their credit risk, operational risk, market risk and liquidity risk considerations. International Financial Corporation (IFC) has also supported most regulators in the continent in introducing sustainable finance and bringing practical changes on the ground.<sup>57</sup>

Some African countries are members of the Sustainable Banking and Finance Network (SBFN). Nigeria in 2012, Morocco in 2014, and Ghana joined in 2016; about Kenya, the Kenyan Banks Association has been a member since 2015. However, the regulator is not yet a member. South Africa joined in 2021; however, the banking association has been a member since 2016. Tunisia and Egypt joined SBFN in 2019; Central Africa joined in 2022.<sup>58</sup>

Nineteen African countries are already represented in the Network of Central Banks and Supervisors for Greening the Financial Sector (NGFS). According to the 2022 report, the Bank of Ghana, Bank of Mauritius, Central Bank of Seychelles, the Financial Regulatory Authority of Egypt and the Regulatory Authority of Egypt, Bank of Rwanda, Central Bank of Kenya, Central Bank of Nigeria, Central Bank of West African Satiates (eight countries), Banque Centrale de Tunisie, Bank Al-Maghrib, Central Bank of Mauritania and Reserve Bank of South Africa are members of NGFS.<sup>59</sup>

Many African banks and financial institutions have joined the United Nations Environmental Program Financial Initiative. Ten financial institutions from South Africa, ten from Nigeria, seven from Egypt, five from Kenya, two from Togo, one from Congo, and one from Morocco joined

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content/uploads/2021/11/Climate-risk-regulation-in-Africas-financial-sector-and-related-private-sector-initiatives-Report.pdf. Accessed on 04.05.2023.

<sup>57</sup> L Amoah, GCO Dzaha, & T Arun (2022). 'Sustainable finance and banking in Africa.' In *the Economics of Banking and Finance in Africa: Developments in Africa's Financial Systems* (pp. 405-429), Cham: Springer International Publishing.

<sup>58</sup> Sustainable Banking and Finance Network; see <https://www.sbfnetwork.org/membership/>. Accessed on 13/12/2022.

<sup>59</sup> <https://www.ngfs.net/en>. Accessed on 20.06.2023.

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UNEP-FI.<sup>60</sup> Four banks from South Africa, two from Nigeria, two from Nigeria, and one from Togo also joined the Equatorial Principles.<sup>61</sup>

Some African countries have also introduced mandatory laws and principles that require their banks and other financial market actors to embrace sustainable finance. The Banking and other professional associations have also introduced some voluntary principles and guidelines to ensure that African financial markets and banks incorporate principles and standards that enhance the industry's sustainability. We will briefly present the experience of five countries in Sections 4 and 5.

## 4. Comparative Experience in Four African Countries

### 4.1. Nigeria

Nigeria is the most populous country in Africa and the largest economy in terms of GDP in Sub-Saharan Africa.<sup>62</sup> Nigeria's financial industry is considered one of the strongest in the region, with banks also active in other African countries. The Central Bank of Nigeria (CBN) is Nigeria's main regulatory body. CBN has a broader mandate, including ensuring the financial sector's stability. The bank is autonomous and supposed to be free from politics.<sup>63</sup> Accordingly, some argue that the CBN should refrain from an active role in reorienting or reshaping the allocation of resources.

However, this does not mean indifference to sustainable finance. The Bank believes it is within its mandate to promote sustainable finance. This seems more logical because promoting a sound financial system in Nigeria is one of the mandates of the CBN.<sup>64</sup> Therefore, sustainable finance is one way of ensuring a sound financial system. The CBN joined the Sustainable Banking and Finance Network in 2012. CBN has introduced a working definition of Sustainable finance as “an approach that recognises the role of Banks in driving long-term economic development in Nigeria that is not only

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<sup>60</sup> United Nations Environment – Finance Initiative (unepfi.org), Accessed on 15/12/2022.

<sup>61</sup> <https://equator-principles.com/members-reporting/>. Accessed on 15/12/2022.

<sup>62</sup> World Bank Report 2021; available at [https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZG&name\\_desc=false&fbclid=IwAR3U8IHEXsN2n0klXlJqnURyi\\_oXVht2UUS\\_oOBX7fCbM2Hcq uJKmpy8JVc](https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZG&name_desc=false&fbclid=IwAR3U8IHEXsN2n0klXlJqnURyi_oXVht2UUS_oOBX7fCbM2Hcq uJKmpy8JVc). Accessed on 10/08/2022.

<sup>63</sup> Central Bank of Nigeria Act 7 of 2007, Article 3.

<sup>64</sup> Central Bank of Nigeria Act 7 of 2007, Article 4(d).

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economically viable but also environmentally responsible and socially relevant.”<sup>65</sup>

Nigeria needs around USD 92 billion annually to finance its Sustainable Development Goals.<sup>66</sup> Nigeria has developed a roadmap for sustainable finance and has identified generic finance problems and problems specific to sustainable finance. The challenges identified in the roadmap include (i) the short-term nature of most loans, (ii) lack of alternative finance schemes, and (iii) lack of access to finance for micro, small and medium enterprises.<sup>67</sup> The main challenges to enhancing sustainable finance are lack of data, lack of taxonomy and disclosure and reporting standards.<sup>68</sup> The roadmap suggested introducing a taxonomy of sustainable finance and requiring financial actors to report their ESG performances to enhance sustainable finance in Nigeria.

Recently, the CBN introduced the Nigerian Sustainable Banking Principles (NSBP). Nine principles are outlined in the document. The NSBP is binding, and the Nigerian Bankers' Committee has endorsed it. The principles were introduced by a circular letter addressed to all banks.<sup>69</sup> The NSBP expressly declared that banks should play a positive role in the development of society. Harm to the environment from the direct operation of the banks or from other businesses that bank finance is to be avoided, and when it is not possible to prevent the damage to offset the harm, it is required by the NSBP.

