Corporate Sustainability Disclosure Regulatory Frameworks in Southeast Asia: A Comparative Legal Analysis of Malaysia and Indonesia

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ABSTRACT

The global imperative for corporate sustainability disclosure has accelerated significantly in the twenty-first century, driven by recognition that market-based mechanisms alone are insufficient to prevent societal and ecological harm. This article examines and compares the legal and regulatory frameworks governing corporate sustainability disclosure in Malaysia and Indonesia, two of Southeast Asia's largest economies. The article analyses Malaysia's multi-pillar structure comprising Bursa Malaysia's Listing Requirements, the Malaysian Code on Corporate Governance 2021, the Companies Act 2016, and the Companies Commission of Malaysia Act 2001, against Indonesia's POJK 51/2017, SEOJK 16/2021, and the evolving national taxonomy (TKBI Version 2.0 (February 2025) and TKBI Version 3.0 (February 2026)). Both jurisdictions are undergoing transformation towards alignment with the International Sustainability Standards Board (ISSB) IFRS S1 and IFRS S2 standards. The article examines critical developments from 2024 to 2026, including Malaysia's National Sustainability Reporting Framework and Indonesia's ratification of its national Sustainability Disclosure Standards (PSPK 1 and PSPK 2). A comparative analysis reveals structural divergences in scope, enforcement, directors' duties, and SME coverage. The article argues that a robust, comparative legal analysis is needed to guide law reform, bridge regulatory gaps, and enable regional harmonisation. This paper concludes with recommendations for legislative reform in both jurisdictions, with particular emphasis on codifying directors' sustainability duties and extending mandatory reporting obligations to non-listed and small and medium enterprises**.**

Keywords— Corporate Sustainability Disclosure; ESG Reporting; Malaysia; Indonesia; ISSB; Directors' Duties; Bursa Malaysia; POJK 51; IFRS S1 And S2; Comparative Law; Southeast Asia

INTRODUCTION

The rapid deterioration of planetary ecosystems, the acceleration of climate change, and rising social inequality have fundamentally altered the expectations placed upon corporations in the twenty-first century. The traditional paradigm that equated corporate purpose exclusively with shareholder value maximisation has been subjected to sustained scholarly, regulatory, and public pressure.[1] In its place, a broader conception of corporate accountability has emerged, one that encompasses environmental stewardship, social responsibility, and sound governance, collectively referred to as ESG considerations.[2] Sustainability disclosure, the formal reporting of a company's policies, practices, performance, and risks in relation to ESG matters, serves as the primary mechanism through which this broader accountability is operationalised. Without credible, standardised, and verifiable disclosure, investors cannot adequately price sustainability-related risks, policymakers cannot monitor regulatory compliance, and stakeholders cannot hold corporations accountable for their societal and environmental impact.[3]

As Sjåfjell observed, the inability to manage companies and society within planetary boundaries to secure a sustainable future risks societal collapse.[4] This stark warning underscores the legal and institutional imperative for robust corporate sustainability reporting frameworks. Furthermore, the United Nations 2030 Agenda for Sustainable Development explicitly recognises reporting as one of five essential elements for

implementing the Sustainable Development Goals (SDGs), requiring participation from all corporations regardless of size or listing status.[5] Against this backdrop, Southeast Asia presents a particularly important and under-examined region for comparative legal research. Malaysia and Indonesia, as the third- and fourth-largest economies in ASEAN, respectively, occupy essential positions in regional supply chains, investment flows, and ecological systems. Both jurisdictions have developed sustainability disclosure regulatory frameworks over the past decade, and both are currently undergoing transformative reforms in alignment with the International Sustainability Standards Board (ISSB) global baseline standards, namely IFRS S1 (General Requirements for Disclosure of Sustainability-related Financial Information) and IFRS S2 (Climate-related Disclosures).[6]

This article makes four primary contributions to the literature. First, it provides a comprehensive and up-to-date account of the legal architecture governing sustainability disclosure in both jurisdictions, including developments up to May 2026. Second, it documents and analyses the most significant regulatory reforms — Malaysia's National Sustainability Reporting Framework (NSRF) launched in September 2024, and Indonesia's ratification of its national Sustainability Disclosure Standards (PSPK 1 and PSPK 2) in July 2025. Third, it offers a systematic comparative analysis that reveals important structural differences. Fourth, it articulates a normative reform agenda, arguing for the codification of directors' sustainability duties and the extension of mandatory reporting to non-listed and small and medium enterprises.

