Linklaters

ESG Legal Outlook 2025

Key global themes

Introduction: A year of implementation, reflection and recalibration

The last couple of years have seen ESG policy and regulation across the globe develop at a frenetic pace. However, with many economies concerned about competitiveness and energy costs, it is not surprising that some are now asking for a moment of reflection and recalibration, as well as emphasis on the practical implementation of recently adopted regulation.

Serious questions are being asked about the private sector's ability to cope with what has been a veritable tsunami of ESG developments, including hefty new disclosure and due diligence requirements, which has led to a certain amount of ESG fatigue. Even the EU, which has been leading the ESG charge so far, is about to embark on a simplification (and implementation) phase. And there is no denying that the outcome of the recent US election will have a significant effect on the ESG landscape, not just domestically but also further afield.

Having said that, 2025 is unlikely to see a full reversal or halt to ESG developments globally. What is more likely is that the pace of change will slow this year and that there will be a pause for thought and focus on practical implementation, to give businesses some much-needed breathing space.

There are still plenty of significant developments scheduled for 2025 including in respect of transition plans, energy transition, sustainable finance, disclosure, due diligence, and circular economy, as well as a continued focus on greenwashing and ESG litigation.

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Impact of big election year on net zero momentum

2024 was a record year for elections across the globe, including in the US, EU and UK. This is expected to have an impact on global ESG policy and regulation, although the size and shape of this is not yet certain. Nonetheless, the global momentum on transition towards a lower carbon economy is expected to continue.

In the US, the incoming Trump administration has indicated that it plans to withdraw the US (again) from the Paris Agreement, amend certain provisions of the Inflation Reduction Act (IRA), incentivise new fossil fuel extraction, and unleash a raft of protectionist tariffs. Other factors such as inflation, and the vast amounts of energy needed to power AI, amongst others, are also expected to shape energy policy in the US in particular. The much-discussed SEC climate rule is widely expected to be shelved.

This spells uncertainty for federal tax incentives designed to further clean energy and energy transition. However, with the vast majority of IRA-associated investment and job creation so far having occurred in traditionally Republican and swing-states, a broad repeal of the IRA seems unlikely, although portions of the IRA relevant to select industries could be surgically targeted.

The energy sector may experience a roll-back of regulation, streamlining of federal permitting for energy and infrastructure projects, and a re-focus on oil and gas production. And while renewable and low-carbon energy is not expected to go away, it is expected that there will be a renewed focus on LNG and nuclear.

In the EU, a new European Parliament and Commission have started a fresh five-year mandate, and a number of EU Member States have had (or are about to have) changes in government.

Two key, competing, trends are emerging:

- the need to boost the EU's competitiveness and growth, while still "staying the course" on the core objectives of the European Green Deal and the decarbonisation agenda; and
- the need to simplify regulatory burdens for businesses without straying too far into deregulation.

We are expecting new ESG legislation in 2025 including a Clean Industrial Deal and Industrial Decarbonisation Accelerator Act. But the biggest question mark is the proposed Omnibus simplification package which is set to reduce red tape, in particular sustainability reporting obligations in the Corporate Sustainability Reporting Directive (CSRD), Corporate Sustainability Due Diligence Directive (CSDDD / CS3D) and Taxonomy Regulation (discussed in more detail below).

Some have argued that the European Commission went too far, too quickly, with ESG legislation in its previous mandate and that it is now trying to backpedal with what the EU in its Budapest Declaration is calling a "simplification revolution". Everyone can agree on the need to avoid unnecessary reporting and duplication but the Commission will have a difficult job balancing the need to reduce red tape and streamline sustainability reporting burdens without straying too far into the deregulation camp.

The political dynamics of the new European Parliament (where centre-right and populist parties gained ground), combined with recent and impending changes of government in several EU Member States, is likely to mean it will be harder and take longer to agree new legislation or make changes to existing legislation going forwards. The EU is about to embark on a more volatile political era but so far its continued commitment to the transition to a lower carbon economy seems relatively clear.

