PANORAMIC NEXT

ESG Engagement & Litigation

EUROPEAN UNION



LEXOLOGY

ESG Engagement & Litigation

2026

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Panoramic Next: ESG Engagement & Litigation explores the fast-changing landscape surrounding corporate environmental, social and governance (ESG) obligations and risks, and the means through which stakeholders hold corporates to account for them. A global panel of experts analyse key recent trends and developments, with practical takeaways for companies, shareholders and consumers alike.

Generated: February 20, 2026

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European Union

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ABOUT

Bruno Hardy is a partner in the international arbitration and dispute resolution practice at Liedekerke. He also heads up the firm's international sanctions team and co-heads the ESG solutions practice. In that capacity, he oversees the firm's work on business and human rights and advises clients on foreign investment protection and sustainability due diligence. He is a guest lecturer in international investment law and arbitration at KU Leuven University (Belgium), where he teaches general investment law, as well as focusing on transparency, affected communities and counterclaims in investment arbitration.

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Q&A

WHICH ENTITIES IN YOUR JURISDICTION ARE SUBJECT TO ESG OBLIGATIONS? WHAT IS THE LEGAL OR REGULATORY BASIS FOR THESE OBLIGATIONS?

The European Union has established a comprehensive and evolving ESG framework that affects – either directly or indirectly – almost all actors operating within the EU market. The specific obligations imposed on entities active in the EU depend on the scope of application of each instrument, with criteria such as company size, type of activity and market presence determining whether an entity falls within its remit.

The relevant ESG instruments at EU level can be classified according to two criteria. First, certain instruments concern reporting and publication of ESG information while other instruments impose due diligence obligations on in-scope companies. Second, EU instruments may apply to companies generally, while other instruments are sector-specific, depending on the company's business activities.

The main reporting regulation applying across sectors is the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464) (CSRD). The CSRD reforms and replaces the former Non-Financial Reporting Directive. Under the CSRD framework, large undertakings operating in the EU are required to disclose sustainability-related information once their turnover exceeds certain thresholds. The CSRD is subject to a phased implementation plan, with applicability determined by the size and nature of the undertaking.

However, the CSRD is being amended through the Omnibus I simplification package (the Omnibus package). This comprises the 'Stop the Clock' Directive (Directive (EU) 2025/794 of 14 April 2025, postponing certain reporting requirements) and a proposal for the Omnibus I Directive (published on 26 February 2025), which would revise scoping rules and introduce more substantial changes to the CSRD. The final text of the Omnibus I Directive has been agreed in December 2025, with the official Council approval expected in early 2026.

The CSRD applies to both EU and non-EU companies that generate substantial turnover in the EU and operate through branches or subsidiaries. Certain holding structures may benefit from consolidation or reporting exemptions in limited circumstances; the availability of these exemptions is fact specific and should be assessed against the EU Accounting Directive (Directive 2013/34/EU) or the CSRD as transposed in the relevant member state (and, where relevant, the final Omnibus I Directive).

Covered entities must publish detailed sustainability information in accordance with the European Sustainability Reporting Standards (ESRS). The reporting covers ESG matters and the disclosures are intended to give investors, stakeholders and regulators a reliable view of the company's sustainability performance. The ESRS have recently been subject to targeted phased in relief, and, under the Omnibus package, further simplification has been agreed in principle.

In parallel with the CSRD, the Sustainable Finance Disclosure Regulation (Regulation (EU) 2019/2088) (SFDR) imposes ESG-related transparency obligations on financial market participants and financial advisers (including banks, asset managers, insurance companies and other entities offering financial products in the EU). It requires disclosure of sustainability risks and impacts at both the entity and product level.

Under the SFDR, financial market participants must integrate ESG considerations into investment decision-making, provide pre-contractual disclosures for financial products describing sustainability characteristics, and publish periodic reports on the environmental or social impact of investments. It applies to both EU and certain non-EU entities marketing financial products within the EU, and ties in with the CSRD reporting obligations.

From a regulatory risk perspective, the SFDR is currently a key mechanism for supervisory scrutiny of greenwashing. However, the framework is in flux: in November 2025, the Commission proposed reforms that will, among other things, reduce disclosure burdens and tighten rules on the use of ESG-related terms in product names or marketing.