Global and Regional Context: The Rise of Mandatory Sustainability Disclosure

The evolution of sustainability reporting from a voluntary, public-relations-oriented activity to a mandatory regulatory obligation represents one of the most significant structural shifts in corporate law in recent decades. This shift has been driven by three converging forces: the global climate agenda, investor demand for decision-useful ESG information, and the emergence of authoritative international standard-setting bodies.[7] As documented by Wang (2023), market self-regulation and UN-backed frameworks (such as the PRI and TCFD) have systematically shifted corporate accountability from ad-hoc public relations toward institutionalised fiduciary duty, establishing climate risk as a core component of financial materiality.[8]

The International Standard-Setting Architecture

The establishment of the International Sustainability Standards Board (ISSB) under the IFRS Foundation in 2021 represented a defining moment in the globalisation of sustainability reporting. The ISSB published the final versions of IFRS S1 and IFRS S2 in June 2023, providing for the first time a globally coherent, investor-focused baseline for sustainability disclosure.[9] IFRS S1 requires entities to disclose information about sustainability-related risks and opportunities that could affect the entity's prospects, while IFRS S2 focuses specifically on climate-related disclosures, including governance, strategy, risk management, and metrics and targets related to physical and transition climate risks.[10]

The IFRS Foundation has documented that over thirty jurisdictions have adopted or announced plans to adopt the ISSB Standards, including Australia, Canada, Hong Kong, Japan, Singapore, South Korea, the United Kingdom, and, as documented in this article, both Malaysia and Indonesia. This rapid uptake reflects recognition that a fragmented, jurisdiction-specific approach to sustainability reporting undermines the comparability and reliability of information needed by global capital markets.[11]

The ASEAN Dimension

Within Southeast Asia, the ASEAN Taxonomy for Sustainable Finance (Version 2, 2023) provides a regional classification framework for sustainable economic activities, designed to complement national-level sustainability reporting requirements.[12] However, adoption across ASEAN member states remains uneven due to varying levels of economic development and regulatory readiness. Singapore has emerged as the regional frontrunner; the Singapore Exchange (SGX) introduced climate reporting for listed companies starting in FY 2022 on a "comply-or-explain" basis, which has since transitioned to mandatory reporting.[13] Furthermore, Singapore's regulatory bodies have formalised a roadmap to extend mandatory climate

disclosures to large, non-listed companies starting in FY 2030.[14] Malaysia has now become the only ASEAN jurisdiction recognised by the IFRS Foundation as adopting ISSB Standards with limited transition, representing a significant milestone for Malaysia's sustainability reporting landscape.[15]

Indonesia, as the world's fourth most populous country and a G20 member, has historically followed a different regulatory route, prioritising an 'inside-out' (impact materiality) approach to sustainability reporting that emphasises corporate impacts on society and the environment, rather than the 'outside-in' (financial materiality) approach of IFRS S1/S2, which assesses how external sustainability risks affect corporate financial performance. A qualitative analysis mapping ESG's social and environmental configurations in Indonesia explicitly notes that while the corporate landscape is adjusting to "outside-in" investor paradigms, the existing domestic framework (POJK 51/2017) has heavily protected resource allocation for community welfare and social impact — the signature of "inside-out" materiality.[16] The convergence of these two approaches in Indonesia's emerging PSPK framework represents a significant and complex policy challenge. Recent studies examining Indonesian corporate behaviour (such as the palm oil, aviation, and financial sectors) demonstrate that G20 commitments are forcing Indonesia to bridge these two approaches.[17] The Indonesian Institute of Accountants (Ikatan Akuntan Indonesia or IAI) has established roadmaps to converge local GAAP with IFRS S1 and S2, pushing companies into an era of "double materiality", where they must blend their traditional inside-out reporting with the incoming outside-in financial risk disclosures.

Malaysia's Corporate Sustainability Disclosure Regulatory Framework

Malaysia's approach to corporate sustainability disclosure is characterised by a multi-pillar approach comprising four primary regulatory instruments, resulting in fragmented disclosure regimes across different corporate structures. Each pillar is anchored to a distinct statutory or regulatory framework, imposing tiers of obligations that range from highly prescriptive mandatory compliance to voluntary, principle-based reporting. The first pillar is anchored in the Bursa Malaysia Listing Requirements, which mandate strict, progressive sustainability disclosures for public listed companies (PLCs) across both the Main and ACE Markets.[18] The second pillar is driven by the Securities Commission's Malaysian Code on Corporate Governance (MCCG), which utilises an "apply and explain" methodology to enforce integrated reporting principles primarily among elite, large-cap corporations.[19] The third pillar rests upon the Companies Act 2016, offering a statutory, though historically underutilised and voluntary pathway for business review reporting across both public and private corporate sectors.[20] The fourth pillar comprises the overarching regulatory oversight of the Companies Commission of Malaysia (SSM), which provides the statutory enforcement underpinning and is increasingly leveraged to capture large, non-listed companies.[21] The interaction between these distinct pillars has historically generated a complex, siloed regulatory landscape, which is currently being rationalised through the phased implementation of the National Sustainability Reporting Framework (NSRF) reforms to establish a singular, baseline standard across the economy using IFRS S1 and IFRS S2.

Pillar 1: Bursa Malaysia Listing Requirements — the Mandatory Core

The primary mandatory instrument for sustainability disclosure in Malaysia is Paragraph 9.45(2) of the Bursa Malaysia Main Market Listing Requirements, supplemented by Practice Note 9 (PN9). These provisions require all companies listed on Bursa Malaysia's Main Market and ACE Market to include a Sustainability Statement in their annual reports.[22]

The Sustainability Statement must address six categories of information: first, the governance structure for managing economic, environmental, and social risks; second, the scope of the statement and the basis for that scope; third, the material sustainability matters and the process by which they are identified; fourth, the policies adopted to manage those material sustainability matters; fifth, the measures and actions taken to address those matters; and sixth, indicators and metrics demonstrating how sustainability matters have been managed over the reporting period.