The principles call for integrating ESG in decision-making, minimising negative impacts on the environment and society, maximising positive values, and respecting human rights in all bank activities. Promoting women's economic participation and considering the interest of women in design and production, financial inclusion is also included in the principles. Enhancing governance that protects and promotes environmental and social issues both in the bank and in the clients of the banks, developing the required capacity to assess ESG risks, collaborating with national and international stakeholders

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<sup>65</sup> Central Bank of Nigeria, 2012.

<sup>66</sup> The UN Environmental Inquiry, Nigerian Sustainable Finance Roadmap, 2018. Available at: <https://wedocs.unep.org/handle/20.500.11822/34566>. Accessed on 09/12/2022.

<sup>67</sup> The UN Environmental Inquiry, Nigerian Sustainable Finance Roadmap, 2018. Available at: <https://wedocs.unep.org/handle/20.500.11822/34566>. Accessed on 09/12/2022.

<sup>68</sup> The UN Environmental Inquiry, Nigerian Sustainable Finance Roadmap, 2018. Available at: <https://wedocs.unep.org/handle/20.500.11822/34566>. Accessed on 09/12/2022.

<sup>69</sup> Central Bank of Nigeria, Circular no, FPR/DIR/GEN/01/33. Available at: <https://www.cbn.gov.ng/out/2012/ccd/circular-nsbp.pdf>. Accessed on 14/12/2022.

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to meet national and international development goals, and reviewing and updating the principles to achieve the objectives of SDG are included in the nine agreed principals that guide sustainability in the banking industry in Nigeria.

The CBN has also developed and circulated a note that explains the guiding principles and has introduced a more elaborated guideline for gas and oil-related business activities. A Survey conducted by the steering committee that evaluated the performance of banks from 2012 -2018 has reported that the overall performance of banks in Nigeria is positive, and most banks introduced innovative strategies to implement the principles.<sup>70</sup>

The inclusion of sustainability as the core of the banking activity has strong support among Nigerian bankers, which helped its success.<sup>71</sup> Nigerian banks introduced a unit in the governance structure of the banks that takes the responsibility of implementing the principles. CBN has also introduced a reporting framework that all banks should (in their reports) include the activities concerning the nine sustainability principles. The CBN awards banks for best performance in executing the sustainability principles.<sup>72</sup>

In addition to the banking industry, the Nigerian Stock Exchange (NSE) has also enacted a Sustainability Disclosure Guidelines.<sup>73</sup> The Security and Exchange Commission (SEC) has also introduced Guidelines on Sustainable Financial Principles.<sup>74</sup> The objectives of the SEC guidelines include, among others, women empowerment, human rights protection, reducing global warming and other environmental footprints. The guideline requires issuers to

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<sup>70</sup> Access Bank (2018) Sustainability in the Nigeria Banking Industry, The Journey so far: A review of the Nigeria Sustainable Banking principles. Available at: <https://www.accessbankplc.com/AccessBankGroup/media/Documents/Sustainable%20Reports/NSBP-at-5-Industry-Report.pdf>. Accessed on 15/12/2022.

<sup>71</sup> Sustainability in the Nigeria Banking Industry, The Journey so far: A review of the Nigeria Sustainable Banking principles. Available at: <https://www.accessbankplc.com/AccessBankGroup/media/Documents/Sustainable%20Reports/NSBP-at-5-Industry-Report.pdf>. Accessed on 15/12/2022.

<sup>72</sup> L Awogbade (2022). 'Responsible Corporate Leadership: Driving Sustainability in Nigeria's Financial Services Industry'. In *Management and Leadership for a Sustainable Africa, Volume 2: Roles, Responsibilities, and Prospects* (pp. 37–54). Cham: Springer International Publishing.

<sup>73</sup> <https://ngxgroup.com/ngx-download/sustainability-disclosure-guidelines/>. Accessed on 20.06.2023

<sup>74</sup> Securities & Exchange Commission of Nigeria, Guidelines on Sustainable Financial Principles for the Nigerian Capital Market. <https://sec.gov.ng/sec-guidelines-on-sustainable-financial-principles-for-the-capital-market/>. Accessed on 20.06.2023.

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consider their action and also the actions of their stakeholders in implementing the principles.

Business entities are expected to develop their policy on implementing the principles. They should also integrate the policy with their decision-making process. The board and executive management are expected to participate in formulating the policy and must follow up on the execution. The companies are also likely to report the same to the regulator. Generally, Nigeria is taking crucial steps to ensure that its banks and other financial institutions are prepared to deal with climate change and related risks and contribute their fair share to transform the economy into a more sustainable economy.

#### **4.2 South Africa**

Section 224 of RSA's Constitution states that the South African Reserve Bank (SARB) is mandated to ensure sustainable economic growth. The Constitution states, "The primary object of the South African Reserve Bank is to protect the value of the currency in the interest of balanced and sustainable economic growth in the Republic."<sup>75</sup> The Constitution also expressly declares that the SARB must be neutral and execute its responsibilities without intervention. Therefore, unlike Nigeria, the RSA has mandated its financial regulator, SARB, to deal with sustainability. SARB has the legal mandate and responsibility to protect the economy and, specifically, the financial system from risks related to ESG.

Banks in South Africa are subjected to a robust regulatory framework. The following legislative acts regulate the banking sector. Financial Sector Regulation Act No. 9 of 201, The Banks Act No. 94 of 1990, The National Payment Systems Act No. 78 of 1998, The Currency and Exchanges Act No. 9 of 1933, and The National Credit Act No. 34 of 2005. Although these legislative acts do not directly mention sustainable finance or ESG, South African banks are members of many international forums and signatories of international agreements that set standards to be absorbed by the industry.<sup>76</sup> ABSA, First Rand, Nedbank and Standard Bank have all expressed commitment to the Equator Principles that serve as a risk management framework. Investec and Nedbank support the global UN Global Compact. First Rand, Standard Bank and Nedbank are members of the United Nations

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<sup>75</sup> The Constitution of the Republic of South Africa, 1996. Available at <https://www.justice.gov.za/constitution/pdf.html>. Accessed on 13.05/2023.