The EU Taxonomy Regulation (Regulation (EU) 2020/852) also constitutes a central pillar of the EU sustainable regulatory framework. It provides a classification system for environmentally sustainable economic activities. It applies to financial market participants offering financial products, large companies reporting under the CSRD and issuers that are required to make sustainability related disclosures under EU or national regulatory measures.

The Taxonomy Regulation's primary objective is to create a common, science-based definition of 'environmentally sustainable' activities to improve market transparency, reduce greenwashing and direct capital towards activities that support the EU's climate and environmental objectives.

While the CSRD and SFDR focus on reporting and disclosure, the Corporate Sustainability Due Diligence Directive (Directive (EU) 2024/1760) (CSDDD) introduces substantive, action-oriented obligations. Companies must identify, prevent, mitigate and, where necessary, remedy adverse human rights and environmental impacts arising from their own and their subsidiaries' operations, as well as those of certain business partners in their value chains.

The CSDDD was adopted in May 2024 and entered into force on 25 July 2024. Its scope was later revised through the Omnibus package and the Omnibus agreement reached in December 2025. In its current form, the CSDDD has a narrower scope than the CSRD, but it is likewise determined primarily by company size and global turnover. It applies to large EU and non EU companies operating in the EU. The thresholds are:

- for EU companies: more than 5,000 employees and net worldwide turnover above €1.5 billion or ultimate parent companies of groups meeting these thresholds;
- for non EU companies: net turnover above €1.5 billion generated within the EU or ultimate parent companies of groups meeting this threshold; and
- for EU or non EU companies operating franchising or licensing networks: more than €75 million in EU royalties and EU turnover exceeding €275 million.

The Omnibus agreement would significantly narrow the scope and delay the CSDDD's application.

The CSDDD requires in-scope companies to integrate due diligence policies into governance and risk management, regularly identifying actual and potential adverse impacts using reasonably available information and take appropriate measures to prevent or mitigate any identified risks. When actual harm occurs, companies are required to act to end or minimise it and contribute to remediation where necessary. Companies must also maintain complaints mechanisms and publish annual due diligence statements. National authorities are entrusted to supervise compliance, and the current CSDDD includes a civil liability mechanism at member state level; the Omnibus agreement would reduce EU level harmonisation of access to justice elements and lower the ceiling for administrative fines.

In addition to these general ESG-related instruments, the EU has adopted a series of sector-specific regulations, including:

- the EU Deforestation Regulation (Regulation (EU) 2023/1115) (EUDR), which targets commodities and products linked to deforestation and forest degradation and requires importers and operators to conduct due diligence to ensure their products are deforestation-free;
- the Conflict Minerals Regulation (Regulation (EU) 2017/821), which requires EU importers of tin, tantalum, tungsten and gold to verify and disclose responsible sourcing to prevent financing of armed conflicts and other human rights abuses;
- the EU Batteries Regulation (Regulation (EU) 2023/1542), which imposes sustainability requirements for the entire battery life cycle;
- the Forced Labour Regulation (Regulation (EU) 2024/3015) (FLR), which prohibits the placing of goods produced with forced labour on the EU market and requires due diligence to identify, prevent and mitigate forced labour in supply chains; and
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the Carbon Border Adjustment Mechanism (established by Regulation (EU) 2023/956), which applies specifically to EU importers of carbon-intensive goods and requires them to report embedded emissions and purchase specific certificates reflecting the carbon price that would have applied had the goods been produced in the EU.

In addition, for financial institutions, ESG-related obligations in the EU extend beyond the SFDR and the Taxonomy Regulation. They also arise through conduct of business rules, which set expectations for clear, fair and not misleading sustainability claims, as well as for appropriate product governance and the incorporation of clients' sustainability preferences into suitability assessments. In addition, prudential supervision frameworks impose obligations on banks to integrate climate and environmental risks into their governance, risk management processes, internal controls, stress testing and capital planning.

This is why, in practice, ESG related disputes in the financial sector tend to surface as issues of mis selling, mis marketing or deficient risk management processes, rather than as claims framed expressly around ESG concepts.

TO WHICH PRIMARY STAKEHOLDERS ARE ESG OBLIGATIONS OWED? HOW ARE THESE OBLIGATIONS ENFORCED OR MONITORED?

