REGULATING GREENWASHING IN INDIAN CORPORATE DISCLOSURES: A CRITICAL ANALYSIS OF THE BRSR CORE FRAMEWORK, SEBI'S ESG RATING PROVIDER REGULATIONS, AND THE ROAD AHEAD

Anushka Patil, B.A LL.B., Sonopant Dandekar Shikshan Mandali's Law College, Palghar

ABSTRACT

India's ESG disclosure regime has evolved rapidly from the National Voluntary Guidelines (2011) and the Business Responsibility Report (2012) to the BRSR (2021), the BRSR Core (2023) and the SEBI (ESG Rating Providers) Regulations, 2024. Indian law, however, still contains no statutory definition of greenwashing, no dedicated remedy for misled investors and only residual liability under the SEBI Act, 1992, the Companies Act, 2013 and the Consumer Protection Act, 2019.

Examining the BRSR Core's assurance architecture and SEBI's ESG rating regime, this paper argues that the framework rests on three structural weaknesses: self-reported metrics paired with conflicted assurance, fragmented enforcement across multiple regulators, and doctrinal uncertainty surrounding forward-looking sustainability statements and double materiality.

Drawing on the EU CSRD, the U.S. SEC's 2024 Climate Disclosure Rule and the UK FCA's Anti-Greenwashing Rule, the paper proposes a statutory definition of greenwashing, a fortified assurance regime, a safe harbour for good-faith forward-looking statements, a limited private right of action under Section 12A of the SEBI Act read with the PFUTP Regulations, 2003, and a formal coordinating mechanism among SEBI, the MCA, the CCPA and the NGT.

Keywords: Greenwashing; BRSR Core; ESG Rating Providers; SEBI; Corporate Disclosure; Sustainable Finance; Securities Regulation.

I. INTRODUCTION

Few regulatory vocabularies have travelled as quickly from the margins of policy debate to the center of mandatory law as that of environmental, social and governance disclosure. What was, only a decade ago, a soft expectation directed at the largest hundred listed companies in India has hardened into a comprehensive regime of audited sustainability metrics applicable to the top thousand companies by market capitalization.[1] This acceleration mirrors a global movement. The European Union has displaced its Non-Financial Reporting Directive with the considerably more demanding Corporate Sustainability Reporting Directive;[2] the United States Securities and Exchange Commission, after a protracted notice-and-comment process, finalized its ClimateRelated Disclosure Rule in March 2024;[3] and the United Kingdom Financial Conduct Authority has supplemented its Sustainability Disclosure Requirements with a self-standing AntiGreenwashing Rule effective May 2024.[4] Together, these instruments signal a maturation: investors are no longer content with descriptive narrative; they demand auditable data.

Against this background, the Indian regulatory response is at once impressive in its ambition and uneven in its execution. The Securities and Exchange Board of India ("SEBI"), in July 2023, introduced the BRSR Core, a sub-set of nine ESG attributes drawn from the larger Business Responsibility and Sustainability Report ("BRSR") on which reasonable assurance is being phased in;[5] a year later, it notified a dedicated chapter on ESG Rating Providers under the SEBI (Credit Rating Agencies) Regulations, 1999.[6] Yet, despite this scaffolding, the term "greenwashing" appears nowhere in the Companies Act, 2013, the SEBI Act, 1992, or any

1 Securities and Exchange Board of India, Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562, Business Responsibility and Sustainability Reporting by Listed Entities (May 10, 2021), https://www.sebi.gov.in.

2 Council Directive 2022/2464, 2022 O.J. (L 322) 15 (EU) [hereinafter CSRD].

3 The Enhancement and Standardization of Climate-Related Disclosures for Investors, 89 Fed. Reg. 21,668 (Mar. 28, 2024) (to be codified at 17 C.F.R. pts. 210, 229, 232, 239, 249).

4 Financial Conduct Authority, Policy Statement PS23/16: Sustainability Disclosure Requirements (SDR) and Investment Labels (Nov. 2023), https://www.fca.org.uk/publication/policy/ps23-16.pdf.