<sup>76</sup> Carbon Trust, Sustainable Finance Handbook for South Africa. [https://sustainablefinanceinitiative.org.za/wp-content/uploads/2021/08/DRAFT-Sustainable-Finance-Handbook\\_June2021\\_compressed.pdf](https://sustainablefinanceinitiative.org.za/wp-content/uploads/2021/08/DRAFT-Sustainable-Finance-Handbook_June2021_compressed.pdf). Accessed on 23.06.2023.

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Environment Program Finance Initiative (UNEP FI), and these banks have signed the UNEP Positive Impact Finance Manifesto.

South African National Treasury is a Sustainable Finance and Banking Network (SFBN) member. Its report reads:

Treasury is seeking to protect the economy and unlock economic opportunities that will enhance the country's ability to adapt to the rapidly changing climate and realise socio-economic benefits from the transition to a lower carbon, greener economy and build resilience to create a safer financial sector to better serve South Africa. It is pursuing policies to ensure all financial institutions embed and improve their capability for identifying, managing and disclosing the environmental and social risks in their portfolios through strengthening the regulatory framework and encouraging the uptake of leading practice.<sup>77</sup>

Research has discovered that the growth of the banking sector in South Africa is negatively contributing to the increasing emissions of CO<sub>2</sub>.<sup>78</sup> Therefore, the banking sector should make additional efforts to move into more sustainable investments and practices. To this effect, the Bankers Association of South Africa (BASA) has introduced a guiding principle for managing risks associated with ESG. The principles promote sustainable banking practices and increase transparency and consistency in applying ESG risk management. The principles set minimum standards that banks should consider in running their operations, lending to clients, and other activities.<sup>79</sup>

Considering the growing importance of introducing voluntary and mandatory guidelines and laws, South Africa established a working group responsible for developing a proposal to enhance sustainable finance. The working group was chaired by the National Treasury and hosted by BASA. The committee submitted a proposal with many crucial recommendations.<sup>80</sup> Some recommendations have already been implemented, and others have not.

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<sup>77</sup> National Treasury, *Financing a Sustainable Economy*, Technical report. 2020. [https://sustainablefinanceinitiative.org.za/wp-content/downloads/Sustainability\\_technical\\_paper\\_2020.pdf](https://sustainablefinanceinitiative.org.za/wp-content/downloads/Sustainability_technical_paper_2020.pdf). Accessed on 21.06.2023.

<sup>78</sup> A Samour, D Moyo & T Tursoy (2022). 'Renewable energy, banking sector development, and carbon dioxide emissions nexus: A path toward sustainable development in South Africa', *Renewable Energy*, 193, 1032-1040.

<sup>79</sup> BASA, [https://sustainablefinanceinitiative.org.za/wp-content/uploads/2020/10/BASA-PRINCIPLES-FOR-MANAGING-ENVIRONMENTAL-AND-SOCIAL-RISK\\_Oct2015.pdf](https://sustainablefinanceinitiative.org.za/wp-content/uploads/2020/10/BASA-PRINCIPLES-FOR-MANAGING-ENVIRONMENTAL-AND-SOCIAL-RISK_Oct2015.pdf). Accessed on 22.06.2023.

<sup>80</sup> [https://sustainablefinanceinitiative.org.za/wp-content/uploads/2021/08/DRAFT-Sustainable-Finance-Handbook\\_June2021\\_compressed.pdf](https://sustainablefinanceinitiative.org.za/wp-content/uploads/2021/08/DRAFT-Sustainable-Finance-Handbook_June2021_compressed.pdf). Accessed on 23.06.2023

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According to the working committee’s definition, sustainable finance “encompasses financial models, services, products, markets and ethical practices to deliver resilience and long-term value in each of the economic, environmental and social aspects and, thereby contributing to the delivery of the sustainable development goals and climate resilience.”<sup>81</sup>

South Africa's retirement funds are given due attention in the financial landscape. The funds are exposed to climate change risks because they are long-term assets. The financial industry is thus introducing guidelines and working manuals that help it shift to a more sustainable path. The regulatory authorities have also amended the regulation to include ESG requirements as one criterion that boards should consider in their decisions. The updated Regulation 28 under the South African Pension Funds Act was enacted in July 2011. It included a new requirement for retirement funds to consider environmental and social issues in assessing factors that materially affect the sustainable long-term performance of retirement fund assets. The 2<sup>nd</sup> code for responsible investing in South Africa was enacted in 2022.<sup>82</sup>

South Africa has already introduced a taxonomy that is similar to the EU taxonomy. It also has a vibrant secondary financial market, and it dominates the green bond market of Africa. The Taxonomy is designed with the following objectives:

- Helps the financial sector with clarity and certainty in selecting green investments in line with international best practices and South Africa’s national policies and priorities.
- Reduces financial sector risks through enhanced management of environmental and social performance.
- Reduces the costs associated with labelling and issuing green financial instruments.
- Unlocks significant investment opportunities for South Africa in a broad range of green and climate-friendly assets.
- Supports regulatory and supervision oversight of the financial sector.

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<sup>81</sup> National Treasury, Financing a Sustainable Economy, Technical report. 2020. [https://sustainablefinanceinitiative.org.za/wp-content/downloads/Sustainability\\_technical\\_paper\\_2020.pdf](https://sustainablefinanceinitiative.org.za/wp-content/downloads/Sustainability_technical_paper_2020.pdf). Accessed on 21.06.2023.

<sup>82</sup> <https://www.crisa2.co.za/wp-content/uploads/2022/09/CRISA2.pdf>. Accessed on 22.06.2023.

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- Provides a basis for regulators to align or reference green financial products.<sup>83</sup>

The taxonomy's six focus areas relating to environmental objectives are (i) climate change mitigation, (ii) adaptation, (iii) sustainable use of water and marine resources, (iv) pollution prevention, (v) sustainable resource utilisation and circularity, and (vi) ecosystem protection and restoration. The taxonomy focuses on the first two objectives: climate change mitigation and adaptation.<sup>84</sup> However, it is expected to expand soon to cover the four other sectors.

Three basic principles guide the Taxonomy. Any activity to be considered a taxonomy-aligned investment must satisfy the three principles. It must significantly contribute to one of the six environmental objectives (MSC), it must not significantly harm any of the other objectives (DNSH), and it must meet minimum social standards (MSS).