Bursa Malaysia has published a Sustainability Reporting Guide to assist listed issuers in complying with these requirements.[23] A structural limitation of Pillar 1 is that its mandatory scope is confined exclusively to listed

companies. The approximately 900,000 non-listed companies incorporated under the Companies Act 2016 are entirely outside the scope of Bursa Malaysia's Listing Requirements.[24] This represents a significant gap, particularly given that non-listed companies account for a substantial proportion of Malaysia's total economic output and greenhouse gas emissions.

Pillar 2: Malaysian Code on Corporate Governance 2021 — Integrated Reporting for Large Companies

The Malaysian Code on Corporate Governance (MCCG), most recently revised in 2021, represents the second pillar of Malaysia's sustainability disclosure framework. The MCCG is issued by the Securities Commission Malaysia and operates on an 'apply and explain' basis, requiring companies to either apply its principles and practices or explain their reasons for non-application.[25] Practice 12.2 of the MCCG 2021 is the central sustainability-related provision, requiring that large companies adopt an integrated reporting approach as their primary annual report. The MCCG defines 'large companies' as companies within the FTSE Bursa Malaysia Top 100 Index or companies with a market capitalisation of RM 2 billion or more. For all other companies, integrated reporting is encouraged but not mandated. The evolution of the MCCG's treatment of sustainability is notable. The original 2000 Code made no reference to sustainability. The 2017 revision introduced integrated reporting as a voluntary best practice. The 2021 revision elevated integrated reporting to a mandatory obligation for large companies and added Paragraph 2.4(b), requiring the integration of sustainability considerations into strategy and operations, indicating the greater recognition of the importance of integrating sustainability practices in companies' operations.

Pillar 3: Companies Act 2016 — the Business Review Report

Section 252(3) and Part II of the Fifth Schedule of the Companies Act 2016 (CA 2016) constitute the third pillar of Malaysia's sustainability disclosure framework.[26] These provisions authorise the board of directors to include a Business Review Report (BRR) in the directors' report, covering eight categories of information: a fair review of the company's business; principal risks and uncertainties; development and performance during the financial year; the position of the company at year-end; key performance indicators; environmental matters, including the company's impact on the environment; employee affairs; and social and community issues.

The BRR is conceptually significant for two reasons. First, it applies to all companies incorporated under the CA 2016 — listed and non-listed alike, thereby providing a potential mechanism for extending sustainability disclosure obligations to the non-listed sector. However, the critical limitation of the BRR provision is that it is entirely voluntary. Section 252(3) uses the permissive word 'may', meaning that the board of directors may include a BRR in the directors' report but is under no legal obligation to do so.

Pillar 4: Companies Commission of Malaysia Act 2001 — Corporate Responsibility Underpinning

The Companies Commission of Malaysia Act 2001 (as amended in 2015) provides the overarching statutory underpinning for corporate responsibility and sustainability obligations applicable to all corporations.[27] The CCM Act 2001 complements the other three pillars by establishing the regulatory oversight framework within which the CA 2016, the MCCG, and the Bursa Malaysia Listing Requirements operate. Significantly, the December 2024 amendments to the Bursa Malaysia Listing Requirements contemplated that the CCM would assume responsibility for implementing the NSRF requirements for non-listed large companies with annual revenue of RM 2 billion and above, commencing from 2027.[28]

The enforcement structure that underpins Malaysia's sustainability reporting framework is based on statutory powers granted to Bursa Malaysia Securities Berhad and the Companies Commission of Malaysia. For Public Listed Companies (PLCs), failure to include a compliant Sustainability Statement under Paragraph 9.45(2) and Practice Note 9 of the Main Market Listing Requirements (MMLR) triggers disciplinary proceedings under Chapter 16 of the MMLR. Pursuant to Paragraph 16.19, Bursa Malaysia has a clear framework of administrative and legal sanctions against defaulting listed issuers and their directors personally as set out below:

1. Public Reprimand: Issuance of public reprimands published across exchange bulletins;

2. Mandatory Directives: Formal directives requiring the submission of revised, rectified, or independently audited sustainability disclosures within a specified timeframe;

3. Financial Penalties: Administrative fines imposed under Paragraph 16.19(1)(b) reaching up to RM 1 million per breach against the listed issuer and its directors individually; and

4. Trading Suspension and Delisting: In cases of repeated non-compliance or persistent failure to rectify unverified or misleading statements, Bursa Malaysia may exercise powers under Chapter 16 to suspend trading in the issuer's securities or initiate formal delisting procedures.

Under the National Sustainability Reporting Framework (NSRF) implemented in December 2024, the Securities Commission Malaysia and Bursa Malaysia have explicitly incorporated verification standards into the regulatory enforcement mechanism. Providing unverified, false, or materially misleading ESG/climate information in annual reporting statements constitutes a regulatory offence under Section 369 of the Capital Markets and Services Act 2007 (CMSA). Conviction under Section 369 exposes listed issuers and responsible directors to criminal liability, including imprisonment for a term not exceeding 10 years and a statutory fine not exceeding RM 3 million.