In the UK, energy transition and net zero policy is a key priority for the new Labour government, which has said it wants to make the UK a "clean energy superpower" and the "green finance capital of the world" and is committed to delivering clean power by 2030. New legislation is underway to flesh out this agenda, including new Bills to set up Great British Energy and the National Wealth Fund, as well as new legislation to revamp the planning regime and upgrade the power grid. New rules on sustainability disclosures and transition planning are also expected, as explained below.

The UK government has made it clear that it sees the future competitiveness of the UK as being inextricably linked to the net zero agenda and it wants to make the UK an attractive investment destination, as well as enabling it to export leading clean technologies. However, the new government's "clean power mission" is a daunting task and the sheer amount of change needed should not be underestimated.

Globally, despite ongoing geopolitical turbulence and pushback in some camps, the general consensus is that the global transition to a lower carbon economy has its own momentum - one that is not solely dictated by the vicissitudes of politics. The overall direction of travel looks set to remain onwards and forwards, although the pace may vary in different regions. We may see a more cautious or even openly hostile approach from some policymakers but this is unlikely to result in the global transition coming to a halt.

Read more

US election outcome and the impact on the global energy transition

What does the new European Commission have in store for sustainability?

What to expect from the new UK Labour government's net zero and green agenda

Energy & Infrastructure Legal Outlook 2025

Transition plans and transition finance coming into sharper focus

There is growing international momentum around climate transition plans, coming from both the private sector and policymakers, with investors increasingly demanding more detailed disclosures on business strategies for decarbonisation and adaptation to a low-carbon future and a number of countries considering mandatory transition plans.

Transition plans

Transition plans can provide vital information for investors and lenders enabling them to make better decisions about capital allocation, as well as guide companies in adapting their business so they are future fit and help them to defend against greenwashing claims.

Transition planning is becoming a core part of corporate strategy-setting and implementation and should not be mistaken for a tick-box disclosure exercise. Financial institutions and funds are already considering transition strategy as part of their due diligence and within credit and pricing conversations.

The UK has been at the forefront of setting best practice standards for credible and robust transition plans, with the Transition Plan Taskforce (TPT) issuing recommendations and sector-specific guidance.

The TPT's work has attracted interest from other jurisdictions, and the International Sustainability Standards Board (ISSB) has since taken over responsibility for the TPT materials to help streamline global transition planning frameworks. The EU is also in the process of developing its own transition plan guidance in the context of the CSRD sustainability disclosure regime.

Several countries are considering mandatory transition plans. The UK has said it will consult in the first half of 2025, and the EU's CSDDD will require certain large companies or those doing a lot of business in the EU to develop transition plans as early as mid-2027.

There is also increasing pressure on the financial sector to develop transition plans, as explored in this discussion paper jointly produced by AFME and Linklaters.

Transition finance

Transition planning is likely to be instrumental in enabling transition finance. The UK carried out a Transition Finance Market Review (TFMR) in 2024 to explore the barriers to scaling transition finance and how the UK could become a global hub for funding the global net zero transition. The TFMR provides a framework to scale the market for transition finance in the UK and globally, including in emerging markets and developing economies.

In particular, it found that companies and governments will require credible transition finance to deliver on their decarbonisation commitments and meet Paris Agreement goals, and that transition finance opens up substantial growth opportunities. However, it also found that in order to create an effective transition finance market, we need a commonly understood definition of transition finance, signalling that there is still much work to be done in this space.

In Asia, there is a drive to accelerate the efforts of the financial sector to direct finance to transition activities, including through the use of taxonomies, taking into account that businesses across various jurisdictions in Asia are at different points in their climate journey. Blended finance solutions are expected to be a key focus for markets in the Global South.

Global recalibration

The increased focus on transition plans in 2025 is also likely to lead to a global recalibration as the private sector assesses whether its climate plans are realistic and deliverable.

We have already seen some high-profile announcements of delays to interim climate targets in light of challenging economic conditions and slower than expected development of low-carbon technologies.

That is not to say that businesses are rowing back on their ultimate net zero ambitions, but as we embark on an era of more detailed transition planning, a recalibration of targets and plans may be needed, reflecting a growing maturity in the ESG narrative.