### 4.3 Ghana

Protecting the environment is one of the objectives enunciated in the Constitution of Ghana. Article 36(9) provides, "The State shall take appropriate measures needed to protect and safeguard the national environment for posterity, and shall seek co-operation with other states and bodies for purposes of protecting the wider international environment for mankind."<sup>85</sup> The Constitution also indicates the obligation of the government to pursue a development path that reduces inequality and unravels Ghanaian citizen's potential for creativity and innovation for the common good.<sup>86</sup> Although the Constitution has not used the term sustainable development, the content of Article 36 reflects the essentials of sustainable development. The Constitution implies that Ghana is ready to contribute its fair share in addressing general problems not limited to its territory, and such commitments include global issues like climate change.

Ghana has different government agencies that regulate the financial market. The banking industry is regulated by the Bank of Ghana (BOG). The Bank of

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<sup>83</sup>[https://www.treasury.gov.za/comm\\_media/press/2022/SA%20Green%20Finance%20Taxonomy%20-%201st%20Edition.pdf](https://www.treasury.gov.za/comm_media/press/2022/SA%20Green%20Finance%20Taxonomy%20-%201st%20Edition.pdf).

<sup>84</sup>[https://www.treasury.gov.za/comm\\_media/press/2022/SA%20Green%20Finance%20Taxonomy%20-%201st%20Edition.pdf](https://www.treasury.gov.za/comm_media/press/2022/SA%20Green%20Finance%20Taxonomy%20-%201st%20Edition.pdf).

<sup>85</sup> Ghana's Constitution of 1992 with Amendments through 1996. Available at [https://www.constituteproject.org/constitution/Ghana\\_1996](https://www.constituteproject.org/constitution/Ghana_1996).

<sup>86</sup> Ghana's Constitution of 1992 with Amendments through 1996. Available at [https://www.constituteproject.org/constitution/Ghana\\_1996](https://www.constituteproject.org/constitution/Ghana_1996). This is the general spirit of Article 36 (2).

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Ghana, under Article 183, has the mandate to "encourage and promote economic development and the efficient utilisation of the resources of Ghana through effective and efficient operation of a banking and credit system in Ghana."<sup>87</sup> The Securities and Exchange market is regulated by the Securities and Exchange Commission (SEC). The National Pensions Regulatory Authority (NPRA) has the power to regulate pension funds, and the National Insurance Commission (NIC) has the power to regulate insurance companies. The Financial Stability Council also plays a vital role in dealing with regulatory arbitrage. The Financial Stability Council was established in 2018.

Concerning Sustainable finance, the BOG established a committee in 2015 to develop a policy document. The committee developed seven general principles and five sectoral guidelines.<sup>88</sup> Agriculture and Forestry, Construction and Real Estate, Manufacturing, Gas, Oil & Minerals and Power and Energy are sectors for which the committee has included detailed guidelines. The Seven principles are (i) To develop and apply environmental and social risk management policy, (ii) To consider ESG in internal operations, (iii) To enhance corporate governance and ethical standards, (iv) To promote gender equality, (v) Financial inclusion, (vi) Resource efficiency, sustainable production and consumption and (vii) Reporting.

Ghana has also introduced a Sustainable Financing Framework to provide more guidance on issuing sustainable linked loans and bonds. The framework identifies eligible green and social categories and correlated Key Performance indicators (KPI). The framework was developed based on international standards.<sup>89</sup> Ghana has taken important initiatives to reshape its financial industry sustainably. However, some concerted steps are needed to bring practical and material changes to the sector, such as introducing taxonomy, clear reporting guidelines, and improved supervision and support from regulatory bodies.

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<sup>87</sup> Ghana's Constitution of 1992 with Amendments through 1996. Available at [https://www.constituteproject.org/constitution/Ghana\\_1996](https://www.constituteproject.org/constitution/Ghana_1996).

<sup>88</sup> <https://www.greenfinanceplatform.org/policies-and-regulations/ghana-sustainable-banking-principles>. Accessed on 19.06.2023.

<sup>89</sup> Sustainable Financing Framework, available at <https://mofep.gov.gh/sites/default/files/news/Ghana-Sustainable-Financing-Framework.pdf>. Accessed on 09.05.2023.

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#### 4.4 Kenya

Kenya is the financial hub of East Africa. It has achieved much success in fintech, particularly in mobile banking.<sup>90</sup> Kenya includes the financial sector as one of the economy's main drivers.<sup>91</sup> Kenya is an emerging democracy in East Africa with a crucial role in the region's economy. It introduced a modern Constitution in 2010 that includes sustainable development and other essential values of the UNSDG. The Constitution requires all public officials and institutes to consider sustainable development in designing and implementing the country's policy and legal formulations.<sup>92</sup> The Constitution further provides that the government must protect and promote human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, and protection of the marginalised. The Kenyan Constitution also protects the environment, including the rights of the next generation. The Constitution provides, "Every person has the right to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and future generations..."<sup>93</sup>

According to Article 231 of the Constitution, "The Central Bank of Kenya shall be responsible for formulating monetary policy, promoting price stability, issuing currency and performing other functions conferred on it by an Act of Parliament".<sup>94</sup> Even though the Constitution has not mandated the Central Bank of Kenya (CBK) to lead development goals or policy directions, CBK's mandate to deal with price stability may give it some leeway to consider climate change risks in its decision-making process and regulate the banking industry. The Parliament can also give additional responsibilities to

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<sup>90</sup> AH Ahmad, C Green & F Jiang. (2020). 'Mobile money, financial inclusion and development: A review with reference to African experience', *Journal of Economic Surveys*, 34(4), 753-792.

<sup>91</sup> Kenya (2013), Kenya Vision 2030: Second Medium Term Plan 2013-2017, Nairobi. Available at <https://vision2030.go.ke/>. Accessed on 11.05.2023.

<sup>92</sup> Kenya's Constitution of 2010, Available at 16.06.2023. Article 10 (2) provides) The national values and principles of governance include:

- (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
- (c) good governance, integrity, transparency and accountability; and
- (d) sustainable development.