For non-listed entities, enforcement shifts to the Companies Commission of Malaysia (SSM) under the Companies Act 2016 (CA 2016). Where non-listed companies elect to publish a Business Review Report pursuant to Section 252(3) and Part II of the Fifth Schedule, or when large non-listed enterprises (NLEs) fall under Group 3 of the NSRF from 2027 onwards, statutory compliance is enforced under Part V Subdivision 2 of the CA 2016. Directors who approve financial statements, directors' reports, or filings containing false or materially misleading sustainability statements or omissions commit an offence under Section 591 or Section 592 of the CA 2016. Upon conviction, responsible officers face criminal liability comprising imprisonment for a term not exceeding 10 years, a statutory fine not exceeding RM 3 million, or both.

E. Directors' Duties and the Sustainability Gap in Section 213 CA 2016

A critical and persistent gap in Malaysia's sustainability disclosure framework is the absence of any explicit directors' duty in relation to sustainability. Section 213(1) of the CA 2016 imposes a general duty on directors to exercise their powers 'for a proper purpose and in good faith in the best interest of the company.' However, the concepts of 'proper purpose,' 'good faith,' and 'best interest of the company' are not defined to expressly include sustainability considerations. This gap has been the subject of sustained academic critique. Mustafa Khan, Mohd Ali, and Shaik Md Noor Alam have argued that the elements of Section 213(1) should only be considered fulfilled when directors have given genuine consideration to material sustainability factors in their decision-making.[29] This proposed 'sustainability duty' would not require directors to achieve any particular sustainability outcome but would impose an obligation, a duty to consider that is analogous to the duty of care and skill established in Re Barings plc (No. 5)[30], a United Kingdom decision that has been applied by Malaysian courts.

Malaysian jurisprudence has evolved the concept of directors' duties in ways amenable to extension. In Tengku Dato' Ibrahim Petra v Petra Perdana Bhd[31], the Federal Court affirmed that directors' duties combine subjective and objective elements and serve to protect not only shareholders but also those who deal with the company. The Australian case of Abrahams v Commonwealth Bank of Australia [32], in which shareholders successfully applied under section 247A of the Corporations Act 2001 (Cth) to inspect internal board documents concerning the bank's financing of fossil fuel projects and their consistency with its climate commitments, has been cited as persuasive authority in the Malaysian context for the use of shareholder inspection rights to scrutinise directors' climate-related decision-making.

Indonesia's Corporate Sustainability Disclosure Regulatory Framework

Indonesia's approach to corporate sustainability disclosure has historically been characterised by a more

centralised, regulator-driven model compared to Malaysia's multi-pillar structure. The primary regulatory body is the Otoritas Jasa Keuangan (OJK), Indonesia's Financial Services Authority,[33] which has developed a comprehensive and progressively more demanding sustainability reporting regime since 2017.

A. Pillar 1: POJK 51/2017 — the Statutory Foundation

OJK Regulation No. 51/POJK.03/2017 (POJK 51/2017), entitled 'Application of Sustainable Finance to Financial Services Institutions, Issuers, and Publicly Listed Companies,' constitutes the cornerstone of Indonesia's mandatory sustainability reporting framework.[34] POJK 51/2017 applies to a broad range of entities including banks, insurance companies, financial institutions, securities firms, investment managers, issuers, and public companies, making it in certain respects broader in corporate scope than Malaysia's Bursa Malaysia-focused framework.

POJK 51/2017 imposes two primary mandatory obligations on covered entities. The first is the preparation and submission of a Sustainable Finance Action Plan (Rencana Aksi Keuangan Berkelanjutan or RAKB), which requires sustainability to be integrated into business strategy rather than treated as a peripheral reporting exercise. The second is the preparation and public disclosure of an annual Sustainability Report (SR), detailing the entity's ESG performance. POJK 51/2017 adopts an 'inside-out' perspective — it focuses on how the entity's business operations affect external stakeholders, communities, ecosystems, and the broader environment, standing in contrast to the 'outside-in' approach of IFRS S1/S2.

B. Pillar 2: SEOJK 16/2021 — Technical Standardisation

OJK Circular Letter No. 16/SEOJK.04/2021 (SEOJK 16/2021), entitled 'Guidelines on the Form and Content of the Annual Report of Issuers or Public Companies,' defined the 'how' of sustainability reporting by mandating a standardised format and table of contents for sustainability disclosures within annual reports.[35] SEOJK 16/2021 specifies mandatory Key Performance Indicators (KPIs) that covered entities must disclose, including energy intensity, waste management metrics, and workforce gender diversity metrics. While POJK 51/2017 is the legal umbrella for sustainable finance, SEOJK 16/2021 acts as the critical regulatory enforcement tool that transformed Indonesia from a broad principles-based regime to a KPI-driven framework. The technical blueprint (Appendix II) with more than 50 measurement items, including energy intensity, Scope 1/2 GHG emissions, and workforce gender diversity, directly improved data comparability for Indonesian issuers compared to the GRI and ASEAN Corporate Governance Scorecard (ACGS) benchmarks. However, academic and market analysis identifies a significant structural constraint: third-party external assurance is not mandatory under SEOJK 16/2021.[36] This approach contributes to low corporate uptake of independent verification, presenting continuing challenges for international investors regarding data accuracy and reliability.[37]

In Indonesia, the Financial Services Authority (Otoritas Jasa Keuangan or OJK) exercises regulatory oversight and supervisory authority under Law No. 21 of 2011 on the Financial Services Authority, as amended by Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (UU P2SK).

