January 2025

Developments in ESG governance, disclosure, financial regulation and litigation

ESG Matters

In the January edition of ESG Matters, we highlight our outlook for ESG in 2025. Our Spotlight section updates you on recent developments in ESG governance, disclosure, financial regulation, and litigation.

1 Highlight: ESG Matters – also in 2025

Throughout 2024, we kept you up to speed on significant developments in the field of ESG. Our monthly Spotlights included no less than 248 items covering a variety of aspects of ESG transition, governance, transparency, litigation, and noteworthy advancements within the financial sector. In 2025, we will continue to provide these updates through ESG Matters.

ESG and geopolitical developments

The start of 2025 is a good moment to consider the upcoming events. The shifting geopolitical landscape is poised to bring significant changes. The new administration in the United States is projected to reduce ESG ambitions. We anticipate that the ESG agenda from the new European Commission will have an increased focus on competitiveness, with the Competitiveness Compass and the Omnibus project standing out. And what will EU member states do? We have seen the German government proposing to delay and scale down the Corporate Sustainability Reporting Directive (CSRD). At the same time, Wopke Hoekstra, the EU Commissioner for Climate Action, will introduce several impactful legislative proposals, including proposals for the Clean Industrial Deal.

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Will climate change and other sustainability topics thus become less important? Most likely not. Climate change persists regardless of the political climate. Also, a reduction in governmental ESG ambitions may trigger additional action from NGOs and other stakeholders. Furthermore, how will financial regulators respond? A decline in ESG commitment by policymakers may prompt regulatory action. For instance, the European Insurance and Occupational Pensions Authority (EIOPA) proposes a 17% capital requirement increase on equity investments in fossil fuels (40% charge on bonds/loans).

Looking ahead at 2025 – anticipated key developments

The volume of ESG-related regulations in general has been overwhelming. We would very much welcome a consolidated, proportionate, and tailored approach towards ESG. Let us hope that in pursuing this, policymakers will apply a sophisticated strategy to ensure a controlled development towards a sustainable future. Irrespective of political choices, we will keep you informed and are here to assist you in navigating these challenging times. Below, we highlight some key topics we anticipate for 2025.

Governance & transition

- We are awaiting the ESG-related proposals from the new European Commission. More specifically, the Clean Industrial Deal is promised to be published in the first 100 days of the new Commission's tenure. Other topics to monitor include the EU Nature Restoration Regulation, the EU Water Resilience Strategy, the Microplastics Regulation and the Deforestation Regulation.
- Regarding target setting, the new Commission will make a legislative proposal to include the 90% new emission reduction target by 2040 in the European Climate Law. It also needs to establish a post-2030 policy framework to achieve this target in a fair and cost-efficient manner.
- In the Netherlands, we saw the consultation for the Corporate Sustainability Due Diligence Directive (CSDDD) Implementation Act in Q4 2024 and the publication of stakeholders' input. The formal proposal is to be submitted to Parliament in the course of 2025.

Disclosure

- What will happen with CSRD? In the Netherlands, the CSRD has not been implemented yet. This raises questions about the upcoming reporting period, and about the consequences of a potential delay at EU level or the Omnibus legislation project.
- The European Financial Reporting Advisory Group (EFRAG) continues to provide further guidance and clarity on ESRS disclosure topics. In Q2, we are expecting further Transition Plan Implementation Guidance. Sectoral ESRS for the financial sector are also on the agenda.
- The proposed revisions to the SFDR framework are anticipated in 2025. These are likely towards a categorisation structure, classifying financial products as (i) sustainable; (ii) transition; (iii) ESG collection; or (iv) unclassified.

Financial institutions

- Climate stress tests will be an important topic for the financial sector in 2025. The European Banking Authority (EBA) has earmarked this as one of next year's key ambitions.
- Further developments regarding ESG-related prudential requirements are expected, such as part of the development of the Level 2 regulations to Solvency II for insurers and for banks in the context of CRD IV and the prudential climate plans.
- De Nederlandsche Bank (DNB) has indicated that it will update its guidance and good practices for financial institutions on integrating climate risk within their governance and risk management frameworks.
- Greenwashing will continue to be a focus area, with the European Securities and Markets Authority (ESMA) guidance on sustainability claims expected in 2025.

Litigation

- ESG litigation may become increasingly important in setting the bar on ESG ambition. Political inaction and increasing societal tensions on ESG topics could trigger NGOs and other stakeholders to initiate litigation aiming for protection against environmental, social, climate and geopolitical risks.
- In 2025, the International Court of Justice (ICJ) is expected to issue its landmark ruling on states' climate change obligations under international law, for which hearings took place in The Hague last year.