<sup>93</sup> Kenya's Constitution of 2010, Available at See Article 42.

<sup>94</sup> Kenya (2013), Kenya Vision 2030: Second Medium Term Plan 2013-2017, Nairobi. Available at: <https://vision2030.go.ke/>. Accessed on 11.05.2023.

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the CBK, including transforming the Kenyan economy into a sustainable and green economy via green finance strategies.

Kenya is one of the African countries trying to attract green finance, including from the private sector; hence, introducing policies and laws to enhance sustainable finance is crucial. The Green Economy Strategy and Implementation Plan (GESIP) of 2016–2030 highlights the significance of the financial sector in gearing the economy towards sustainability.<sup>95</sup> Kenya has introduced guidelines and institutional frameworks for green bonds. The Kenyan Green Bond Program was introduced in 2017.<sup>96</sup> The Central Bank of Kenya, the National Treasury, and the Capital Market Authority have endorsed the Green Bond Program.

The Capital Markets Authority issues a policy guideline note on green bonds.<sup>97</sup> The Nairobi Security Exchange (NSE) has also issued guidelines that regulate listing green bonds.<sup>98</sup> Moreover, NSE has introduced principles that are to be followed by companies when they issue green bonds.<sup>99</sup> Projects for green bonds are selected and screened by The National Green Bond Steering Committee (NGBSC). The committee considers the project's impact on achieving environmental and social objectives as enshrined in the national policy documents. The project's lifelong emissions are also considered in evaluating projects that qualify to be financed by proceedings of green bond. The projects that the screening committee selects have to be approved by the approval committee with the final say on using the proceeds of green bonds.

Kenya has a guideline that requires all companies participating in the Kenyan Security Exchange market to disclose their ESG in their financial report. Kenya has also introduced the Sustainable Banking Guiding Principles that banks are expected to use in conducting their businesses. The principles are voluntary and backed by the CBK and the Kenyan Bankers Association (KBA). The guideline requires banks to consider inclusiveness, social and environmental impact, resource utilisation and ethical issues in conducting their business.

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<sup>95</sup> Green Economy Strategy and Implementation Plan (GESIP) of 2016–2030 (G

<sup>96</sup> <https://www.greenbondskenya.co.ke/about>. Accessed on 16.06.2023.

<sup>97</sup> CMA Policy Guidance Note on Green Bonds.

<sup>98</sup> <https://www.nse.co.ke/wp-content/uploads/nse-listing-rules.pdf>. Accessed on 16.06.2023.

<sup>99</sup> <https://www.nse.co.ke/wp-content/uploads/green-bonds-guide-14.08.19-2.pdf>. Accessed on 16.06.2023.

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Moreover, CBK has also issued guidance on climate-related risk management.<sup>100</sup> Risk Management focuses on physical and transitional risks that Kenyan banks face due to climate change. Generally, in Kenya, the regulator and the private financial institutions have taken essential measures to embrace sustainable finance. The Kenyan banks and banking associations support the country's transformation to a more sustainable financial system.

## 5. Overview of the Ethiopian Context

### 5.1 Sustainable development as a development policy

The 1995 FDRE Constitution has guaranteed the right to inclusive and sustainable development. Article 43 of the Constitution bestows Ethiopian peoples, nations and nationalities the right to sustainable development.<sup>101</sup> The Constitution also recognises the right to a clean and healthy environment.<sup>102</sup> Furthermore, Article 92 of the Constitution expressly states that all development projects need to be aligned with the right of the people to live in a clean and healthy environment. “Government shall endeavour to ensure that all Ethiopians live in a clean and healthy environment.” It further provides that “The design and implementation of programs and projects of development shall not damage or destroy the environment.”

The Ethiopian Constitution protects environmental and social rights and obligates the government to consider sustainability in all its policies and strategies.<sup>103</sup> Therefore, other laws of the country are expected to impose sustainability requirements (ESG) on business entities and investors in Ethiopia. Some researchers indicate that Corporate Social Responsibility

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<sup>100</sup> <https://www.centralbank.go.ke/wp-content/uploads/2021/10/Guidance-on-Climate-Related-Risk-Management.pdf>.

<sup>101</sup> The Constitution of the Federal Democratic Republic Of ETHIOPIA, 1995. Article 44. The Right to Development I. The Peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular, have the right to improved living standards and to sustainable development. 2. Nationals have the right to participate in national development and, in particular, to be consulted with respect to policies and projects affecting their community. 3. All international agreements and relations concluded, established or conducted by the State shall protect and ensure Ethiopia's right to sustainable development. 4. The basic aim of development activities shall be to enhance the capacity of citizens for development and to meet their basic needs.

<sup>102</sup> Article 44.

<sup>103</sup> EN Stebek (2012). *The investment promotion and environment protection balance in Ethiopia's floriculture: the legal regime and global value chain* (Doctoral dissertation, University of Warwick): <https://wrap.warwick.ac.uk/56244/>

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(CSR) is included in many Ethiopian laws.<sup>104</sup> However, much more is needed to enforce the laws in practice.<sup>105</sup>

The Ethiopian Constitution also requires government policies and development efforts to give proper attention to empowering citizens and creating capabilities.<sup>106</sup> Elias stated that “the interpretation of Article 43(1) & (4) of Ethiopia’s Constitution –which requires the enhancement of capabilities of citizens for development so that they can meet their basic needs– reflects Sen’s capability approach to development, enhanced livelihoods and social justice.”<sup>107</sup> Elias indicates that the Constitution aspires to create citizens who are masters of their destiny and freedom as individuals and groups. The Constitution requires government policies and laws to discourage unsustainable, exploitative, environmentally degrading business practices. Financial laws of Ethiopia, therefore, should also be developed with the same intention.