Read more

AFME/Linklaters report: Climate transition plans: current and emerging frameworks for the European financial services sector

UK TPT publishes final recommendations on credible and robust climate transition plans

Transition Finance Market Review provides blueprint for unlocking transition finance in the UK and globally

Climate transition planning & finance

Sustainability disclosure regimes: where the rubber hits the road

2025 will be a big year for sustainability disclosure regimes, although uncertainties remain including on whether there will be changes to the EU CSRD and EU Taxonomy under the Omnibus proposal. Regulators have said they appreciate that new requirements present a steep learning curve but they also warn that the market needs to be get comfortable with being uncomfortable in the early stages of disclosure.

CSRD – The first tranche of companies covered by the EU Corporate Sustainability Reporting Directive (CSRD) will have to publish their first reports in 2025. Complying with CSRD requirements is a massive endeavour – from the sheer number of datapoints it covers, to the complexities of carrying out a double materiality assessment to obtaining data from global value chains and then seeking (limited) third-party assurance. The European Commission has urged companies to be pragmatic and apply common sense when reporting under the CSRD for the first time. They are aware that the first wave of reporting is going to be a challenge and that everyone is on a learning curve – although this does not make the task any less arduous. If that were not enough, there are some added complications:

> EFRAG is still in the process of developing some of the European Sustainability Reporting Standards (ESRS), including for specific sectors and for non-EU companies (see here).

> Not all EU Member States transposed the CSRD into national law by the July 2024 deadline, which leaves in-scope companies in those countries in a difficult situation (see here).

> The Commission has said it plans to publish an Omnibus simplification package to try to simplify some of the requirements in the CSRD, as well as the CSDDD and Taxonomy Regulation (see here). But at this stage it is still unclear what changes exactly will be proposed – for example, will it involve postponing or delaying certain obligations, introducing certain derogations based on company size or other factors, and/or just looking at the substance of what needs to be reported based on the practical difficulties businesses are experiencing?

ISSB implementation – More than 30 jurisdictions are in the process of implementing the first two ISSB sustainability disclosure standards (IFRS S1 and S2) into national law, including the UK and a number of jurisdictions in Asia (see here and here). However, not all these jurisdictions are implementing the ISSB in exactly the same way and there are still questions about the interoperability between the ISSB and the EU CSRD, as well as with existing reporting frameworks such as the GRI – all of which makes it challenging for multinationals looking to develop a holistic reporting strategy across their global operations.

US climate disclosure rules – The US Securities and Exchange Commission (SEC) voluntarily stayed its climate-related disclosure rules in April 2024 pending several legal challenges before the U.S. Court of Appeals for the Eighth Circuit (see here) – and similar bills are under consideration in other Blue States. The SEC rules remain stayed for the time being but it is widely assumed that the new Trump administration will discontinue or reverse these rules in 2025 in some manner. However, US companies may still be subject to the climate disclosure rules in California - the Climate Corporate Data Accountability Act (SB253) and the Climate-Related Financial Risk Act (SB261) under which reporting is due to start in 2026 (see here). US companies doing business in the EU may also be caught by the CSRD and so would have to disclose climate (and other sustainability) data, via that regime (see here).

TNFD disclosures – The number of organisations that have said they plan to disclose voluntarily in line with the framework developed by the Taskforce on Nature-related Financial Disclosures (TNFD) has increased to over 400 (see here). Although this demonstrates a growing recognition of the importance of nature and biodiversity dependencies, wider progress in this space has been slow, as evidenced by the disappointing results of last year's COP16 (see here). The private sector is still waiting for clearer policy and regulatory signals from their governments – for example, will they make nature disclosures mandatory and incentivise biodiversity credits. Those caught by the EU CSRD will have to make nature-related disclosures (where material) but for others, at least for the time being, disclosure remains voluntary.