5 Securities and Exchange Board of India, Circular No. SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122, BRSR Core – Framework for Assurance and ESG Disclosures for Value Chain (July 12, 2023) [hereinafter BRSR Core Circular].

6 Securities and Exchange Board of India (Credit Rating Agencies) (Amendment) Regulations, 2023, Gazette of India, pt. III, sec. 4 (July 3, 2023); see also SEBI Master Circular for ESG Rating Providers, SEBI/HO/DDHSPoD3/P/CIR/2024/61 (May 16, 2024).

subordinate legislation. Misleading sustainability claims, if they are pursued at all, must be retrofitted into general antifraud provisions originally designed for an analogue capital market.

This paper proceeds in five parts. Part II maps the evolution of ESG disclosure obligations in India, from the National Voluntary Guidelines of 2011 to the BRSR Core. Part III offers a critical doctrinal assessment of the BRSR Core, focusing on its assurance architecture, value-chain disclosures and the recurrent problem of double materiality. Part IV examines the SEBI (ESG Rating Providers) Regulations and identifies conflict-of-interest concerns that the present framework leaves unresolved. Part V supplies a comparative analysis of the European Union, United States and United Kingdom frameworks, drawing out lessons that are doctrinally transferable to the Indian context. Part VI considers the liability architecture: whether existing provisions under the Companies Act, the SEBI Act and the Consumer Protection Act, 2019 are equal to the task of policing greenwashing, and concludes that they are not. The paper closes with a set of legislative and regulatory proposals.

II. THE EVOLUTION OF ESG DISCLOSURE IN INDIA

A. From Voluntary Guidelines to Mandatory Reporting

The first formal articulation of corporate responsibility expectations in India was the Ministry of Corporate Affairs' National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, released in 2011.[7] These Guidelines were aspirational; compliance was neither audited nor uniformly reported. SEBI converted the soft framework into a binding instrument through Clause 55 of the Equity Listing Agreement in 2012, which required the top hundred listed entities to publish a Business Responsibility Report ("BRR") as part of their annual reports.[8] The threshold expanded to the top five hundred entities in 2015 with the

7 Ministry of Corporate Affairs, Government of India, National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (2011).

8 Securities and Exchange Board of India, Circular No. CIR/CFD/DIL/8/2012, Business Responsibility Reports (Aug. 13, 2012).

notification of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations").[9]

The BRR's principal weakness was qualitative narrative. Companies could, and frequently did, recount their corporate social responsibility activities under Section 135 of the Companies Act, 2013 as evidence of sustainability,[10] confusing philanthropy with operational ESG performance. The Kotak Committee on Corporate Governance, in 2017, recognized the inadequacy of narrative reporting and recommended a move toward more granular, comparable disclosures.[11]

B. The BRSR Regime: An Ambitious Reset

The Business Responsibility and Sustainability Report, made mandatory for the top one thousand listed entities by market capitalization from financial year 2022–23, marked a structural break.[12] Unlike the BRR, the BRSR demands quantified disclosures organized under nine principles of the National Guidelines on Responsible Business Conduct, ranging from greenhousegas emissions and water withdrawal to gender pay ratios and human-rights due diligence.[13] The format aligns broadly with the Global Reporting Initiative Standards and the Task Force on Climate-Related Financial Disclosures recommendations, lending a measure of international comparability.[14]

Yet, the BRSR in its 2021 form retained a familiar weakness: the metrics were unaudited. A company reporting Scope 1 emissions of a particular tonnage was, in effect, asking the market to take its word for it. SEBI's own consultation paper of February 2023 acknowledged that the

9 SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Reg. 34(2)(f), Gazette of India, pt. III, sec. 4 (Sept. 2, 2015).

10 Companies Act, No. 18 of 2013, § 135, India Code (2013).

11 Securities and Exchange Board of India, Report of the Committee on Corporate Governance 16.5 (Oct. 2017) [hereinafter Kotak Committee Report].