Ethiopia introduced its green economy strategy in 2011. The climate-resilient green economy (CRGE) demands rapid and sustainable development to uplift Ethiopia into a middle-income country based on a carbon-free and climate-resilient economic model. The document indicates Ethiopia's plan to reduce greenhouse gas emissions by 64 % in 2030. The CRGE identified four primary areas of focus: agriculture, energy production, forester and energy efficient infrastructure and industrialisation.<sup>108</sup> The CRGE indicates that attracting funding is one of the strategies to achieve the aspired development. Therefore, the implementation of laws and guidelines is indispensable to this critical strategy. Ethiopia has yet to secure the funds from the Green Climate

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<sup>104</sup> Bereket Alemayehu Hagos (2022). ‘Legal Aspects of Corporate Social Responsibility in Ethiopia: A Sustainable Development Perspective’, *Journal of Sustainable Development Law and Policy (The)*, 13(2), 2–27.

<sup>105</sup> TB Ayana & WD Sima (2018). ‘Sustainable development laws in Ethiopia: Opportunities and challenges of their implementation’, *Journal of Sustainable Development Law and Policy (The)*, 9(2), 23–47.

<sup>106</sup> EN Stebek, (2016). ‘The constitutional right to enhanced livelihood in Ethiopia: Unfulfilled promises and the need for new approaches’, *Mizan Law Review*, 10(1), 126–176.

<sup>107</sup> Id., at 130.

<sup>108</sup> Federal Democratic Republic of Ethiopia, Green Economy Strategy, Available at [https://www.adaptation-undp.org/sites/default/files/downloads/ethiopia\\_climate\\_resilient\\_green\\_economy\\_strategy.pdf](https://www.adaptation-undp.org/sites/default/files/downloads/ethiopia_climate_resilient_green_economy_strategy.pdf).

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Fund established to support developing countries in their transition to a green economy.<sup>109</sup>

## **5.2 National Bank of Ethiopia's mandate and sustainable finance**

Article 51(4) of the 1995 Constitution provides that the federal government “shall formulate and execute the country's financial, monetary and foreign investment policies and strategies. As provided under Article 51(7), the federal government “shall administer the National Bank, print and borrow money, mint coins, and regulate foreign exchange and money in circulation; it shall determine by law the conditions and terms under which states can borrow money from internal sources.” Therefore, the power to administer and regulate the National Bank of Ethiopia (NBE) is exclusively within the federal government's jurisdiction.

The House of Peoples' Representatives (HoPR) is constitutionally empowered to “approve general policies and strategies of economic, social and development, and fiscal and monetary policy of the country.” HoPR is mandated to enact laws on matters relating to the local currency, the administration of the NBE, and foreign exchange. The power to execute the financial and monetary policies is given to the Council of Ministers. Generally, the federal government controls an essential power in the country's federal system by controlling the NBE and other critical policymaking and executive powers.

Proclamation No. 591/ 2008 is enacted according to Article 55(10) of the Constitution, and it expressly recognises that the NBE is an autonomous institution. However, the Bank is directly accountable to the prime minister, and the Bank's board must be appointed by the government, which may compromise the autonomy and independence of the Bank. The Proclamation contradicts the Constitution because it delegates the policymaking power of the HoPR to the executive body, i.e., the Council of Ministers, the National Bank, and the Prime Minister.

Article 4 of the Proclamation stipulates that the purpose of the NBE: “is to maintain a stable rate of price and exchange, to foster a healthy financial system and to undertake such other related activities as are conducive to the rapid economic development of Ethiopia.” Therefore, the NBE has a legal mandate beyond regulating and supervising the financial sector. The Bank has a vital role in formulating and implementing critical economic policies of the country. It is mandated to achieve stability of price and exchange rates and foster a healthy financial system. The Bank is also responsible for supporting

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<sup>109</sup> See <https://www.greenclimate.fund/countries/ethiopia>. Accessed on 06/09/ 2023.

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the country's economic development by taking important policy and legal actions. The Bank can thus be considered one of the country's most essential and influential policymakers, with a long and strong arm to execute laws and policies.

As indicated in the preceding paragraph, Article 4 of Proclamation No. 591/2008 provides for “*rapid economic development*” rather than *sustainable development*. This is inconsistent with the provisions of the Constitution. Therefore, it seems logical to argue that the NBE should follow the Constitution and consider sustainability rather than unsustainable rapid economic growth.

The NBE is also expected to use its regulatory power to ensure that inclusive and sustainable development should be the key pillars of its policies and laws. This is particularly true because the NBE has the legal power to approve new banking services and credit systems to be introduced by commercial banks.<sup>110</sup> The NBE can also initiate important policies to encourage commercial banks to promote sustainable finance. A positive development in this regard is that the NBE has recently developed an inclusive finance policy expected to partly solve the lack of banking services for most of the population.<sup>111</sup> Therefore, the NBE is expected to continue developing critical guidelines and policies to transform the financial industry into a more sustainable path.

The NBE decides in many ways on the allocation of resources and finance, making it one of the crucial institutions that determine the integration of sustainability risks in all decisions to be made by the financial institutions. The role of Central Banks in greening investments is vital.<sup>112</sup> Central Banks play essential roles in developing countries' financial markets as they often have policymaking power. NBE is legally mandated to intervene in policymaking and influence the economy's direction.

The NBE may require banks to consider sustainability risk in their credit, liquidity, market, and operational risk calculations. The Bank may also require banks to include data on their loan portfolio that show their investment from ESG perspectives. However, the NBE has yet to introduce laws encouraging banks to consider sustainability risks in their strategic decisions. Research that

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<sup>110</sup> A Proclamation to Amend the National Bank of Ethiopia Establishment, Proclamation No. 591/2008, Article 5.

<sup>111</sup> National Bank of Ethiopia, (2017), National Financial Inclusion Strategy.

<sup>112</sup> U. Volz (2017). On the role of central banks in enhancing green finance. Available at [https://eprints.soas.ac.uk/23817/1/On\\_the\\_Role\\_of\\_Central\\_Banks\\_in\\_Enhancing\\_Green\\_Finance\(1\).pdf](https://eprints.soas.ac.uk/23817/1/On_the_Role_of_Central_Banks_in_Enhancing_Green_Finance(1).pdf). Accessed on 06/ 09/ 2023.