Under Article 13 of POJK 51/2017, failure to submit or properly prepare the Sustainable Finance Action Plan (RAKB) or the Sustainability Report (Laporan Keberlanjutan) triggers administrative sanctions in the form of formal written reprimands or warnings (teguran atau peringatan tertulis). However, legal scholars note that POJK 51/2017 does not codify explicit pecuniary fines or license revocations directly within Article 13 for reporting defaults.[38]

Pillar 3: The Indonesia Sustainable Finance Taxonomy (TKBI) — Anti-Greenwashing Classification

To address the growing problem of greenwashing, the Indonesian government developed the Indonesia Sustainable Finance Taxonomy (Taksonomi Keuangan Berkelanjutan Indonesia or TKBI). The TKBI Version 2.0 (February 2025) operates through a traffic-light classification system that categorises economic activities as Green (fully sustainable), Transition (improving towards sustainability), or Not Eligible. TKBI Version 3.0

(February 2026) expands coverage to construction, agriculture, and other sectors as well as approximately 537 additional KBLI (Indonesian Standard Industrial Classification) codes. The launch of TKBI represents a pivotal regulatory shift from voluntary green definitions to a structured ATSF standard designed to curb greenwashing across domestic capital markets. Operating on OJK's 'Rumah Tumbuh' (growing house) design philosophy, TKBI progressively expanded its technical screening criteria (TSC) across Indonesia's key Nationally Determined Contribution (NDC) sectors. Importantly, OJK establishes a legal requirement that financial institutions and public issuers support sustainability claims with precise technical standards rather than unverified self-reporting by integrating TKBI's quantitative thresholds into mandatory disclosure regimes under Law No. 4/2023 (UU P2SK).[39]

Pillar 4: Global Alignment — the IFRS S1/S2 Integration and the PSPK

The most transformative development in Indonesia's sustainability reporting framework in recent years has been the decision to adopt national sustainability disclosure standards based on IFRS S1 and IFRS S2. This process was initiated by the Institute of Indonesia Chartered Accountants (Ikatan Akuntan Indonesia or IAI), which established the Indonesian Sustainability Standards Board (Dewan Standar Keberlanjutan or DSK IAI) in November 2023. On 1 July 2025, the DSK IAI formally ratified the national Sustainability Disclosure Standards, designated as PSPK 1 (General Requirements for Disclosure of Sustainability-related Financial Information, based on IFRS S1) and PSPK 2 (Climate-related Disclosures, based on IFRS S2). A national launching ceremony was held on 11 August 2025, attended by Bank Indonesia, the Ministry of Finance, and the OJK. The PSPK 1 and PSPK 2 standards are scheduled to become effective on 1 January 2027, with early adoption permitted.[40]

A notable feature of Indonesia's approach is the deliberate departure from one aspect of IFRS S2: unlike the ISSB standard, Indonesian entities will not be required to disclose Scope 3 greenhouse gas emissions during the initial implementation period. The DSK IAI has indicated it will review the Scope 3 requirement following a post-implementation assessment from 2027 to 2029.[41]

CURRENT DEVELOPMENTS: MALAYSIA AND INDONESIA IN TRANSITION (2024–2026)

Malaysia: The National Sustainability Reporting Framework and IFRS S1/S2 Adoption

Malaysia's regulatory landscape underwent its most significant transformation in September 2024, when the Securities Commission Malaysia (SC), in its capacity as Chair of the Advisory Committee on Sustainability Reporting (ACSR), launched the National Sustainability Reporting Framework (NSRF) on 24 September 2024.[42] The NSRF formally adopts IFRS S1 and IFRS S2 as the baseline sustainability disclosure standards for companies in Malaysia. The IFRS Foundation has recognised Malaysia's NSRF as the only ASEAN jurisdiction adopting the ISSB Standards with limited transition. The NSRF implementation follows a three-group phased approach. Group 1, comprising Main Market listed companies with a market capitalisation of RM 2 billion and above, must comply from financial years ending on or after 31 December 2025. Group 2, comprising all other Main Market listed companies, must comply from financial years ending on or after 31 December 2026. Group 3, comprising ACE Market listed companies and large non-listed companies with annual revenue of RM 2 billion and above, must comply from financial years ending on or after 31 December 2027. The inclusion of large non-listed companies in Group 3 represents a significant expansion of mandatory sustainability reporting obligations beyond the listed sector.