12 SEBI Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562, supra note 1.

13 Ministry of Corporate Affairs, National Guidelines on Responsible Business Conduct (2019).

14 Task Force on Climate-Related Financial Disclosures, Final Report: Recommendations of the Task Force on Climate-Related Financial Disclosures (June 2017).

absence of third-party assurance had become a credibility problem,[15] a concern compounded by mounting empirical evidence that voluntary sustainability disclosures display systematic upward bias.[16]

III. A CRITICAL ANALYSIS OF THE BRSR CORE FRAMEWORK

A. Architecture and Phased Implementation

The BRSR Core, introduced by SEBI's circular of 12 July 2023, identifies nine key ESG attributes that are now subject to reasonable assurance by an independent assurance provider.[17] The attributes include greenhouse-gas emissions intensity, water-withdrawal intensity, energy intensity, embracing of renewable energy, workforce composition, retention rates, complaints against workforce, gross wages paid to women, and the proportion of purchases from micro, small and medium enterprises.[18] The assurance obligation is phased in from financial year 2023–24 onward, beginning with the top one hundred fifty listed entities and extending progressively to the top thousand by financial year 2026–27.[19] A parallel obligation to disclose value-chain ESG information, on a comply-or-explain basis, applies from financial year 2024–25.[20]

15 Securities and Exchange Board of India, Consultation Paper on ESG Disclosures, Ratings and Investing 4–7 (Feb. 20, 2023).

16 See Lawrence J. White, Markets: The Credit Rating Agencies, 24 J. Econ. Persp. 211 (2010) (drawing parallels with credit-rating credibility before the 2008 crisis); see also Susan Lorde Martin, Compulsory Disclosure of Corporate Social Responsibility, 30 Brook. J. Int'l L. 871 (2005).

17 BRSR Core Circular, supra note 5, 3.

18 Id. Annexure I.

19 Id. 4.

20 Id. 6.

B. The Assurance Problem

Reasonable assurance, the SEBI circular clarifies, must conform to standards such as the International Standard on Assurance Engagements (ISAE) 3000 (Revised) and the equivalent Standard on Sustainability Assurance Engagements issued by the Institute of Chartered Accountants of India.[21] On its face, the move from no assurance to reasonable assurance is a significant qualitative improvement. Two structural issues, however, persist.

First, there is no statutory bar on the assurance provider also performing other professional services for the issuer. Whereas Section 144 of the Companies Act, 2013 lists the services that a statutory auditor cannot render to the audited company,[22] no equivalent provision governs ESG assurance providers. The BRSR Core circular limits itself to a soft direction that the assurance provider must possess "necessary expertise" and "not have any conflict of interest."[23] Absent statutory enumeration, the boundary of "conflict of interest" remains a matter of self-assessment, replicating the regulatory weakness that the Sarbanes–Oxley Act in the United States was designed to cure.[24]

Second, the assurance provider is engaged and remunerated by the issuer. The structural conflict that has long animated debate around the gatekeeper function of credit-rating agencies[25] applies with equal force to ESG assurance. Until the regulator takes the additional step of mandating rotation, independence affirmations comparable to those under Section 141 of the Companies Act and a regulatory power of inspection over assurance work-papers, the assurance regime will remain vulnerable to the same incentive distortions.

21 Id.5; see also Institute of Chartered Accountants of India, Standard on Sustainability Assurance Engagements (SSAE) 3000 (2022).
22 Companies Act, 2013, § 144.
23 BRSR Core Circular, supra note 5,5(c).
24 Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, § 201, 116 Stat. 745 (codified at 15 U.S.C. § 78j-1(g)).
25 See Frank Partnoy, The Siskel and Ebert of Financial Markets?: Two Thumbs Down for the Credit Rating Agencies, 77 Wash. U. L.Q. 619 (1999).