ESG obligations at EU level are owed to a diverse range of primary stakeholders, the configuration of which depends on the scope and focus of each EU legal instrument. These stakeholders include:

- regulators and supervisory authorities, such as financial regulators, reporting authorities and competent environmental or consumer bodies tasked with overseeing compliance with EU ESG rules. These entities are expressly identified as stakeholders by the ESRS;
- investors and shareholders, for whom ESG disclosures are intended to provide the information necessary to assess sustainability performance, identify potential risks and make informed investment decisions. Their position is particularly central under the CSRD and the SFDR;
- workers and employees, whose rights – ranging from workplace safety and fair labour practices to wider human rights protections – are directly addressed, notably under the CSDDD and the FLR;
- consumers, who rely on transparent and reliable sustainability information when evaluating the environmental and social impacts of the products and services they purchase. All major EU ESG instruments recognise consumers (and, in the financial services sector, retail investors) as primary stakeholders, and greenwashing-related legislation is designed to strengthen their ability to make informed choices;
- local communities and affected individuals, whom the CSDDD and other sector-specific instruments require companies to consider in identifying, preventing, mitigating and remedying adverse human rights or environmental impacts. These groups are expressly recognised as 'affected stakeholders' across the EU ESG framework and may benefit from access to complaints mechanisms and remediation processes; and

- civil society organisations, human rights groups and environmental institutions, which play an important role in monitoring corporate conduct, raising concerns and holding companies accountable. The CSDDD, for example, explicitly identifies these organisations as stakeholders whose input must be considered in the due diligence process.

Monitoring and enforcement of ESG obligations at EU level are conducted through a combination of national oversight, regulatory coordination and private enforcement mechanisms.

National competent authorities

Under various EU instruments, member states must designate national authorities responsible for supervising compliance with the obligations provided therein. These authorities may be empowered to request information, conduct investigations, issue corrective measures and impose sanctions (such as fines) for non-compliance. In the sustainable finance context, this role is typically fulfilled by financial supervisory authorities operating under sector-specific frameworks, relying on their existing supervisory powers to address failures relating to the SFDR, the Taxonomy Regulation and greenwashing more broadly.

European supervisory authorities

European supervisory authorities (ESAs) include the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA). ESAs coordinate national efforts and, in some cases, have direct supervisory roles. They also coordinate common supervisory actions (CSAs) with national supervisors, with CSAs functioning as EU wide supervisory reviews conducted under a common ESMA led methodology to assess sustainability related disclosures and strengthen oversight of greenwashing. A European Network of Supervisory Authorities has also been established for the CSDDD.

Direct EU-level supervision

Direct EU level supervision applies in certain sustainable finance areas; for example, the ESG ratings regime, which provides for ESMA registration and supervision of ESG rating providers from 2 July 2026.

Market surveillance authorities

For product-specific regulations, including the EU Batteries Regulation, market surveillance authorities are responsible for ensuring that products placed on the market meet the relevant environmental and circularity requirements.

Civil litigation

Under certain circumstances, affected stakeholders, including non-governmental organisations (NGOs), employees, consumers and other individuals or groups, can initiate civil claims against companies that fail to meet their due diligence obligations, potentially leading to liability for damage caused. The CSDDD, for example, establishes the right to seek remedies when companies fail to implement proper due diligence, providing a mechanism for private enforcement and stakeholder redress. In the financial sector, private litigation typically relies not on the SFDR itself but on national mis selling, prospectus or market disclosure rules and unfair commercial practice regimes, using SFDR, Taxonomy Regulation and CSRD benchmarks to evidence misleading conduct or deficient internal controls.

WHICH REGULATORS, PUBLIC BODIES OR INDUSTRY GROUPS ARE MOST ACTIVE IN ESG OVERSIGHT, ENFORCEMENT AND LITIGATION IN YOUR JURISDICTION? WHAT ARE THE MOST SIGNIFICANT RECENT DEVELOPMENTS IN THIS AREA?

The majority of EU ESG instruments empower national authorities with significant oversight powers. The CSRD, SFDR, CSDDD and Taxonomy Regulation, as well as most sector-specific instruments, provide that member states must designate competent authorities for supervision and oversight.

However, ESG oversight at EU level is also exercised directly by some EU entities. While the EU does not have a single, centralised ESG authority, several EU bodies play important oversight roles.

The ESAs play a central role in the oversight of sustainable finance by issuing guidelines, Q&A documents and joint reports. For instance, in 2024, the ESAs issued a joint opinion on the SFDR, advising the Commission to make necessary amendments to the Regulation in light of concerns raised by individual investors.

