



# Environmental Risk Update

## What's Coming But Not Here Yet

Risk and Insurance Management  
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November 3, 2009

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# **Environmental Risk Update**

## **What's Coming But Not Here Yet**

- Green Building
- Sustainability
- Climate Change

# The Green Building Movement

- The Promise of the Green Building Movement
- The Incentives to Build Green

# The New Tools and Programs

- LEED
- Sustainability
- Resource Management

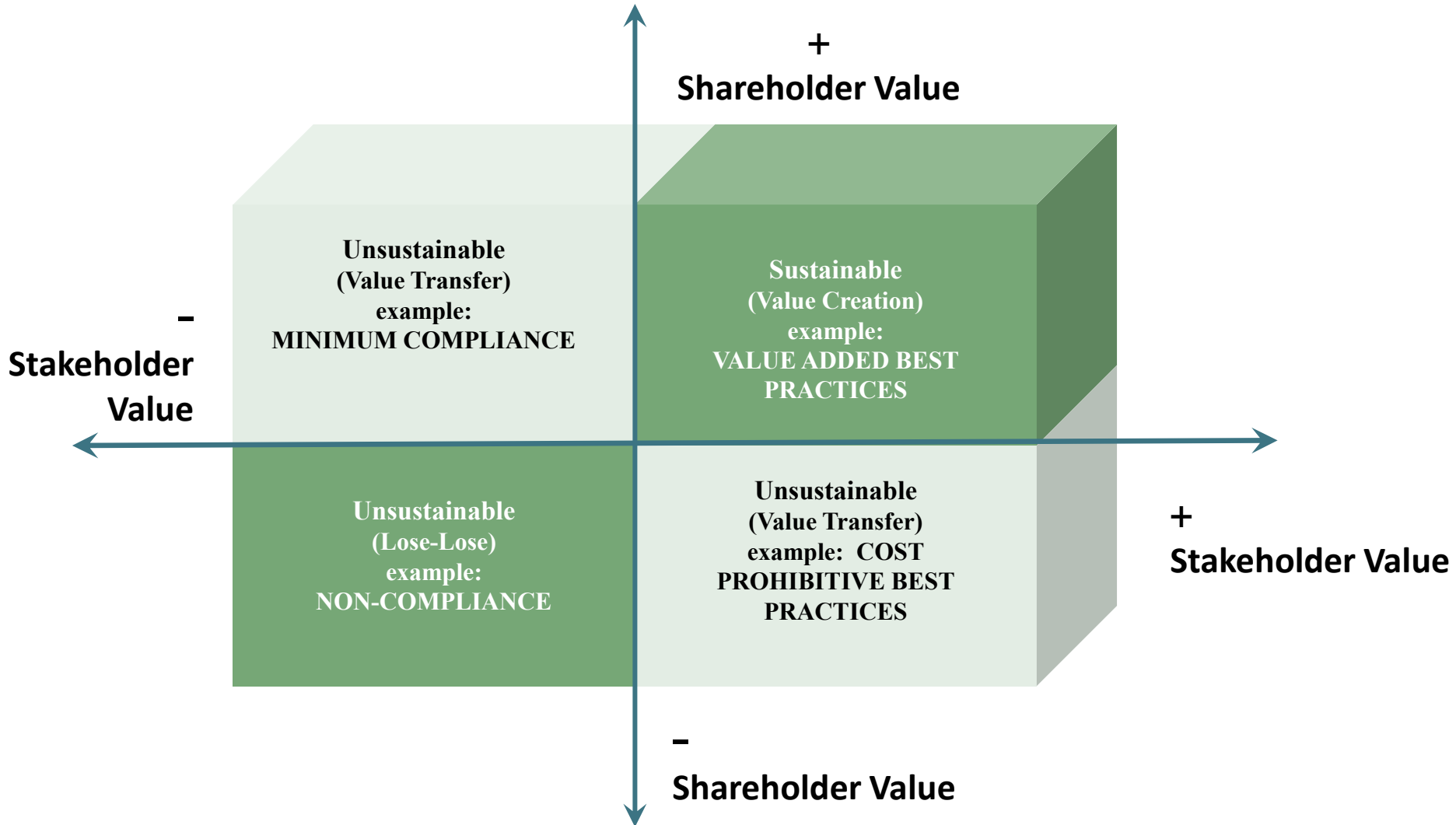
# Risks of the Green Building Movement

- Another Definition of “Green”
- Risk Management in a Time of Change

# Theories of Liability

- Breach of Contract
- Product Liability
- Consumer Protection Laws
- FTC Green Guides and Green Washing

# Sustainability is Different than “Green”



# Potential Drivers for Sustainability

## Motivational Drivers

- Reputation
- Financial performance
- Environmental performance
- Social performance

## Stakeholder Drivers

- Shareholders
- Board
- European subsidiaries
- Customers/supply chain
- Employees/unions
- Host communities
- Regulators
- Media
- Competitors

# Sustainable Cleveland 2019

- The Sustainable Cleveland 2019 Council has been formed with the goal of holding its first meeting by mid-December.
- The 2010 Sustainable Cleveland Summit Steering Committee is being formed and is comprised of '09 summit participants, as well as representatives from local companies and institutions. The first meeting will be held by mid-November.
- Mayor Jackson announced the appointment of Andrew Watterson as Chief of Sustainability, the City's first cabinet level position focusing on sustainability, on Tuesday, September 22.
- A strategic plan will be created based on the 28 summit recommendations. The Mayor's Office of Sustainability will oversee this process.

# Global Warming...

- A real issue?
- Good for Ohio?
- Palm Trees on Lake Erie?
- What to Do?