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examined green investments has discovered that green investment and green marketing are significant for the success of manufacturing industries in Ethiopia.<sup>113</sup> The same research has shown that the lack of clear guidelines and laws that help qualify projects as green investments has hindered the development of green investments in Ethiopia. Ethiopian banks have not yet introduced internal policy documents that deal with corporate social responsibilities and related issues.<sup>114</sup>

Although the NBE has issued a Banking Risk Management Guideline that all banks must observe,<sup>115</sup> However, the guideline needs to mention climate change and related risks. This indicates that NBE has not yet started to give due attention to potential risks such as climate change and related risks. Ethiopian banks are exposed to physical danger because of extreme weather that affects the economy significantly. The banks are also exposed to problems in locations where there are conflicts, and other problems include drought and a growing scramble for limited resources. Therefore, the NBE needs to pay due attention to the risks associated with climate change.

Despite gaps in NBE's legal frameworks, the new Commercial Code of Ethiopia (2021) applies to all business entities, including financial institutions. Article 316(2) of the new Commercial Code provides that the board of directors shall consider sustainability. The law also requires the board to assess the impact of its business decisions on the community and the environment.<sup>116</sup> Therefore, the NBE is expected to enforce this vital requirement of the Commercial Code. The Bank may also introduce detailed guidance and circulars that help to implement these requirements. Furthermore, the new investment law states the legislation's contribution to environment and social development as one of its objectives.<sup>117</sup> However, the Proclamation does not provide a detailed explanation of how this objective is to be achieved and how this is to be enforced by the regulations.

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<sup>113</sup> Y Zhang & HB Berhe (2022). 'The impact of green investment and green marketing on business performance: The mediation role of corporate social responsibility in Ethiopia's Chinese textile companies', *Sustainability*, 14(7), 3883.

<sup>114</sup> Alemayehu Yismaw Demamu (2020). 'Towards Effective Models and Enforcement of Corporate Social Responsibility in Ethiopia', *Mizan Law Review*, 14(2), 276-309.

<sup>115</sup> National Bank of Ethiopia, available at: <https://nbe.gov.et/>

<sup>116</sup> Commercial Code of Ethiopia, Proclamation No 1243/2021.

<sup>117</sup> Investment Proclamation No. 1180/2020, Article 5(8). *See also* Article 54 that provides: "All investors shall carry out their investment activities in compliance with the Laws of the country. 2/ All investors shall give due regard to social and environmental sustainability values including environmental protection standards and social inclusion objectives in carrying out their investment projects."

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It can be argued that the NBE has the legal mandate to enact detailed directives that enhance sustainable development as required by the Constitution and other related laws. The Bank has the legal mandate to make sure banks do not provide financing to businesses that do not meet the objectives of the investment proclamation. Hereunder, we briefly discuss how environmental protection laws can be used to promote sustainable finance in Ethiopia.

### **5.3 Environment Impact Assessment and Sustainable Finance**

The discussion in Section 5.2 above shows the lack of detailed laws that require the financial industry to take ESG seriously. However, this does not show the total absence of laws that apply to financial institutions. There are environmental laws that financial institutions should comply with in the course of conducting their businesses.

The Environment Impact Assessment Proclamation (Proclamation No. 299/2002), which requires all investment projects to conduct an Environmental Impact Assessment (EIA), is one of the laws that banks should pay attention to. The Proclamation requires an environmental impact assessment before a project is launched.<sup>118</sup> Investors must present an investment license, among other documents, in their application for funding from Banks. Therefore, the investor can ask for bank financing after first being registered as an investor by the Investment Authority. The Investment Authority cannot issue the license without the confirmation of the Environment Authority that an environmental impact assessment has been conducted. Hence, Banks are expected not to grant finance to investors who do not produce Environmental Impact Assessment. However, this process is not straightforward and needs an empirical investigation to learn more about its practical aspects.

The Environment Authority requires investors to produce a comprehensive EIA report. Article 8 embodies an exhaustive list of activities that investors should include in the EIA document. Providing data that the Authority can use to determine the impact of the investment on the environment, the emissions and other pollutant contents that the asset may release, and the energy consumption are some of the crucial requirements that the EIA should include.<sup>119</sup>

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<sup>118</sup> Article 3(1) reads: “Without authorisation from the Authority or the relevant regional environmental agency, no person shall commence implementation of any project that requires environmental impact assessment as determined in a directive issued under Article 5 of this Proclamation.”

<sup>119</sup> Article 8 provides:

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The Environment Authority can at least screen some investments by declining to issue a license that they need to obtain fund from banks. Yet, the concept of sustainable finance aspires to achieve far beyond such procedures. For example, the EIA Proclamation does not require banks to assess the environmental impact of the projects to which they provide finance. Moreover, the EIA is limited only to the ecological aspect of the ESG, and its scope is quite limited.

Ethiopia has not yet introduced policies and laws that directly target sustainable finance. The NBE is a regulator and supervisor of the banking industry and is responsible for leading the transition to green and sustainable development. Therefore, the NBE has to play the leading role in this regard. The bank may start by enacting general principles in consultation with the banks and other financial institutions. The NBE may also require banks to include how they deal with climate change risks in their annual report. The bank may draw from the experiences in Kenya, Nigeria and South Africa in this regard. Private banks and the association of banks in Ethiopia also need to act and work towards encouraging banks to adopt international standards. It may also develop its guidance by following the comparative good practices of other African countries.

Banks in Ethiopia are expected to consider joining international networks and signing international principles and guidelines that provide minimum standards. Considering the recent move to open the Ethiopian financial market to global investors, joining these international networks that provide guidelines and minimum standards concerning ESG will increase the possibility of obtaining funding and reliable international partners. International Banks will prefer to work with local banks with reasonable policies and guidelines about ESG, and joining these international networks and conventions is one way to indicate a commitment to ESG. Individual

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- 1) “An environmental impact study report shall contain sufficient information to enable the Authority or the relevant regional environmental agency to determine whether and under what conditions the project shall proceed.”
  - 2) “An environmental impact study report shall contain, as a minimum, a description of (a) the nature of the project, including the technology and processes to be used; (b) the content and amount of pollutants that will be released during implementation as well as during operation; (c) source and amount of energy required for operation; (d) information on likely trans-regional impacts; ( e) characteristics and duration of all the estimated direct or indirect, positive or negative impacts. (f) measures proposed to eliminate, minimise, or mitigate adverse impacts; (h) a contingency plan in case of an accident; and (i) procedures of self-auditing and monitoring during implementation and operation.”
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banks may also develop internal procedures to avoid risks from climate change and related policy changes that affect the global economy. In light of the discussion above, Ethiopia is lagging behind the level that is expected when it comes to sustainable finance.