C. The Double-Materiality Question

An interpretive ambiguity at the heart of the BRSR Core is its silence on the materiality standard. The European Sustainability Reporting Standards, adopted under the CSRD, expressly endorse double materiality: companies must disclose information that is material either because it affects the enterprise's own financial prospects (financial materiality) or because the enterprise affects people and the environment (impact materiality).[26] The United States Securities and Exchange Commission, by contrast, has resisted impact materiality, anchoring its Climate Disclosure Rule in the conventional Basic v. Levinson standard of investor materiality.[27] India's BRSR Core, by failing to specify which standard governs, leaves issuers in a state of doctrinal uncertainty. The practical consequence is predictable: companies will gravitate toward the lower threshold, disclosing only what is financially material to themselves while remaining silent on externalities of significant social or environmental consequence.

IV. THE SEBI (ESG RATING PROVIDERS) REGULATIONS, 2024

Recognizing that ESG ratings have become as influential for sustainable-finance flows as credit ratings are for debt markets, SEBI amended the Credit Rating Agencies Regulations in July 2023 to introduce a dedicated chapter on ESG Rating Providers ("ERPs"), supplemented by a comprehensive master circular issued in May 2024.[28] The Regulations require ERPs to be registered with SEBI, mandate disclosure of rating methodologies, and impose conflict-of-interest restrictions on rating personnel.

The framework adopts a dual revenue model: subscriber-pays for ratings on listed equities and issuer-pays for ratings on debt instruments. The dual model is a thoughtful attempt to mitigate

26 European Financial Reporting Advisory Group, European Sustainability Reporting Standards: ESRS 1 General Requirements 28 (Nov. 2022).

27 Basic Inc. v. Levinson, 485 U.S. 224, 231–32 (1988); see also 89 Fed. Reg. 21,668, 21,701 (Mar. 28, 2024).

28 Master Circular for ESG Rating Providers, supra note 6.

the issuer-pays distortion familiar from the credit-rating literature.[29] Yet, the bifurcation introduces its own anomaly: the same enterprise may receive ratings underwritten by entirely different economic incentives depending on the instrument under review. The asymmetry is potentially exploitable by issuers seeking favourable ratings on capital instruments most exposed to ESG conscious investors.

A further concern is the regulatory perimeter. The Regulations apply to ERPs "providing ESG ratings in India,"[30] a formulation that leaves uncertain the status of cross-border ratings produced by global majors such as MSCI, Sustainalytics and S&P Global on Indian issuers. Without express extraterritorial reach, Indian issuers may continue to be assessed by unregulated ratings that nevertheless drive significant capital allocation. The lesson from the European Union, where the Commission's June 2023 proposal for an ESG Ratings Regulation expressly covers third-country providers serving European Union investors,[31] is one that India would do well to assimilate.

V. COMPARATIVE PERSPECTIVES: EUROPEAN UNION, UNITED STATES, UNITED KINGDOM

A. The European Union: CSRD and the Anti-Greenwashing Architecture

The Corporate Sustainability Reporting Directive, adopted in December 2022, applies progressively from financial year 2024 onward to roughly fifty thousand companies in the European Union, including listed small and medium enterprises and qualifying third-country enterprises.[32] The Directive is reinforced by the Sustainable Finance Disclosure Regulation, which

29 John Patrick Hunt, Credit Rating Agencies and the 'Worldwide Credit Crisis': The Limits of Reputation, the Insufficiency of Reform, and a Proposal for Improvement, 2009 Colum. Bus. L. Rev. 109.

30 SEBI (Credit Rating Agencies) Regulations, 1999, Reg. 28L (as amended in 2023).

31 European Commission, Proposal for a Regulation on the Transparency and Integrity of ESG Rating Activities, COM (2023) 314 final (June 13, 2023).

32 CSRD, supra note 2, art. 5.

imposes disclosure obligations on financial market participants,[33] and the Taxonomy Regulation, which supplies a classification system for environmentally sustainable economic activities.[34] Together, these instruments produce a tightly integrated regime in which a sustainability claim by a fund or an issuer must be reconcilable with the underlying activities classified by the Taxonomy and disclosed under the CSRD. The interlocking design materially raises the cost of misrepresentation.