This supervisory focus is increasingly operationalised through supervisory convergence tools. For example, ESMA coordinated a CSA with national supervisors on sustainability-related disclosures and the integration of sustainability risks in the asset management sector and issued its final report in June 2025.

ESMA is responsible for the registration and supervision of ESG rating providers across EU financial markets. This role is set out in Regulation (EU) 2024/3005, which entered into force on 1 January 2025 and will apply from 2 July 2026, and specifically aims to combat greenwashing within the financial services sector. In parallel, ESMA has significantly heightened expectations around fund naming and marketing: its guidelines on funds' names using ESG or sustainability related terms have applied since 21 November 2024 (with a transition for existing funds), and are already shaping supervisory practice and litigation risk around alleged 'name to portfolio' misalignment.

The European Central Bank (ECB) also positions itself as a strong advocate for the EU's sustainability framework. In its 8 May 2025 opinion on the Commission's Omnibus proposals (aimed at simplifying reporting burdens), the ECB warned that removing up to 80 per cent of companies from the CSRD's scope would create significant information gaps, weaken investors' ability to assess climate and environmental risks, and ultimately undermine financial stability. This opinion illustrates the ECB's firm stance that effective ESG implementation requires broad, reliable and comparable sustainability data to support both prudential supervision and the EU's transition objectives.

The CSDDD will further expand EU-level enforcement mechanisms. The Directive requires the Commission to establish a European Network of Supervisory Authorities, designed to coordinate and align national investigations, share information and support cross-border enforcement of due diligence obligations. This aims to ensure more consistent ESG supervision across member states.

From a prudential perspective, bank supervisors are also tightening the governance and risk management perimeter around ESG risks. In January 2025, the EBA issued final guidelines on the management of ESG risks (including plans and governance), which came into effect on 11 January 2026.

In addition to institutional oversight, EU-level ESG enforcement is significantly shaped by NGOs and civil society organisations. Groups such as ClientEarth, the European Environmental Bureau, Transport & Environment, Friends of the Earth Europe and European consumer organisation BEUC have become active policy influencers and litigators.

A prominent example of EU-level ESG litigation is the action brought by ClientEarth and other NGOs challenging the European Commission's Delegated Act, which classified certain activities – specifically bioenergy and the manufacture of organic base chemicals and plastics in primary form – as 'environmentally sustainable' under the Taxonomy Regulation. Although the General Court ultimately dismissed the action on procedural grounds (and an appeal has been announced), the case illustrates the growing role of litigation in shaping ESG regulation.

WHAT MECHANISMS EXIST FOR SHAREHOLDERS, INSTITUTIONAL INVESTORS AND OTHER STAKEHOLDERS TO INFLUENCE OR CHALLENGE A COMPANY'S ESG PRACTICES? WHAT LEGAL REMEDIES ARE AVAILABLE WHEN ESG FAILURES RESULT IN HARM?

A range of mechanisms at EU level allow shareholders, investors and other stakeholders to influence corporate ESG behaviour and challenge compliance failures. These fall into three broad categories: transparency and engagement tools, penalties and formal enforcement pathways.

Transparency and engagement tools

CSRD

Transparency acts as a primary lever for stakeholder influence. The CSRD requires companies to publish detailed sustainability information in accordance with the ESRS. This disclosure regime enables investors and stakeholders to engage effectively with management, exercise shareholder rights and challenge inadequate or misleading reporting.

SFDR

Stakeholders primarily influence financial institutions' ESG practices through transparency obligations. The SFDR requires financial market participants and advisers to disclose how

they integrate sustainability risks and consider principal adverse impacts. This enables investors to scrutinise ESG strategies, challenge inconsistencies and identify potential greenwashing. The Regulation itself does not currently prescribe a specific set of remedies at the EU level, leaving enforcement to national law. In practice, SFDR disputes frequently crystallise as mis selling or misleading marketing disputes under sector-specific conduct rules and national private law, with SFDR disclosures used as evidence of what was (or was not) communicated and controlled.

Taxonomy Regulation

Environmental disclosures required from financial market participants and reporting companies enable investors to assess whether products or activities meet the Regulation criteria and to challenge cases where information appears inaccurate or inconsistent with the technical screening rules.