In December 2024, Bursa Malaysia formally amended its Main Market Listing Requirements and ACE Market Listing Requirements to give effect to the NSRF. Transition relief measures are available during the initial compliance periods: Group 1 listed issuers may, during their first full financial year of compliance, focus solely on climate-related disclosures for their principal business segments and are not required to disclose Scope 3 greenhouse gas emissions. The SC and the World Bank released a joint report in October 2024 on ESG reporting practices in Malaysia, which found that while disclosure practices were generally good among locally listed companies, most had significant gaps in environmental indicators, particularly around climate change and biodiversity.[43]

Indonesia: The PSPK Ratification and the OJK's Mandatory Reporting Roadmap

Indonesia's sustainability disclosure landscape underwent its own transformative shift in 2025. On 1 July 2025, the DSK IAI ratified the PSPK 1 and PSPK 2 standards — Indonesia's first national sustainability disclosure standards — aligned with IFRS S1 and IFRS S2, respectively. These standards represent a fundamental shift from the 'inside-out' impact-focused approach of POJK 51/2017 to an 'outside-in' financial materiality approach, aligning Indonesia with major international jurisdictions including Australia, the United Kingdom, Singapore, and Japan. Building on the PSPK ratification, the OJK launched a public consultation in early 2026 on a draft regulation to mandate sustainability reporting aligned with IFRS S1 and S2. The draft regulation proposed a phased three-group rollout: Group 1, comprising main-board issuers and major commercial banks, would commence mandatory reporting on 1 January 2027; Group 2, comprising development-board issuers and smaller financial institutions, would follow in 2028; and Group 3, comprising asset managers and other issuers, would complete the mandate by 2029.

Data quality remains a significant challenge in Indonesia. A KTM Solutions survey conducted in early 2026 found that fewer than 40 per cent of Indonesian public companies currently meet the required disclosure elements under POJK 51/2017, and only 3 per cent explicitly reference the standard in their sustainability reports.[44] This stark gap between regulatory aspiration and corporate practice underscores the importance of the capacity-building programmes and assurance requirements proposed under the new OJK framework.

FINDINGS: COMPARATIVE ANALYSIS BETWEEN MALAYSIA AND INDONESIA

The following table presents a systematic comparative analysis of Malaysia and Indonesia's corporate sustainability disclosure frameworks across nine key dimensions.

TABLE I Comparative Analysis Of Malaysia And Indonesia's Corporate Sustainability Disclosure Frameworks

Criterion	Malaysia (Pre-2025)	Malaysia (Post-2025)	Indonesia (POJK 51/2017)	Indonesia (Post-PSPK 2027)
Primary Legal Basis	Bursa Malaysia LR Para 9.45(2); MCCG 2021; CA 2016 s.252	National Sustainability Reporting Framework (NSRF); amended Bursa LR (December 2024)	POJK 51/POJK.03/2017; SEOJK 16/2021	PSPK 1 & PSPK 2 (based on IFRS S1 & S2); revised OJK regulation
Scope of Coverage	Listed companies only (mandatory); all companies (voluntary BRR)	Listed + large non-listed (≥ MYR 2bn revenue) by 2027	All public companies and financial institutions	Public companies, financial institutions; phased to asset managers by 2029
International Standard Alignment	GRI-referenced; no binding ISSB adoption prior to 2024	IFRS S1 and S2 (ISSB) formally adopted; phased 2025–2027	Proprietary OJK framework (inside-out perspective)	PSPK 1 & PSPK 2 fully aligned with IFRS S1 & S2; effective 2027
Mandatory / Voluntary	Mandatory for listed (Sustainability Statement); voluntary BRR	Mandatory for all groups; transition reliefs available 2025–2027	Mandatory for public companies and financial institutions	Mandatory with phased rollout (Groups 1–3: 2027–2029)
Climate-Specific Requirements	No standalone climate disclosure prior to 2024	Climate-related disclosure mandatory; Scope 3 initially deferred	No dedicated climate framework; general ESG	Scope 1, 2, 3 GHG emissions; climate risk disclosure under PSPK 2

Taxonomy / Classification	None mandated	None explicitly mandated under NSRF	TKBI Version 2.0 (February 2025) (Green/Transition/Not Eligible traffic-light system)	TKBI Version 3.0 (February 2026); integration with PSPK 2
Directors' Duties	Section 213 CA 2016 — general duty of good faith; no explicit sustainability duty	Reform discussed; no statutory amendment enacted as of 2025	No explicit directors' sustainability duty in statute	No explicit directors' sustainability duty; governance disclosures required
Assurance Requirements	Voluntary assurance; no mandated external assurance	Mandatory external assurance under NSRF starting 2027	No mandatory third-party assurance under POJK 51	Mandatory independent third-party assurance under new OJK draft regulation
SME / Non-Listed Coverage	Largely excluded from mandatory requirements	Large non-listed (≥ MYR 2bn revenue) included from 2027	SMEs not within POJK 51 scope	Scope for SME standards under PSPK roadmap; not yet mandated

Similarities and Convergences

The comparison reveals several important similarities between the two jurisdictions. First, and most significantly, both Malaysia and Indonesia have committed to aligning their national sustainability disclosure frameworks with the ISSB's IFRS S1 and S2 standards. Malaysia's NSRF (September 2024) and Indonesia's PSPK 1 and PSPK 2 (July 2025) both represent national adaptations of these global standards, signalling a shared commitment to producing investor-grade, internationally comparable sustainability disclosures.