B. The United States: A More Modest Settlement

The United States Securities and Exchange Commission's Climate Disclosure Rule, finalized in March 2024, is a more circumspect instrument. It requires registrants to disclose material climate-related risks, governance arrangements, transition plans where adopted, and, with significant qualifications, Scope 1 and Scope 2 greenhouse-gas emissions.[35] The Commission, after a contested rulemaking, dropped its initial proposal to require Scope 3 emissions disclosure.[36] The rule is presently subject to litigation in the Eighth Circuit, with the Commission having voluntarily stayed enforcement pending judicial review.[37] The American experience is instructive less as a positive model than as a cautionary reminder that ambitious ESG rulemaking is vulnerable to constitutional and administrative-law challenge under doctrines such as the major-questions canon recognized in West Virginia v. EPA.[38]

C. The United Kingdom: A Bespoke Anti-Greenwashing Rule

The Financial Conduct Authority's Sustainability Disclosure Requirements, finalized in November 2023, combine four investment labels with a stand-alone Anti-Greenwashing Rule that became effective on 31 May 2024.[39] The Rule requires that any sustainability reference in a

33 Regulation 2019/2088, 2019 O.J. (L 317) 1 (EU).
34 Regulation 2020/852, 2020 O.J. (L 198) 13 (EU
35 89 Fed. Reg. 21,668, 21,675 (Mar. 28, 2024).
36 Id. at 21,683.
37 Securities and Exchange Commission, Order Issuing Stay, Release No. 33-11280 (Apr. 4, 2024).
38 West Virginia v. EPA, 142 S. Ct. 2587 (2022).
39 Financial Conduct Authority, ESG Sourcebook, Rule 4.3.1R (May 31, 2024); see also FCA Policy Statement PS23/16, supra note 4, at 3.1–3.18.

financial promotion be "fair, clear and not misleading" and "consistent with the sustainability characteristics of the product or service."[40] Crucially, the FCA grounds enforcement in its preexisting Principles for Business, particularly Principle 7 (communications with clients) and the Consumer Duty introduced in July 2023, allowing it to act swiftly without fresh legislative authorization. The British model demonstrates that an effective anti-greenwashing rule does not necessarily require an elaborate new statutory instrument; it can be operationalized through clear regulatory expectations enforced under existing principles-based architecture.

VI. LIABILITY GAPS IN INDIAN LAW

A. The SEBI Act and the PFUTP Regulations

The most natural locus for greenwashing enforcement in Indian law is Section 12A of the SEBI Act, 1992 read with the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.[41] Regulation 4(2)(k) of the PFUTP Regulations prohibits "a device, scheme or artifice to defraud in connection with dealing in securities,"[42] and Regulation 4(2)(r) prohibits the dissemination of "information through media… for inducing sale or purchase of securities."[43] The Supreme Court has read these provisions purposively in N. Narayanan v. SEBI, holding that misstatements that distort the price discovery process attract liability even absent direct trading by the misrepresenting party.[44]

Whether a misleading ESG disclosure can be brought within these provisions is, however, doctrinally contested. The PFUTP Regulations require, at minimum, that the misrepresentation be "in connection with dealing in securities." A purely descriptive sustainability claim made in the

40 ESG Sourcebook, Rule 4.3.1R.

41 Securities and Exchange Board of India Act, No. 15 of 1992, § 12A; SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 [hereinafter PFUTP Regulations].

42 PFUTP Regulations, Reg. 4(2)(k).

43 Id. Reg. 4(2)(r).

44 N. Narayanan v. Adjudicating Officer, SEBI, (2013) 12 SCC 152, 33–35.

BRSR, decoupled from any fresh issuance or trading event, may struggle to satisfy that nexus. The Bombay High Court's observations in SEBI v. Kanaiyalal Baldev Bhai Patel, although in a different context, suggest that the nexus must be more than incidental.[45] A targeted amendment to the PFUTP Regulations, importing a category for sustainability misrepresentations, would significantly clarify the position.