Penalties

CSRD and Taxonomy Regulation

The CSRD and Taxonomy Regulation both require member states to establish penalties for breaches of reporting obligations. However, these instruments do not harmonise the nature or level of penalties across the EU. Enforcement is highly dependent on national frameworks, which may include administrative fines, orders to correct non-compliant disclosures and the publication of sanctions.

SFDR

The SFDR relies on the existing supervisory and penalty regimes applicable to financial market participants under pre-existing sector-specific legislation (eg, the Markets in Financial Instruments Directive II (Directive 2014/65/EU), the AIFM Directive (Directive 2011/61/EU) and the UCITS Directive (Directive 2009/65/EC)). It does not introduce a distinct penalty system of its own, leaving competent national financial supervisory authorities to apply their general enforcement powers for non-compliance or greenwashing. Recent ESMA work on sustainability related claims and fund names is increasingly used by supervisors as a benchmark for what is clear, fair and not misleading in ESG communications.

CSDDD

The CSDDD provides for an explicit and harmonised penalty mechanism. National competent authorities are empowered to impose strong administrative penalties. The penalties under the CSDDD are, however, subject to a maximum limit (3 per cent) of a company's net worldwide turnover.

Formal enforcement and remedies

CSDDD

The CSDDD introduces the most explicit and far-reaching avenues for stakeholder intervention across the EU ESG framework. It expressly provides that natural and legal persons may submit substantiated concerns to national supervisory authorities where they believe a company is failing to comply with its due diligence obligations.

The CSDDD initially intended to introduce a harmonised civil liability regime, under which companies could be held liable for damage caused to individuals or entities when their failure to comply with due diligence obligations contributed to human rights or environmental harm. However, the Omnibus package is likely to impact the level of harmonisation of the civil liability regime initially included in the Directive.

Further enforcement measures under the CSDDD may arise from the enforcement actions of national supervisory authorities. Under articles 25 and 27 of the CSDDD, for example, national authorities are empowered to:

- order companies to cease infringements;
- require the adoption of corrective action plans;
- impose effective, proportionate and dissuasive financial penalties (of a maximum of 3 per cent of net worldwide turnover); and
- publish their decisions, creating an additional reputational deterrent.

HOW ARE COMPANIES IN YOUR JURISDICTION ADDRESSING EMERGING ESG RISKS SUCH AS LACK OF SUPPLY CHAIN TRANSPARENCY, HUMAN RIGHTS VIOLATIONS, INADEQUATE CLIMATE CHANGE ADAPTATION AND GREENWASHING?

Companies operating within the EU jurisdiction are shifting from voluntary sustainability initiatives towards structured compliance frameworks to take into account binding legal obligations. This shift is driven by the core EU instruments that are progressively being implemented, such as the CSRD, the CSDDD, the SFDR, the Taxonomy Regulation and sector-specific rules such as the EUDR, the Conflict Minerals Regulation, the Batteries Regulation and the FLR.

To tackle supply chain opacity and manage human rights risks, large companies must now map their value chains, address high-risk situations and suppliers, and implement monitoring systems. Human rights risks must also be addressed through formal policies, operational-level grievance mechanisms for employees and communities, and the integration of mandatory stakeholder feedback into due diligence processes, aligning with CSDDD requirements.

Greenwashing is emerging as a significant legal and reputational risk, leading to more cautious corporate behaviour. Companies are responding by strengthening internal governance of environmental claims, requiring verifiable evidence, centralising review processes and incorporating upstream contractual warranties from suppliers to ensure underlying data accuracy.

Climate-related risks are being addressed via transition planning and adaptation measures. Companies are required under the CSRD to develop and publish science-based targets,

decarbonisation roadmaps and scenario analyses to anticipate regulatory and market pressures.

Contractual arrangements are becoming an essential tool for managing and enforcing ESG-related risks. Companies increasingly use specific clauses, warranties, audit rights and termination or corrective action provisions to ensure suppliers and distributors comply with ESG obligations. These mechanisms also help protect companies from greenwashing risks arising from third-party suppliers and service providers.

In the financial sector, supervisory authorities expect banks, insurers and asset managers to treat ESG risks as part of their standard financial and operational risk frameworks. This includes embedding ESG considerations into governance, risk appetite, internal controls, outsourcing and data governance arrangements and – specifically for banks – prudential planning. Supervisory pressure has become sufficiently concrete that institutions are now facing enforcement style outcomes, such as remediation plans, deadlines and, in cases of non-engagement, sanctions.