Back to basics – It is worth remembering that the purpose of all these sustainability disclosure regimes is not reporting for the sake of reporting. These regimes are designed to provide investors and other key stakeholders with better, more comparable, data so that they can make better informed decisions. They are also designed to help businesses identify their sustainability risks and opportunities so that this can be reflected in their wider business strategies. However, at the present, the sheer logistics of preparing for the first wave of CSRD reports, and unpicking how all the various disclosure standards in different jurisdictions interact, is proving somewhat overwhelming. Coupled with which, publicly disclosing more sustainability data also involves potentially increased litigation risks (discussed below).

Read more

- EU CSRD demystified
- EU Omnibus Regulation: what do we know so far?
- ISSB publishes final versions of first two global sustainability disclosure standards
- The SEC's Climate Disclosure Rules
- UK corporate reporting 2024/25
- Biodiversity and nature

Sustainability due diligence regimes: preparation stage and trade frictions

The EU is still leading the way with its ground-breaking CSDDD regime along with a Deforestation Regulation (both of which are now entering a key preparatory phase) and a new Forced Labour Ban Regulation. The new regimes have significant implications for EU and non-EU companies doing business in the EU, as well as being a point of significant friction for trade relations with international partners.

CSDDD

The EU Corporate Sustainability Due Diligence Directive (CSDDD or CS3D), which was adopted in 2024, is set to revolutionise the approach to identifying and addressing human rights and environmental impacts in global supply chains, with due diligence expectations likely to be cascaded throughout value chains, and altering approaches to procurement, contracting and engagement strategies. It will also require companies (including some outside the EU) to adopt and implement climate transition plans. In case of infringements, companies may be held liable and face significant financial penalties.

Member States have until 26 July 2026 to transpose the Directive into national law. It will then apply on a phased basis to in-scope companies from 26 July 2027. In view of the new, far-reaching obligations and risks under the CSDDD, and their interplay with reporting obligations under the CSRD, companies are well-advised to plan ahead - though this is proving somewhat challenging in the absence of detailed guidance contemplated by the CSDDD which is widely expected to be adopted only shortly before the compliance deadline for the first wave of in-scope companies.

However, the European Commission introduced a level of uncertainty when it announced that it is planning to publish an Omnibus simplification package to try to simplify some of the requirements in the CSRD, CSDDD and Taxonomy Regulation (see here). But at this stage, it is still unclear what changes exactly will be proposed to the CSDDD. The Commission has said it does not want to change the core content of the CSRD, CSDDD or Taxonomy Regulation but the danger is that once the Omnibus proposal is put to the European Parliament and Council for negotiation, one or both of them could seek to make wider changes to that legislation.

EU Deforestation Regulation

It was touch and go for this Regulation at the end of 2024 but the Council and Parliament managed to reach agreement in the nick of time. The new Regulation, which was published on 23 December 2024 (see here), provides for a one-year delay to the date of application of the EU Deforestation Regulation (EUDR) – so it will now apply on 30 December 2025 for large in-scope companies and on 30 June 2026 for small and micro enterprises.

The EUDR seeks to ensure that only deforestation-free products are placed on, made available to, or exported from the EU market. It applies to all operators and traders, irrespective of their size (although there are less stringent obligations for SMEs) of the relevant commodities (cattle, cocoa, coffee, oil palm, rubber, soya and wood) or derived products.

The Regulation will require operators and traders to set up new systems to ensure appropriate due diligence is being performed. The Commission will need to publish the list of countries that present a low or high deforestation risk no later than 30 June 2025. Financial institutions will not be directly obliged to analyse their investments for deforestation risks, but the Commission is required to re-assess this by 30 June 2025.

The effects of the new regime go beyond the EU, having major impacts on non-EU countries doing business with the EU and it has been a source of significant friction with key trading partners including in Asia, Brazil and the US.

EU Forced Labour Ban Regulation

The new Regulation was adopted in December 2024 and will apply from December 2027 (see here). Although this new regime is still several years away, those in scope will need to start preparing for it sooner rather than later. The new Regulation imposes on all economic operators (EU and non-EU) a general ban on any products made with forced labour, prohibiting them from being placed on the EU market or exported from it.

The Regulation does not currently impose specific due diligence requirements but this could change in future, as the Commission has been granted delegated powers to establish further formalities for listed products or product groups. Companies will need to follow closely the Commission's implementation guidance to be issued by 14 June 2026, as well as whether the Commission will apply further formalities to certain listed products.