B. The Companies Act, 2013

Section 447 of the Companies Act, 2013 defines "fraud" expansively to include any act, omission, concealment of any fact or abuse of position committed with intent to deceive, gain undue advantage, or injure the interests of the company, its shareholders, its creditors or any other person.[46] The provision has been applied robustly by the Serious Fraud Investigation Office to financial statement misrepresentations,[47] but its application to sustainability misstatements remains untested. The element of "intent to deceive" is doctrinally demanding, and forwardlooking statements about climate transition plans rarely satisfy that threshold. Section 134(3)(m), which requires the board's report to disclose information on conservation of energy and technology absorption,[48] is similarly inadequate as an anti-greenwashing instrument because it does not contemplate a verification regime.

C. Emerging Judicial Trends

Indian courts have not, as yet, confronted a squarely-framed greenwashing dispute, but a number of decisions hint at the doctrinal direction of travel. In Centre for Public Interest Litigation v. Union of India, the Supreme Court emphasized that statutory disclosures in the corporate context carry a public dimension that transcends the narrow interest of the issuer.[49] In **MC Mehta v. Union of India**, the Court articulated the polluter-pays principle as part of the substantive content of

45 SEBI v. Kanaiyalal Baldev Bhai Patel, (2017) 15 SCC 1, 22–25.
46 Companies Act, 2013, § 447.
47 See Serious Fraud Investigation Office v. Nittin Johari, (2019) 9 SCC 165.
48 Companies Act, 2013, § 134(3)(m); Companies (Accounts) Rules, 2014, Rule 8(3).
49 Centre for Public Interest Litigation v. Union of India, (2014) 6 SCC 36, 21.

Article 21 of the Constitution,[50] a doctrinal foundation that, although developed in the environmental-law context, could be redeployed to support stricter scrutiny of corporate environmental representations. The National Green Tribunal, in a line of cases beginning with Vardhaman Kaushik v. Union of India,[51] has shown a willingness to scrutinize environmental representations against scientific evidence. While none of these decisions directly addresses greenwashing in capital-market disclosures, they collectively suggest a judicial appetite for substantive review that, if engaged with appropriately by SEBI through targeted enforcement, could supply the doctrinal building blocks of an Indian anti-greenwashing jurisprudence.

D. The Consumer Protection Act, 2019

The Consumer Protection Act, 2019 prohibits "misleading advertisements" and confers on the Central Consumer Protection Authority a power to impose penalties of up to ten lakh rupees and prohibit endorsements for one year.[52] The Central Consumer Protection Authority's Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 cover environmental claims in general terms.[53] The Authority's draft Guidelines for Prevention and Regulation of Greenwashing, released for public comment in February 2024, expressly target environmental claims, requiring substantiation and prohibiting absolute claims such as "100% eco-friendly" without verifiable evidence.[54] While these draft guidelines are a welcome doctrinal development, their reach is confined to consumer-facing advertising. They do not address misrepresentations made to investors in corporate disclosures, where the financial stakes are considerably larger and the relevant expertise lies with SEBI rather than the Central Consumer Protection Authority.

50 M.C. Mehta v. Union of India, (1987) 4 SCC 463.

51 Vardhaman Kaushik v. Union of India, Original Application No. 21 of 2014, National Green Tribunal (Nov. 26, 2014).

52 Consumer Protection Act, No. 35 of 2019, §§ 2(28), 21, India Code (2019).

53 Central Consumer Protection Authority, Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements (June 9, 2022).

54 Department of Consumer Affairs, Government of India, Draft Guidelines for Prevention and Regulation of Greenwashing (Feb. 20, 2024).

VII. THE ROAD AHEAD: TOWARDS A COHERENT ANTI-GREENWASHING REGIME

The preceding analysis suggests that the Indian regulatory architecture, although recently strengthened, requires four targeted reforms to mature into a credible anti-greenwashing regime.