We will undoubtedly revisit these topics in the coming months. We look forward to discussing these with you.

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2 Spotlight on ESG developments

Governance & transition

Official publication of Deforestation Regulation postponement

On 23 December, the regulation postponing the Deforestation Regulation was published in the Official Journal of the EU. The regulation will be applicable from 30 December 2025 for large companies and from 30 June 2026 for micro- and small enterprises. In 2024, the EC published guidance documents and an international cooperation framework on the Deforestation Regulation.

Official publication of Forced Labour Regulation

On 12 December, the Forced Labour Regulation was published in the Official Journal of the EU. The Regulation bans products made with forced labour from being placed or made available on the EU market, and from being exported to third countries. It shall apply directly in all EU member states to companies from 14 December 2027.

Official publication of EU framework for carbon removal certification

On 6 December, the Carbon Removals and Carbon Farming (CRCF) Regulation was published in the Official Journal of the EU. This voluntary framework sets four criteria for EU certification of carbon removal activities. They must (i) result in a quantified net carbon removal or soil reduction benefit; (ii) be additional, meaning they exceed statutory requirements and have a financially viable incentive effect; (iii) aim to ensure long-term storage of carbon while minimising the risk of carbon release; (iv) do no significant harm to the environment and potentially co-benefit other sustainability goals. It shall apply directly in all EU member states from 26 December 2024.

Disclosure

EFRAG publishes new Q&As on ESRS

On 24 December, the European Financial Reporting Advisory Group (EFRAG) added three new explanations of the European Sustainability Reporting Standards (ESRS) to its ESRS Q&A platform, bringing the total number of explanations to 162. The new Q&As address: (i) the possibility for credit institutions to omit reporting in absolute values on their intensity-based GHG reduction targets during the first three years of reporting; (ii) the possibility to limit disclosures on biodiversity to the undertaking's upstream or downstream; and (iii) the scope of certain disclosure requirements in ESRS E4. These explanations will be included in the next update to the Compilation of Explanations, expected in spring 2025.

Dutch accountants' institute publishes statement on CSRD assurance

On 20 December, the Royal Netherlands Institute of Chartered Accountants (NBA) issued a statement on the assurance of sustainability statements by Dutch companies under the Corporate Sustainability Reporting Directive (CSRD). Since the CSRD has not yet been implemented into Dutch law, accountants lack a legal basis for this assurance. The NBA advises accountants to act in line with the legislative proposals as much as possible. The accountant's assurance must address the fundamental qualitative characteristics of the ESRS, which include relevance and faithful representation, as well as their reinforcing qualitative characteristics: comparability, verifiability and understandability.

EFRAG publishes voluntary reporting standard for micro-, small-, and medium-sized undertakings

On 17 December, EFRAG delivered its technical advice on the voluntary reporting standard for non-listed micro-, small-, and medium-sized undertakings (VSME). Based on market acceptance, the VSME provides a standardised set of information to replace the current multiple and uncoordinated questionnaires and ESG data requests. It includes a basic module and a comprehensive module, which are expected to meet a substantial part of the requests that SMEs currently receive from business partners, such as banks, investors and large corporates. The VSME includes disclosures for undertakings across sectors. However, a few additional data requests may be required to reflect the specificities of some sectors. The VSME is accompanied by a series of educational videos.

EU Platform on Sustainable Finance publishes briefing on SFDR revision

On 17 December, the EU Platform on Sustainable Finance (PSF) published a briefing in response to the EU public consultation on the revision of the SFDR. The PSF recommends establishing four product categories: (i) sustainable; (ii) transition; (iii) ESG collection; and (iv) unclassified products. 'Sustainable' products must meet a minimum percentage of EU Taxonomy-alignment or alignment with the SFDR definition of sustainable investments and PAI thresholds. 'Transition' products must foster the transition to a net zero and overall sustainable economy by 2050, and milestones in line with these EU goals, based on a legal definition of impact investing. 'ESG collection' products select or exclude sectors or companies based on their ESG performance. The ESAs already proposed the first and second categories in June 2024; the third category is additional to the ESAs' proposal.

ESMA publishes consultation paper on ESEF application for sustainability reporting

On 13 December 2024, the European Securities and Markets Authority (ESMA) released a consultation paper, including Annex VII (core ESRS taxonomy), Annex VIII (core Article 8 taxonomy), and a Taxonomy set prototype. The paper explores how the European Single Electronic Format (ESEF) can be applied to sustainability reporting. It aims to reduce the burden of financial reporting. The digitised sustainability and financial data will be integrated into the future European Single Access Point (ESAP) for easier access and use by investors. Key proposals are: (i) defining tagging rules for sustainability reporting, with phased implementation over three steps, each lasting two years, and full implementation for Article 8 information; (ii) redefining tagging for notes in consolidated IFRS financial statements; and (iii) amending technical standards related to the European electronic access point. The consultation is open until 31 March 2025, with a final report expected in Q3 2025.