Read more

EU CSDDD explained

EU Omnibus Regulation: what do we know so far?

Deforestation Regulation: EU imposes new due diligence duties on operators and traders

EU Forced Labour Regulation published in the Official Journal

Supply chain due diligence regimes across the globe

Business and Human Rights

Sustainable finance market continues to evolve

As sustainable finance regulations evolve, 2025 will be a pivotal year for transparency and compliance, with regulators in various jurisdictions including the EU and UK focusing on fund labelling rules and anti-greenwashing rules. The sustainable bond market is also expected to see continued momentum.

In the EU, under the Sustainable Finance Disclosure Regulation (SFDR), financial market participants are expected to disclose their annual Principal Adverse Impact (PAI) statements setting out how investment decisions negatively impact sustainability factors by 30 June 2025. There has been much talk about introducing labels to complement Article 8 and Article 9 product requirements in an upcoming review, but such requirements are unlikely to apply before 2028.

At the end of 2024, the EU Platform on Sustainable Finance outlined a proposal to introduce a new simplified framework that classifies financial products into three new categories: sustainable, transition, and non-categorised. With no explicit commitment from the Commission yet on whether there will in fact be an SFDR review, the transformation of the SFDR is one to watch in 2025.

More generally, the advent of CSRD reporting is set to significantly increase the sustainability information available to investors, which should support their efforts to comply with the current SFDR regime.

The European Securities and Markets Authority (ESMA) guidelines on funds' names using ESG or sustainability-related terms have been effective for new funds since November 2024 and will become mandatory for existing funds from 21 May 2025. Under the rules, funds must allocate at least 80% of their investments to environmental or social objectives, while avoiding exposure to controversial sectors such as fossil fuels.

The adoption of the EU ESG Ratings Regulation in November 2024 introduces robust standards for transparency, methodology, supervision and accountability and is expected to apply in 2026.

With the new European Commission embarking on a new five-year mandate, the pace of new legislation on green finance may slow down as attention moves to competitiveness and enhancing usability of the current framework.

In the UK, the Sustainability Disclosure Requirements (SDR) seek to address greenwashing concerns and establish a labelling framework with rules entering into force on a phased basis. In 2025, the focus will shift to entity level reporting - the first reports are due by 2 December 2025 for firms with more than £50 billion of assets under management (AUM).

The UK Treasury is consulting on whether a UK Green Taxonomy would be beneficial in complementing existing sustainable finance policies to mitigate greenwashing. A response to the consultation is expected in 2025, with more concrete proposals to follow.

Whilst it is anticipated that a full regime for the regulation of ESG rating providers in the UK will take four years to implement, the UK government has confirmed that it will legislate in early 2025 to bring them within the regulatory perimeter.

Sustainable bonds

The sustainable bond market saw great success in 2024, with green use of proceeds bonds continuing to dominate this market. 2024 was also marked by numerous innovative ESG structuring solutions, a trend expected to continue in 2025.

This year also marks the application of regulatory initiatives focussed on sustainable bonds. The EU Green Bond Regulation, effective from 21 December 2024, provides a voluntary label for issuers of green use of proceeds bonds (EU GBS) and offers an optional disclosure regime for environmentally sustainable and sustainability-linked bonds. Whilst the EU GBS label can only be used by issuers that can commit to align issue proceeds with the EU Taxonomy, the market will be anticipating the first such issuances and their impact on the wider sustainable bond market.

Looking ahead, both the UK and the EU are looking to include specific (though differing) prospectus disclosure requirements for sustainable bonds, although application of these changes is not expected until 2026.

Read more

Financial Regulation Legal Outlook 2025

A timeline of UK and EU sustainable finance regulation

Sustainable Finance Tracker

UK & EU: Sustainable Finance Sources - survival guide

Sustainable Finance in Europe: Regulatory State of Play updated Linklaters / AFME report

Debt Capital Markets Legal Outlook 2025

ESG for Debt Capital Markets at a Glance

EU Green Bonds Regulation

ESG bond issuance surpasses $800bn as momentum builds for sustainable debt

2024 once again saw a number of significant legal challenges against governments in respect of their climate and environmental policies (including on the international stage) or in relation to projects with significant ESG impact, as well as legal challenges and regulatory enforcement against corporates including in respect of greenwashing. 2025 is likely to promise more of the same.