First, the introduction of a statutory definition of greenwashing. The absence of a defined term is more than a drafting curiosity; it deprives enforcement authorities of a stable doctrinal anchor and exposes adjudicatory decisions to the charge of overreach. A definition drawn from the European Securities and Markets Authority's working description, namely a "practice whereby sustainability-related statements, declarations, actions or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product or financial services,"[55] adapted to the Indian context and inserted into the LODR Regulations, would supply that anchor.

Second, the strengthening of the assurance regime. The present circular-based architecture should be elevated to subordinate legislation under Section 11A of the SEBI Act,[56] coupled with rotation requirements for assurance providers and an inspection power over assurance work-papers comparable to that conferred on the Quality Review Board under the Chartered Accountants Act, 1949.[57]

Third, the codification of a safe harbour for forward-looking sustainability statements made in good faith. The American experience with the Private Securities Litigation Reform Act of 1995, which provides a statutory safe harbour for forward-looking statements accompanied by "meaningful cautionary statements,"[58] suggests a workable template. Without a safe harbour, issuers will rationally retreat to boilerplate and minimum compliance, producing less information rather than better information.

55 European Securities and Markets Authority, Progress Report on Greenwashing at 12 (May 2023).
56 SEBI Act, 1992, § 11A.
57 Chartered Accountants Act, No. 38 of 1949, § 28A.
58 Private Securities Litigation Reform Act of 1995, Pub. L. No. 104-67, § 102, 109 Stat. 737 (codified at 15 U.S.C. § 78u-5(c)).

Fourth, the recognition of a limited private right of action. Indian securities law has historically privileged public enforcement over private litigation, but the introduction of class actions under Section 245 of the Companies Act, 2013[59] has opened a doctrinal space that could be used to confer standing on shareholders to challenge materially misleading sustainability disclosures. Read together with the Supreme Court's recognition in Sahara India Real Estate Corporation Ltd. v. SEBI of the strong policy interest in disgorgement of ill-gotten gains,[60] a calibrated private remedy would supplement, rather than displace, SEBI's enforcement authority.

Beyond these four reforms, a fifth, more institutional measure deserves attention. The fragmented allocation of enforcement competence across SEBI, the Ministry of Corporate Affairs, the Central Consumer Protection Authority and the National Green Tribunal generate regulatory arbitrage opportunities and risks inconsistent outcomes. A coordinating mechanism — modelled, perhaps, on the Financial Stability and Development Council under Section 8 of the Finance Act, 2017[61] — could harmonize enforcement priorities and ensure that greenwashing claims are pursued by the regulator best equipped to address them. Without inter-regulatory coordination, even well-designed individual instruments will operate at suboptimal effectiveness, and the cumulative deterrent effect of the regulatory architecture will be considerably less than the sum of its parts.

59 Companies Act, 2013, § 245.

60 Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603, 233–35.

61 Finance Act, No. 7 of 2017, § 8; see also Notification S.O. 3924(E), Ministry of Finance (Dec. 8, 2017).

VIII. CONCLUSION

The Indian sustainability-disclosure regime has, within little more than a decade, moved from soft guidelines to mandatory, assured, audit-ready reporting on a scale that is genuinely impressive. Yet, regulation is only as effective as the architecture through which it is enforced. The BRSR Core, the SEBI (ESG Rating Providers) Regulations and the proposed greenwashing guidelines of the Central Consumer Protection Authority each address one face of the problem, but no single instrument squarely confronts the question of how Indian law treats a corporate statement about sustainability that turns out to be false. Until that question receives a coherent doctrinal answer, the regulatory architecture will remain procedurally elaborate but substantively brittle. The argument advanced in this paper is that the remedy lies not in more disclosure but in better-policed disclosure: a statutory definition of greenwashing, a fortified assurance regime, a calibrated safe harbour for good-faith forward-looking statements, and a limited private right of action. Together, these reforms would give the Indian regime the doctrinal coherence that its present ambition deserves. They would also, in a more practical sense, signal to global capital that sustainability claims emerging from Indian boardrooms can be relied upon a signal whose value, in a competitive capital market, is difficult to overstate.