AFM publishes 'market watch' on CSRD and green bonds

On 10 December, the Dutch Authority for the Financial Markets (AFM) published the twelfth edition of its AFM Market Watch, focusing on its supervision on the CSRD and the EU Green Bond Regulation. Key points regarding CSRD-related data include reliability, clarity, and consistency, which must be clearly presented and substantiated. The AFM acknowledges the challenges companies face in implementing new regulations and encourages progress over perfection in the initial phase. However, issuers in regulated prospectuses must provide a sustainability report covering key material topics and a prospectus containing material sustainability information for investors. AFM will act on clear violations.

EFRAG publishes new compilation of technical ESRS explanations

On 6 December, the European Financial Reporting Advisory Group (EFRAG) published 64 new explanations on the ESRS, including a mapping of sustainability matters to topical disclosures. These explanations cover expected decimals, time horizons, intensity-emission and absolute-emission targets, anticipated financial effects, and the structure of sustainability statements. The mapping supports undertakings in determining disclosure requirements related to specific material sustainability matters in the corresponding topical ESRS. The mapping takes these differences of architecture of topical standards into account and provides an overview of direct links between matters and Disclosure Requirements or datapoints.

Financial institutions & regulation

ESMA publishes final report on ESG-related amendments to CRA Regulation

On 18 December, ESMA issued its final report on proposed amendments to the Delegated Regulation and Annex I of the Credit Rating Agencies (CRA) Regulation. The report follows a public consultation on this topic. The proposed amendments aim to enhance the incorporation of ESG factors into credit rating methodologies, and improve disclosures on the relevance of ESG factors for individual credit rating actions. Among other things, CRAs would need to prominently identify in press releases or reports when ESG considerations are a key element of a credit rating or rating outlook. The report will be submitted to the European Commission for further consideration.

EIOPA and ECB publish joint paper on solutions to reduce the impact of natural catastrophes

On 18 December, the European Insurance and Occupational Pensions Authority (EIOPA) and the European Central Bank (ECB) released a joint paper proposing an EU-level solution to address the widening gap in natural catastrophe insurance protection due to the increasing risk posed by climate change. Building on existing national and EU structures, the paper spells out an EU-level solution composed of two pillars. The first pillar is an EU public-private reinsurance scheme aimed at increasing insurance coverage for natural disaster risks. The second pillar is an EU fund for public disaster financing, designed to strengthen disaster risk management among member states. The proposed solutions are intended as a basis for discussion among stakeholders. They should be complementary to ambitious mitigation policies to tackle climate change and reduce the associated catastrophe risks.

EIOPA publishes annual working programme 2025

On 17 December, EIOPA released its Final Single Programming Document 2025-2027 including its Annual Work Programme 2025. On sustainability, EIOPA's priorities for 2025 include addressing gaps in natural catastrophe protection, and supervising sustainability risks from prudential and conduct perspectives. Initiatives on conduct risks, such as greenwashing, will be guided by reviews and implementation of product-related sustainability rules. The operational objectives regarding sustainability are (i) integrating ESG risks into prudential and conduct frameworks and supporting ESG risk analyses; (ii) promoting sustainability reporting and fighting greenwashing; (iii) addressing protection gaps; and (iv) fostering the understanding of catastrophe models and ensuring data accessibility.

EC adopts MiCAR RTS on sustainability information

On 17 December, the EC adopted Regulatory Technical Standards (RTS) on sustainability information under the Market in Crypto Assets Regulation (MiCAR). MiCAR requires crypto-asset issuers and service providers to disclose their principal adverse impacts (PAI) on the environment, particularly those related to consensus mechanisms used to issue or validate crypto-assets that have significant energy consumption and environmental implications. The RTS specify the content, methodologies, and presentation of information regarding sustainability indicators in relation to PAI on climate and other environment-related adverse impacts.

ESMA publishes Q&A on guidelines on funds' names

On 13 December, ESMA released Q&As on the application of its Guidelines for fund names (UCITS and AIFs) using ESG or sustainability-related terms. The Q&As address the application of investment exclusion criteria to green bonds, the definition of 'meaningfully investing in sustainable investments', and the definition of controversial weapons and its connection to the SFDR PAI statement.

Official publication of ESG Ratings Regulation

On 12 December, the ESG Ratings Regulation was published in the Official Journal of the EU. It applies from 2 July 2026. For more details on the new regulatory framework for ESG rating providers, see our Highlight in the June edition of ESG Matters.