Second, both jurisdictions have adopted a phased implementation approach that acknowledges varying capacities among covered entities. Third, both jurisdictions face a common challenge in extending mandatory sustainability reporting to non-listed and small and medium enterprises. Despite the broader regulatory scope of POJK 51/2017 in Indonesia, SMEs in both countries remain largely outside the mandatory reporting perimeter.

Structural Divergences

Notwithstanding these convergences, the comparison also reveals important structural divergences. The most fundamental divergence is philosophical: Malaysia's regulatory tradition has been characterised by a securities-market-centric approach, with the Bursa Malaysia Listing Requirements as the primary mandatory instrument. Indonesia's approach has been more broadly applicable from the outset, with POJK 51/2017 covering the entire financial and public company sector under OJK oversight.

A second significant divergence relates to taxonomy and classification. Indonesia's TKBI provides a comprehensive traffic-light classification system for economic activities that directly informs sustainability disclosure requirements. Malaysia has not developed an equivalent taxonomy instrument. The third divergence relates to directors' duties: while neither jurisdiction has enacted explicit directors' sustainability duties in statute, the academic and policy debate is more advanced in Malaysia.

The Absence of Comparative Legal Scholarship on Asean Sustainability Disclosure

Despite the rapid development of sustainability reporting regulation across ASEAN, comparative legal scholarship specifically analysing the frameworks in Malaysia and Indonesia remains sparse. Most academic commentary on sustainability disclosure has focused on the European Union (particularly the Corporate Sustainability Reporting Directive), the United States (the SEC climate disclosure rule), and major Asian markets such as Japan and Hong Kong SAR.[45] The ASEAN region, which is home to over 680 million people and a combined GDP of approximately USD 3.6 trillion, has received disproportionately limited

scholarly attention. Both Malaysia and Indonesia are in the midst of the most significant sustainability disclosure reform processes in their respective histories. Malaysia's NSRF (launched September 2024) and Indonesia's PSPK 1/PSPK 2 (ratified July 2025) are being implemented concurrently, providing a unique and time-sensitive opportunity for cross-jurisdictional learning and policy coordination. The concurrent nature of these reform processes also creates important opportunities for ASEAN-level harmonisation.

The Need to Advance the Directors' Duties Reform Agenda

There is a fundamental gap in the directors' duties law of both Malaysia and Indonesia: neither jurisdiction's company law imposes an explicit duty on directors to consider material sustainability factors in their decision-making. Bridging this gap requires legal reform at the company law level — specifically, amendment of Section 213 of the Companies Act 2016 in Malaysia and the equivalent provisions of Indonesia's Company Law (Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas). The core statutory duty of a director under Law No. 40 of 2007 on Limited Liability Companies (Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas or UUPT) is to manage the company in good faith and with full responsibility for the primary benefit and interests of the company (demi kepentingan Perseroan).[46] The statute does not explicitly impose a fiduciary obligation on directors to incorporate material sustainability factors into general corporate decision-making, despite the fact that Article 74 of UUPT mandates that companies operating in or related to natural resources perform Corporate Social and Environmental Responsibility (TJSL).[47] Therefore, it is contended that directors who prioritise long-term ESG factors over short-term financial returns could be at risk of potential shareholder claims for breach of fiduciary duty or exceeding their managerial mandate under Article 92 and Article 97 of UUPT in the absence of explicit statutory amendment at the company law level.[48]

The SME and Non-Listed Company Gap

A recurring theme in both frameworks is the exclusion of small and medium enterprises and non-listed companies from mandatory reporting requirements. This exclusion is concerning for three reasons. First, SMEs collectively account for significant proportions of national economic activity, employment, and environmental impact — in Malaysia, SMEs contribute approximately 38 per cent of GDP and 48 per cent of total employment; in Indonesia, they contribute over 60 per cent of GDP.[49] Second, as large companies are required to disclose Scope 3 emissions, they will increasingly demand sustainability information from their SME suppliers, creating de facto pressure for SME sustainability disclosure. Third, the SDG agenda explicitly requires all corporations to participate in sustainability reporting. The regulatory exclusion of non-listed entities is in contrast to international normative frameworks, particularly Target 12.6 of the United Nations Sustainable Development Goals (SDG 12: Responsible Consumption and Production). SDG Target 12.6 explicitly states to "encourage companies, particularly large and transnational companies, to incorporate sustainability information into their reporting cycle and to adopt sustainable practices." UNCTAD and UNEP implementation guidelines emphasise that extensive corporate coverage is necessary to achieve global sustainable production patterns, despite the text's reference to large companies.[50]

Reform Proposals and Policy Recommendations

Codification of Directors' Sustainability Duties

The most fundamental reform needed in both jurisdictions is the amendment of company law to impose an explicit, positive duty on directors to consider material sustainability factors in their decision-making. For Malaysia, this would require amendment of Section 213 of the CA 2016 to specify that the elements of 'proper purpose,' 'good faith,' and 'best interest of the company' are only satisfied when directors have given genuine consideration to material sustainability risks and opportunities. Such a duty would not require directors to achieve any particular sustainability outcome but would impose an obligation: a duty to consider, consistent with the trajectory of sustainability-related directors' duties reform in the United Kingdom (Sections 172(1)(d) and (e) of the Companies Act 2006), Australia, and South Africa.[51]