## 6. Conclusion and the Way Forward

African Union and its member countries are introducing different policies and strategies to contribute their share to mitigate climate change and adapt to the changing ecology. The most important question is how to finance these projects to mitigate and adapt to climate change and other environmental changes. African countries have limited public resources to allocate sufficient financing for these projects. The funds coming from international fund providers are also far below the demand. It is becoming imperative that the private sector be involved in building a sustainable economy. However, this requires a well-designed policy approach. The financial industry should be the primary target in mobilising resources from the private market.

The financial market has two responsibilities: to generate financing for sustainable projects that help to deal with climate change and to develop a model that protects the financial industry from climate-related risks. African countries need to take measures to protect their financial industry from risks that emanate from climate change. Therefore, the African Union and its member states should be aware of the need to accelerate their actions to ensure that the continent is developing a sustainable economy.

To this end, the African Union is expected to give due attention to sustainable finance. The newly introduced AFCFTA also needs to be more attentive to the possible impacts of trade on the environment. Therefore, it must be better designed to deal with the environmental issues. The Pan African Investment Code is also criticized because it fails to adequately cover the ecological problems.

The African Union needs the legal and institutional framework to introduce binding laws that regulate the financial sector on the continent. Researchers have emphasized the need for a holistic, coordinated, and binding legal instrument that promotes due diligence in business in Africa.<sup>120</sup> The Union may provide political support to sustainable finance, introduce model laws and principles, provide technical support, and coordinate efforts to develop sustainable finance in the region. These actions will help to generate the

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<sup>120</sup> DS Olawuyi, & O Abe, (2022). *Business and human rights law and practice in Africa*, Edward Elgar Publishing. Cheltenham UK.

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required funding for sustainable projects and prevent the financial landscape from risks that relate to climate change. The African Union needs to pay attention to the issue, provide more forums and discussions on this important topic and provide technical and strategic support in the pursuits of member countries towards sustainable finance.

Some African countries are introducing crucial laws and policies to encourage the financial sector to embrace a more sustainable path. Good practices include South Africa, Kenya, Nigeria, Morocco, Mauritania, Ghana, and Egypt, which have joined international forums and signed international guidelines providing a sustainable finance framework. As highlighted earlier, some countries have also introduced voluntary and mandatory guidelines regulating sustainable finance.

In South Africa, the Constitution mandates reserve banks to provide a policy and legal framework to ensure the financial system's sustainability. The Nigerian Central Bank lacks a clear mandate to intervene in the country's policymaking. The Kenyan Constitution has included sustainable development as one of the values government authorities should consider in their decisions. The Kenyan Constitution expressly demands that the government must advance sustainable development as its objective. Government authorities are constitutionally required to ensure sustainability is considered in all their decisions.

The Kenyan financial sector is also active in international forums. Kenyan banks have subscribed to significant international associations and signed essential guidelines. Internally, Kenyan banks and other financial market actors have introduced principles that they adhere to enhance sustainability. The Kenyan financial regulators are also active in this regard, directly and indirectly supporting the financial industry in moving to a more sustainable path. Kenya has yet to introduce taxonomies and other vital guidelines; however, it has already flexed its muscle to reorient financial flow into more green energy and consider investments' environmental and social impact.

Kenya is also among the leading countries in green bonds. Kenya is the top East African country to issue green bonds. The NSE has introduced guidelines to define and regulate green bonds. Kenya may also motivate other East African nations, particularly members of the East African Economic Community, to join the Kenyan experience by introducing voluntary and mandatory guidelines to move to more sustainable finance.

South Africa has introduced a taxonomy that helps the development of sustainable finance. The taxonomy modelled after the EU taxonomy will provide clear guidance on what amounts to sustainability and helps avoid greenwashing. South African banks have also joined critical international

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forums and subscribed to guidelines that set minimum standards that banks should apply in pursuing their business. The green bond market is also growing, and the Johannesburg Exchange Market has introduced a green segment that scrutinises the green bond issuance process. The Banking Industry has also introduced general principles that bind all member banks.

Nigeria and Ghana are also introducing guidelines and standards that help the move to sustainable finance. Generally, African countries must introduce strategies and laws that help them avoid path dependency and reorient finance to more sustainable investment. African Union should also provide a platform for coordination and cooperation and, when necessary, harmonised policies and laws that help the region benefit from global development funds and attract investors interested in green projects.

The National Bank of Ethiopia has the legal mandate to introduce laws that enhance sustainability in the country. However, the regulator has yet to introduce laws directly dealing with sustainable finance. There are relevant commercial, investment, and environmental laws about ESG that regulators and commercial banks should consider and implement. Ethiopia should consider introducing more detailed laws that enhance sustainability in the financial sector to benefit from international green finance and protect the financial industry from ESG-related risks. Ethiopian banks should also learn from other African banks and introduce their own internal guidelines and principles. Ethiopian banks will also benefit from joining international networks and signing international agreements that set minimum standards that banks should take in conducting their businesses.

To sum up, Africa is striving to deal with many problems caused by the climate crisis. This needs resources to deal with multifaceted social, environmental, and governance challenges. The participation of the private sector is vital to achieving both UNSDG and Agenda 2063. African countries need to develop a harmonised and integrated policy approach to deal with their problems. They must introduce policies that reflect their shared vision and create a convenient investment environment to motivate investors from the continent and from abroad to invest in the continent more sustainably. Most foreign investments in Africa focus on short-term profit-making and mineral exploitation. This needs to be changed, and it can be changed only when African countries introduce appropriate policies and laws that reward investments that focus on sustainable investment. ■

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