EIOPA publishes consultation on RTS on sustainability risk management and plans

On 4 December, EIOPA released a consultation and a consultation paper on Regulatory Technical Standards (RTS) on the management of sustainability risks, including sustainability risk plans. To limit the burden on companies and promote coherence and proportionality, the proposal: (i) builds on existing prudential requirements and integrates sustainability risk plans into companies' existing risk management practices; (ii) ensures read-across between companies' sustainability and transition plans; and (iii) enables companies, including those subject to the Corporate Sustainability Reporting Directive (CSRD), to disclose sustainability risks in a consistent and efficient manner. The consultation is open until 26 February 2025.

ECB publishes staff contribution on EU securitisation framework

On 3 December, the European Central Bank (ECB) published a staff contribution to the EC's targeted consultation on the functioning of the EU securitisation framework. It highlights the need for access to climate-related data for adequately assessing the increase in transition and physical risks associated with climate change. Indicators related to climate change risk offer investors valuable information to evaluate their impact and exposure to these risks. The ECB suggests introducing a minimum set of data metrics aligned with other EU regulatory criteria, such as the EU Taxonomy or Sustainable Finance Disclosure Regulation (SFDR) requirements. This alignment would enable a more effective assessment of associated climate-related risks without overburdening stakeholders.

GFANZ publishes 2024 progress report

On 30 November, the Glasgow Financial Alliance for Net Zero (GFANZ) released its 2024 progress report, evaluating the financial sector's progress towards net zero. The report looks back on GFANZ achievements in 2024 and outlines five strategic objectives under the 2024-2025 priorities. These objectives are: (i) promoting a common approach to transition plans; (ii) developing innovative transition finance solutions; (iii) unlocking high-integrity voluntary carbon markets; (iv) driving climate finance in emerging markets; and (v) enhancing transparency on net-zero transitions.

EBA publishes study on banks' Paris alignment

On 27 November, the European Banking Authority (EBA) released a pilot study on banks' alignment with the temperature target of the Paris Agreement (PA). The study notes that prudential supervisory authorities have mainly focused on evaluating banks' resilience to climate-related financial shocks from a risk-oriented perspective. It advocates for a focus on banks' contributions to global warming through their financing of climate-damaging activities. The study quantifies the implied temperature rise associated with banks' (non-SME) corporate loan books, finding an implied average temperature rise range between 3.7 and 4.1°C, depending on the aggregation methodology used. None of the reviewed institutions were found to be aligned with the PA target.

Litigation

Montana Supreme Court upholds climate judgment

On 18 December, the Montana Supreme Court upheld a lower court's climate judgment in the case of 16 youth plaintiffs versus the state of Montana. The Court affirmed the unconstitutionality of two state laws that barred GHG emissions analyses in state agencies' environmental impact assessments. Citing the 'overwhelming scientific evidence' of the severe consequences of climate change for the world and particularly for the state of Montana and its economy, the Court found that Montana's constitutional right to a clean and healthful environment encompasses the right to a stable climate system. It considered that while emissions relating to energy projects in Montana may be insignificant on a global scale, they can still affect Montana's environment and result in unconstitutional degradations thereof.

German higher regional court confirms greenwashing judgment

On 13 December, the Cologne Higher Regional Court upheld a judgment declaring a German airline's climate-related statements misleading under the EU Unfair Commercial Practices Directive (UCPD). The airline had advertised 'CO2-neutral travel' and 'Together we are making flying more sustainable. Offset CO2 emissions and take off'. The Court found the term 'offset emissions' ambiguous regarding the type and timing of compensation, and how compensation takes place. It was unclear if project donations and sustainable aviation fuel fully compensated for individual customers' flights. Explanations on linked pages were insufficient; advertisements must be complete and correct independently. The Court ruled that there is 'no doubt' that environmental benefit claims can influence booking behaviour, and affirmed the lower court's order for the airline to refrain from making the contested statements.

French NGO files greenwashing complaint against beverage company

On 27 November, the France Nature Environnement (FNE) announced that it had filed a complaint against Coca-Cola with the Nanterre Attorney General, in relation with zero-waste claims during the Paris Olympics. FNE claims that despite promoting sustainability, Coca-Cola distributed more than six million of the beverages during the games in plastic bottles. FNE alleges that this constitutes unfair commercial practices, as the French Consumer Protection Law prohibits claims that mislead consumers regarding the environmental impact of a product.

Do you have any questions or comments on a specific ESG topic? Do not hesitate to contact our Sustainable Business & Climate Change team. If you or members of your team would like to receive our updates, please subscribe.

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