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Legal Update: Environmental Law **December 2024**

Preparing for the Carbon Tax Era

Is the Israeli industrial sector ready for the green revolution? This question took center stage at a recent meetup hosted by our firm in collaboration with the Israel-America Chamber of Commerce Sustainability Forum and the Women in Energy Forum. With the carbon tax set to be introduced in Israel in January 2025, the discussion has gained significant relevance, highlighting the need for the sector to prepare for this new regulatory change.

Climate Regulations: A Key to Entrepreneurial Success in the Climate-Tech Sector

The global shift to a low-carbon economy is creating significant opportunities for entrepreneurs in the climate-tech market. Rapidly evolving climate legislation and regulations compel businesses to align their activities with new requirements for emissions management, reduction, and comprehensive climate risk management. These demands pose challenges but also introduce new markets for technological solutions. Key areas include emissions reduction, carbon capture, energy efficiency, and environmental risk management.

Accelerated Climate Regulation - Implications for Green Projects

New regulatory demands, such as greenhouse gas emissions reporting, climate risk management, and carbon tax payments, are compelling companies worldwide to invest in emissions reduction technologies. This trend is creating new markets for climate-tech solutions.

In the U.S., **in March 2024**, **the SEC enacted mandatory climate reporting regulations** that require public companies to disclose greenhouse gas emissions (Scopes 1 and 2) and financial risks related to climate change. Although the SEC decision in April 2024 delayed implementation due to legal challenges - primarily from energy companies - Israeli companies listed or planning IPOs in the U.S. should not become complacent. The SEC is likely to continue issuing comments on existing climate disclosures, including those based on its 2010 guidance on climate change.

For example, in 2024, Keurig Dr Pepper Inc. was accused of making misleading statements about the recyclability of its single-use capsules in its 2019-2020 SEC filings. To avoid litigation, the company settled, paying US$ 1.5 million without admitting guilt.

In California, new legislation requires large companies to report greenhouse gas emissions across their entire value chain, including Scope 3 emissions affecting supply chains. These developments aim to increase transparency, provide consumers with critical financial information, and encourage businesses to reduce their carbon footprints. They include requirements for third-party verification and penalties for non-compliance.

In the European Union, similar requirements include greenhouse gas emissions reporting, risk assessments, decarbonization strategies, and carbon taxes on imported goods across supply chains. This trend is not limited to the EU. Similar legislation is quickly developing in the UK and other countries worldwide.

In the UK, large companies must report greenhouse gas emissions and climate risks under the TCFD reporting standards. This includes Scope 1, 2, and 3 emissions covering the companies' entire supply chains and reviewing risks and opportunities associated with climate change.

Companies are now required not only to measure and report emissions but also to present concrete reduction plans and comprehensively manage climate risks. This means that any company operating in global markets must align its activities with new regulatory demands to maintain its market presence and overcome business barriers.

However, a significant gap exists between the "ambitions" of global regulators in the field of climate risks and the accessibility of solutions for reducing emissions. As climate regulation tightens, businesses - particularly in high-carbon industries such as energy and manufacturing - face increasing pressure to meet these demands. Often, the rapid pace of climate targets and regulations surpasses the pace of developing and implementing of technological solutions.

While climate regulations may drive innovation and improvements, the rate at which sustainable climate technologies can be adapted or developed often lags behind the urgency of climate needs. **Consequently, the evolving climate regulatory framework creates significant opportunities for climate-tech companies and startups offering products and services to help businesses meet stringent regulatory demands**.

For climate-tech entrepreneurs, two main opportunity paths are emerging:

1. **Developing Technological Solutions:** This involves providing solutions to help potential customers in target markets comply with new regulatory requirements. However, success in this area depends on more than technological quality, as

solutions must also align with legal requirements and target markets that have well-established regulatory frameworks. Otherwise, even advanced technologies may fail to achieve commercial success.

2. **Opportunities in Carbon Markets:** Voluntary carbon markets allow climate-tech entrepreneurs to sell the reductions they generate as "carbon credits," providing an additional revenue stream. This mechanism offers financial incentives to invest in green projects for emissions reduction, such as renewable energy projects, energy efficiency, and carbon capture. Thus, voluntary carbon markets provide climate-tech companies an opportunity to expand their activities and increase revenue beyond selling technological solutions alone.

Recent developments at the COP29 Climate Conference, including the approval of Article 6.4 of the Paris Agreement, which regulates the sale of carbon credits within a UN-sponsored international trading system, signal additional business opportunities for green project entrepreneurs. The UN trading system offers significant advantages. Although voluntary, it aims to establish a regulated, supervised system built on uniformity and transparency. Credits issued will rely on internationally agreed measurement and documentation methods. Unlike existing voluntary systems prone to "greenwashing," the UN system will significantly reduce the risk of low-quality credits, increase trust and demand for carbon certificates, and consequently enhance their financial value.

Given the growing regulatory complexity, a deep understanding of the relevant legal framework in climate entrepreneurship is essential from the early planning stages of a venture. This understanding affects target market selection and business model development. Furthermore, regulations in this area are continuously updated, requiring entrepreneurs to stay informed to ensure their solutions meet changing demands.

Designing a business model that incorporates regulatory developments provides a significant competitive advantage. Entrepreneurs who deeply understand regulatory requirements can identify new market opportunities "in real time," develop more focused solutions, and craft effective marketing strategies emphasizing the added value of their solutions in the relevant regulatory context.

Sincerely,

FISCHER (FBC & Co.)

For further information, we are available to answer any questions and assist as needed.

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