# Who Cares?

- Significant emitters of carbon/greenhouse gases
- Significant consumers and producers of energy
- Companies that manufacture or sell products for consumption overseas
- Companies whose stakeholders demand steps to address climate change by reducing carbon emissions

Many businesses and industrial clients satisfy at least one of these criteria.

# What Risks are on the Radar Screen?

- Litigation Risk
- Insurance Risk
- Property Damage and Personal Injury Risk
- Financial Disclosure Risk
- Energy Security Risk
- Customer and Investor Risk
- Regulatory Risk
- Carbon Emissions Trading Opportunities

# Litigation Risk

Who:

- Those with significant greenhouse gas emissions
- Those creating, buying and selling green tags

# Insurance Risk

- No industry consensus on how to approach climate change risk for insureds
- Needs to be considered when formulating risk management plans

# Property Damage and Personal Injury Risk

- Extreme weather events linked to climate change
- Katrina was a wake up call
- Crisis management, disaster planning and recovery are increasingly important topics

# Financial Disclosure/Risk

- Canada requires disclosure in financial statements and annual reports of climate change risks
- SEC requires disclosure and discussion of material risks presented by contingent environmental liabilities
- Regulation S-K, 17 CFR 229.303 requires disclosure of “any known trends, demands, commitments, events or uncertainties”

# Energy Security Risk

- Mid-East turmoil impacts energy markets
- Counsel clients entering energy supply contracts

# Customer and Investor Risk

- Pressure in global markets to reduce carbon emissions
- Investors pressuring publicly traded companies to be proactive
- Investor Network on Climate Change

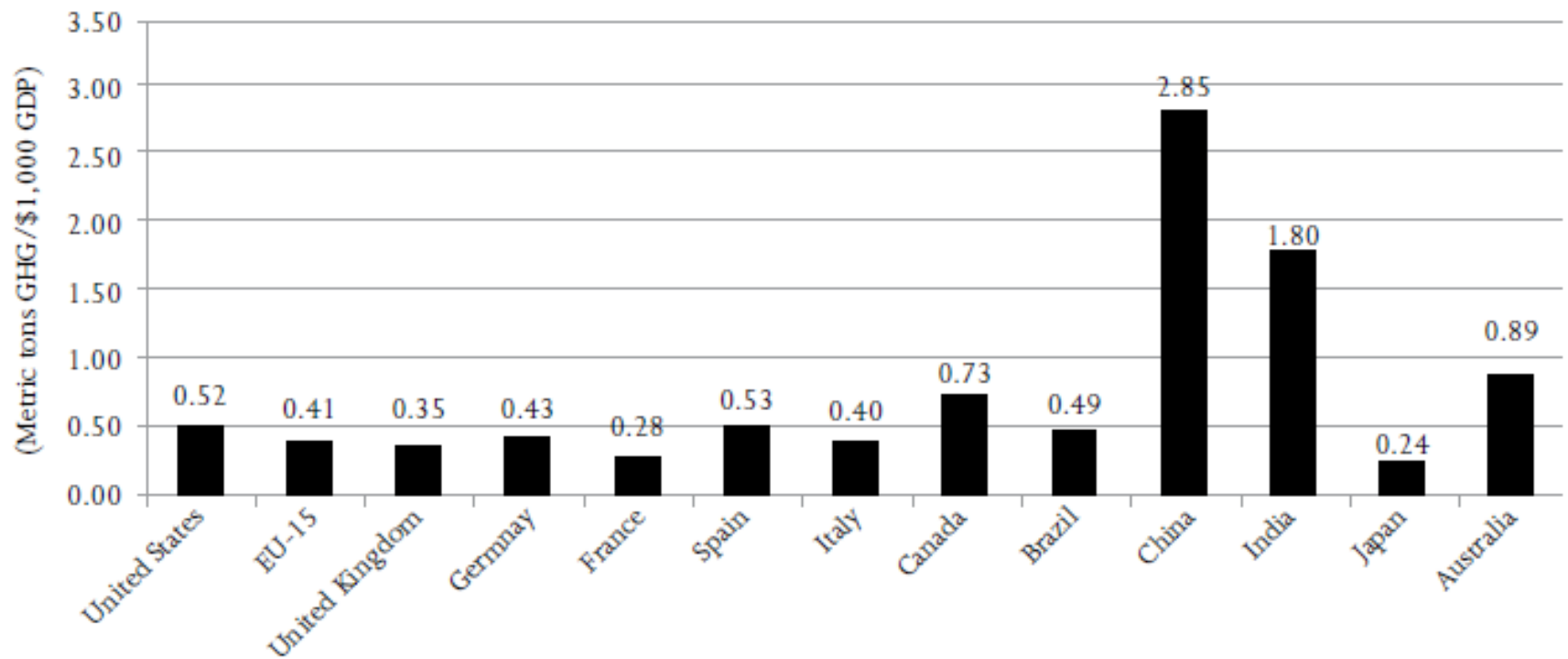
# Regulatory Risk

- Inevitability of future regulation of carbon emissions?
- Massachusetts v. EPA, Case No. 05-1120 (2007)
- 2009 EPA Endangerment Finding Process
- Waxman-Markey?
- Kerry-Boxer?

# Carbon Emissions Trading Opportunities

- Reduction of GHG can be financial opportunity
- Cap and trade system
- Chicago Climate Exchange
- Legal nature still unsettled

FIGURE 13: GREENHOUSE GAS EMISSIONS INTENSITY, 2006



Source: EIA

# Suggestions

- Know your carbon footprint
- Know your energy supply chain
- Know about your customers
- Know about your suppliers
- Be prepared for radical changes in energy costs and legislation