ESG litigation

Claimants continue to explore new causes of actions on ESG issues both in respect of governments and corporates, and 2024 saw some successful judgments which could form the basis for future actions, including in relation to climate-washing, and the use of human rights arguments in climate change litigation. In the European Court of Human Rights, claimants successfully argued that failure to take timely and sufficient action to prevent and mitigate the effects of climate change constituted a breach of the European Convention Human Rights (see here), which could open up a new avenue of challenge against other states that are signatories to the Convention.

Claims relating to alleged environmental and human rights issues, including those occurring overseas, persist. In the UK, judgment in a high-profile environmental class action, relating to the collapse of a Brazilian tailings dam, is expected in 2025. Plastics pollution and biodiversity loss also appear to be emerging areas of focus, with nature degradation highlighted by the European Central Bank as a key litigation risk for financial institutions (see here).

In the EU, the increase in sustainability disclosures required under the CSRD could give rise to increased litigation as significantly more data enters the public domain. The Grantham Research Institute is also expecting cases connected with the increased expectations for corporate due diligence (e.g. the CSDDD in the EU) (see here) as corporates and stakeholders alike look to clarify what is required under these regimes. In the UK, investors filed a first-of-its-kind claim against a company seeking compensation for allegedly misleading ESG disclosures, which were said to have resulted in financial loss for its shareholders (see here). And in Spain, the courts are expected to rule in respect of a claim brought by a corporate against another corporate over alleged unfair and anti-competitive behaviour.

In the US, adversarial climate litigation is on the rise. State and municipal governments, non-profit organisations, and private citizens have filed lawsuits against fossil fuel and electric utility companies, alleging decades of climate deception and requesting compensation for climate-related harms.

2024 also saw the first of three international advisory opinions published by the International Tribunal for the Law of the Sea. Following hearings in December 2024, the International Court of Justice is expected to publish its advisory opinion clarifying the duties of states in respect of climate change. An opinion by the Inter-American Court of Human Rights is also expected. Although non-binding, these opinions could nonetheless impact future climate litigation.

However, the Grantham Research Institute also noted an increase in cases seeking to delay or obstruct climate action (“ESG backlash” litigation), or to challenge the manner in which climate action is taken and the extent to which it balances the rights of affected communities (“just transition” litigation) or the trade-off between climate and other environmental aims such as biodiversity. The EU’s move to simplify some of its ESG legislation and cut red tape, as well as a new Trump administration in the US (as discussed above), may lend weight to these types of legal actions

Greenwashing

Regulators across various jurisdictions continue to make it clear that greenwashing remains a priority, with new and ongoing regulatory investigations in Australia, the UK, and elsewhere.

Financial regulators have warned that they will continue to scrutinise very closely claims made in respect of funds and other financial products and services.

Competition, consumer and advertising authorities are also still laser-focused on misleading green claims. The EU recently adopted a new Directive on Empowering Consumers for the Green Transition designed to tackle unfair commercial business practices such as greenwashing (see here). The EU will also be finalising a new Green Claims Directive in 2025, which will establish minimum criteria that companies must meet when making claims to EU consumers about the environmental benefits and performance of their products or services and which will also set minimum criteria for environmental labelling schemes (see here).

In a recent Linklaters/AFME conference on greenwashing risks (see here), a number of regulators emphasised the importance of “showing your workings” when making green claims, with a strong focus on increased transparency.

It is clear that anticipating and mitigating the risks of ESG litigation and greenwashing remains a key strategic issue going into 2025.

Read more

Grantham Research Institute: Global Trends in Climate Change Litigation: 2024 Report

ESG disputes: routes to liability

ESG Disputes Bulletin

ESG Litigation and Risk Management

ESG contacts and key resources

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