HOW IS YOUR JURISDICTION RESPONDING TO INTERNATIONAL ESG FRAMEWORKS AND STANDARDS, SUCH AS TCFD, ISSB OR THE EU CORPORATE SUSTAINABILITY REPORTING DIRECTIVE (CSRD)?

The EU's sustainability policy is closely linked to broader international initiatives, including the European Green Deal and the UN Sustainable Development Goals. Although the CSRD introduces its own EU reporting system through the ESRS, these standards have been designed, to a great extent, to align with other international frameworks.

The objective of the EU legislator and regulators is to ensure consistency with global standards, from ISSB, TCFD and the Global Reporting Initiative. This approach aims to minimise disruption and unnecessary administrative burden for companies required to use them, while ensuring robust and globally comparable reporting.

Each of the EU instruments concerning ESG obligations makes explicit reference to broader international frameworks, and more particularly to the UN Guiding Principles on Business and Human Rights, the Paris Agreement to the UN Framework Convention on Climate Change and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.

The EU's approach demonstrates that its sustainability rules are intended to complement and develop (rather than replace) these international frameworks, ensuring consistency where possible, while embedding them within a binding and enforceable EU regulatory structure.

HOW ARE ESG FACTORS INTEGRATED INTO M&A, FINANCING OR OTHER TRANSACTIONAL ACTIVITIES? WHAT CHALLENGES DO COMPANIES FACE IN COLLECTING, VERIFYING AND DISCLOSING ESG DATA?

Although ESG due diligence practices still vary across EU member states, ESG considerations reportedly play an increasingly important role in M&A and transactional activities. Recent surveys indicate that ESG considerations now rank among the top legal issues in corporate transactions, alongside regulatory compliance and data protection. This

shift is driven by the integration of EU law obligations into risk management and valuation processes.

Investors and buyers are increasingly using ESG factors during the entire life cycle of a deal. In early deal stages, investors often use positive screening processes, such as evaluating alignment with the Taxonomy Regulation, to identify promising value creation opportunities. A recent report has even suggested that over 70 per cent of companies have, in recent years, walked away from acquisitions due to ESG concerns.

Transaction agreements now often include ESG-specific representations and warranties concerning environmental compliance, due diligence obligations and governance practices. ESG-related covenants may require parties to maintain or improve ESG performance, implement sustainability initiatives or engage with relevant stakeholders. ESG factors are also being incorporated into conditions precedent or subsequent, ensuring that material risks or remedial actions – such as mandatory investment in renewable energy infrastructure – are addressed either before or after completion. In addition, ESG-related indemnities can protect buyers from unforeseen liabilities, including pending ESG litigation or governance failures. Ultimately, ESG performance or risks may be reflected in purchase price adjustment mechanisms, resulting in either a premium or discount to the purchase price.

Despite this growing integration, companies continue to face significant challenges in collecting, verifying and disclosing reliable ESG data. Data availability and quality remain limited, particularly when relevant information is dispersed across departments or external value chain partners. Gathering data from non-EU or smaller suppliers that are not yet subject to equivalent reporting obligations can also be difficult. The coexistence of several reporting standards may also lead to inconsistencies across industries and regions. Finally, the dynamic nature of EU regulation requires continuous monitoring, and companies often struggle to apply evolving rules in fast-moving transactional contexts.

For issuers or borrowers and intermediaries, ESG data quality directly impacts disclosures in offering documentation, fund or portfolio disclosures under the SFDR and the credibility of sustainability linked key performance indicators. This makes internal controls and auditability of ESG data a transaction critical issue, rather than solely a reporting issue.

WHAT TRENDS DO YOU ANTICIPATE IN ESG REGULATION, ENFORCEMENT AND LITIGATION OVER THE NEXT FIVE YEARS?

Over the next five years, the EU ESG landscape will transition significantly, as the period of intense legislation is concluding. The focus is now shifting to the consolidation of the legislation and will soon turn to the enforcement of the new standards, with a consequent rise in litigation and disputes.

The consolidation and simplification is under way in the EU. This process has begun with the Omnibus package, which introduces a series of amendments to the CSRD and the CSDDD, among other things. It notably reduces the scope of application of both instruments, limits certain obligations for smaller companies and removes certain requirements altogether, such as the climate change mitigation plan.