For Indonesia, legal parity can be achieved through amendments to Article 92 and Article 97 of UU No. 40/2007 (UUPT). In particular, the statute should be amended to clarify that a director's duty to manage the company in 'good faith' (itikad baik) and 'for the interest of the Company' (demi kepentingan Perseroan) under Article 97(2) includes an explicit obligation to identify, assess and consider material social and environmental risks (risiko lingkungan dan sosial yang material). Moreover, the reform should revise Article 97(5) of UUPT, which codifies the Business Judgement Rule, to clarify that the actions taken after a sincere and informed evaluation of the significant sustainability issues are covered under the Business Judgement Rule defence. This will elevate the monitoring of sustainability from a sectoral CSR spending requirement under Article 74 to an integrated core fiduciary duty across all Indonesian business boards.

Extension to Non-Listed Companies and SMEs

The second reform recommendation is the extension of mandatory sustainability disclosure requirements to non-listed companies. For Malaysia, this could be achieved through two mechanisms: first, by making the BRR under Section 252(3) CA 2016 mandatory for companies above a certain revenue threshold; and second, by expanding the NSRF's Group 3 non-listed company scope over time to capture progressively smaller entities. For Indonesia, a differentiated, proportionate approach, including a simplified reporting template for SMEs, would provide an accessible compliance pathway for smaller entities while maintaining the principle of corporate sustainability accountability.

Regional Harmonisation and ASEAN-Level Standards

The final reform recommendation is that Malaysia and Indonesia, as two of ASEAN's most significant economies, should actively promote ASEAN-level harmonisation of sustainability disclosure standards.[52] Both countries have adopted national standards based on IFRS S1/S2, but the differences in taxonomy, assurance requirements, scope, and directors' duties create unnecessary divergence within a region that aspires to integrated capital markets. A coordinated approach on the ASEAN Taxonomy for Sustainable Finance and the ISSB's global baseline would reduce compliance costs for multinational companies, facilitate cross-border comparisons for investors, and strengthen ASEAN's credibility as a destination for sustainable finance.

CONCLUSION

This article has provided a comparative legal analysis of the corporate sustainability disclosure regulatory frameworks in Malaysia and Indonesia, two of Southeast Asia's most economically significant jurisdictions. Both countries have made remarkable progress in developing mandatory sustainability reporting regimes, from Malaysia's pioneering Sustainability Statement requirements under Bursa Malaysia's Listing Requirements to the transformative National Sustainability Reporting Framework of 2024, and from Indonesia's foundational POJK 51/2017 to the landmark ratification of the PSPK 1 and PSPK 2 standards in July 2025.

The comparative analysis reveals a landscape of both convergence and divergence. The convergence is principally at the level of international standards alignment: both jurisdictions are moving towards IFRS S1/S2 adoption, recognising the imperative of producing globally comparable, investor-grade sustainability disclosures. The divergence is structural and institutional: Malaysia's securities-market-centric, multi-pillar architecture and Indonesia's OJK-driven, financial-sector-wide framework reflect different legal traditions, institutional capacities, and political economies.

The most significant shared weakness across both frameworks is the absence of explicit directors' sustainability duties in company law. Without such duties, sustainability disclosure frameworks risk becoming 'tick-box' compliance exercises rather than genuine mechanisms for integrating sustainability into corporate strategy and decision-making. Law reform in this area is the most urgent and consequential item on the sustainability law agenda for both jurisdictions.

A second shared weakness is the exclusion of SMEs and non-listed companies from mandatory reporting requirements. Given that these entities collectively account for the majority of economic activity and

environmental impact in both countries, their exclusion represents a fundamental gap in the regulatory framework. The concurrent reform processes underway in Malaysia and Indonesia create a unique, time-limited opportunity for cross-jurisdictional learning, policy coordination, and ultimately, ASEAN-level harmonisation of sustainability disclosure standards. Future research could build upon the findings of this study by examining the legal, regulatory and practical mechanisms necessary to operationalise the proposed reforms. In particular, further research could investigate the appropriate formulation and scope of a codified directors' sustainability duty, the feasibility of extending mandatory sustainability reporting to SMEs, the development of effective external assurance mechanisms, and the prospects for harmonising sustainability disclosure requirements at the ASEAN level. Such research would contribute to identifying implementation pathways that balance corporate sustainability accountability with regulatory proportionality, institutional capacity and the practical realities faced by companies of different sizes and levels of market participation.

Ethical Considerations

This article is a doctrinal and comparative legal analysis based exclusively on the examination of publicly available statutes, regulations, case law, and secondary legal literature. The study did not involve human participants, animal subjects, or the collection of primary data, and therefore no formal ethical approval was required or sought.

Artificial intelligence (AI) tools were used to assist with document formatting and language polishing in accordance with journal style requirements. However, the ideas, arguments, and analysis presented in this article remain entirely the work of the authors.

Conflict of Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this article.

Data Availability

This article does not report new empirical data. All materials analysed, including legislation, regulatory instruments, case law, and secondary sources, are publicly available and are fully cited in the References section below.

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