Enforcement will now also likely intensify across the EU. National authorities are moving from offering guidance to conducting formal audits. The first CSRD reports will likely

be intensely scrutinised by regulators such as the ESMA. This scrutiny will establish enforcement priorities for the coming years. A major focus will be on the quality and reliability of reported data. The CSDDD will introduce mandatory monitoring of supply chains, increasing scrutiny and potential penalties for operators. Regulators are also actively on the lookout for greenwashing, using the EU's Greenwashing Directive to penalise misleading environmental claims.

ESG related litigation by NGOs and other stakeholders is also expected to increase. Clearer regulatory standards offer more precise legal grounds for bringing claims, prompting a rise in actions by NGOs and consumer groups alleging breaches or misleading environmental statements. Similar growth is anticipated in cases involving human rights violations and environmental harm within supply chains.

Finally, contract and tort claims between business partners or competitors are also expected to emerge. Companies facing liability for reporting or due diligence failures may pursue claims against their contractual counterparts, including entities within their supply chains. In addition, unfair competition claims are likely to rise, as inaccurate or misleading sustainability statements may be viewed as conferring an unfair commercial advantage and misleading consumers.

The Inside Track

HOW HAS YOUR WORK IN RELATION TO ESG, COLLECTIVE ENGAGEMENT AND LITIGATION EVOLVED OVER THE PAST FIVE YEARS IN RESPONSE TO CHANGING REGULATORY AND MARKET EXPECTATIONS?

Our work has evolved alongside the development of the EU regulatory framework. Initially, much of our focus was on monitoring emerging texts, interpreting their potential scope and applicability, and advising clients on anticipated obligations before the rules came into force. As key instruments such as the CSRD and CSDDD have entered or are about to enter into force, our work has shifted towards more practical compliance matters. We now provide guidance on implementing concrete measures, ensuring alignment with mandatory reporting and due diligence obligations, and supporting clients in navigating the operational and governance changes required to meet EU ESG expectations.

WHAT WAS THE MOST NOTEWORTHY ESG MATTER THAT YOU HAVE WORKED ON RECENTLY AND WHAT LESSONS OR INNOVATIONS EMERGED FROM IT?

A notable recent matter involved advising a multinational client on compliance with the EUDR. Our work included assessing whether their products fall within the Regulation's scope, identifying applicable obligations across both upstream and downstream supply chains, and clarifying the specific compliance responsibilities of each entity involved. This engagement underscored the practical challenges companies face in mapping complex supply chains and meeting the Regulation's traceability and due diligence requirements. A key takeaway was that ESG due diligence cannot be treated in isolation: it must be embedded within the broader operational and governance framework of the company. We supported the client by establishing a more coordinated and structured internal ESG framework, enhancing integration of sustainability considerations across the organisation.

WHAT ADVICE WOULD YOU GIVE TO COMPANIES OR INVESTORS SEEKING TO NAVIGATE THE EVOLVING ESG LANDSCAPE IN YOUR JURISDICTION?

The core advice we would give is to prioritise proactive compliance. What was once largely voluntary is rapidly becoming mandatory, driven by EU level instruments such as the CSRD, the Taxonomy Regulation and the CSDDD, which each impose specific reporting and due diligence obligations.

Organisations should not wait until obligations formally apply but should use all available transition periods to build robust, integrated ESG compliance systems. Because many large companies are subject to multiple instruments with overlapping requirements, ESG risk management should be embedded holistically rather than addressed in isolation so as to avoid duplication. Given the pace of regulatory change and simplification efforts (eg, the Omnibus package), companies must keep abreast of developments and update internal policies accordingly.

To protect themselves, particularly in the event of supply chain breaches, companies should place strong emphasis on contractual safeguards, including ESG clauses, audit rights, cooperation obligations and provisions on liability and compensation for harm. These measures are crucial not only for managing compliance risks but also for mitigating potential litigation exposure. EU ESG regulations require a shift in mindset away from a traditional 'freedom of contract' approach towards one of 'regulatory contracts', in which contractual terms serve as tools to advance sustainability objectives together with business partners while protecting corporate value.

For financial institutions and issuers accessing capital markets, ESG disclosures should be treated as financial regulatory disclosures, with governance, controls and sign-off processes aligned to the standards applied to other regulated communications. This reflects the approach increasingly taken by financial supervisors when assessing greenwashing risks and it is also the basis on which claimants are likely to frame misrepresentation claims.



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