

GIBSON DUNN

ESG: Risk, Litigation, and Reporting Update

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Gibson Dunn ESG: Risk, Litigation, and Reporting Update

We are pleased to provide you with Gibson Dunn's ESG Risk, Litigation, and Reporting update covering the following key developments during March 2026. Please click on the links below for further details.

I. GLOBAL

1. The United Nations' World Meteorological Organization (WMO) releases State of the Global Climate 2025 report

On March 23, 2026, the WMO released its annual [State of the Global Climate 2025 report](#), providing a consolidated assessment of key global climate indicators and high-impact weather events. The report finds that 2025 was among the three warmest years in the 176-year observational record, with global mean temperatures approximately 1.43°C above pre-industrial levels, and that the period from 2015 through 2025 represents the eleven warmest years on record. The report also highlights continued increases in atmospheric greenhouse gas concentrations, with carbon dioxide in 2024 reaching the highest level observed in at least two million years. The report further underscores accelerating changes across major physical climate indicators, including record ocean heat, near-record sea levels, and sea ice extent and glacier mass loss at or near record lows. WMO notes that these trends are contributing to increasing frequency and severity of extreme weather events (including heatwaves, flooding, droughts, and tropical cyclones) with associated impacts on food security, displacement, and infrastructure.

Other highlights:

- In March 2026, T. Rowe Price published updated its global [proxy voting guidelines](#). Among other things, the updated guidelines applicable to the Americas (companies incorporated in Canada, the United States, and Central and South America) increase board overboarding limits (from five to six public company boards for non-CEO directors and from one to two public company boards for directors who are CEOs of public traded companies) and revise board diversity expectations to remove references to diversity of “gender, ethnicity and nationality” and instead refer to “a suitable mix of viewpoints” and consideration of “the nominees’ potential contribution, including skills, experience, and demographic background, and how they may broaden the range of perspectives reflected in the boardroom discussion.”
- On March 31, 2026, the Greenhouse Gas (GHG) Protocol [released](#) its [Actions and Market Instruments \(AMI\) Phase 1 White Paper](#), which set forth proposals related to the future AMI standard and solicits [feedback](#) through May 31, 2026. The White Paper proposes moving to a “multi-statement reporting structure” that would include the following, in addition to the current physical GHG inventory: (i) a “market-based inventory, capturing emissions linked to contractual and procurement choices beyond existing Scope 2 market-based method”; (ii) a “GHG impact statement, quantifying the broader effects of company actions”; and (iii) “Non-GHG indicators, tracking key metrics that are not quantified in tons of carbon.”
- On March 30, 2026, the Global Reporting Initiative (GRI) [announced](#) a public consultation on proposed updates to its Topic Standards addressing pollution that “aim to strengthen transparency on air pollution, soil pollution, and critical incidents reporting.” The proposal would expand existing emissions disclosure requirements, introduce GRI’s first soil pollution standard, and update the current waste disclosure related to significant spills. The consultation is [open for public comment](#) through June 2026.
- On March 6, 2026, the United Nations-convened Net-Zero Asset Owner Alliance released the [fifth edition of its Target-Setting Protocol](#), which sets out updated requirements for signatories to establish and report interim targets aligned with transitioning their investment portfolios to net zero GHG emissions by 2050. Key revisions to the revised framework are updates to its four-part target-setting approach (which includes engagement targets, sector and transition targets, sub-portfolio targets, and climate solutions investment targets) to add new transition targets “to support high-emitting companies with credible net-zero plans” and a new quantitative climate solutions investment target focused on green transition technologies. Other updates include “introduce[ing] regional flexibility to adapt global targets to diverse local markets, reinforced incentivization for asset manager engagement, and updated [key performance indicators] to enhance target-setting and stewardship practices.”

II. [UNITED KINGDOM](#)

1. **Employment Rights Act 2025: UK Government publishes guidance for employers on creating equality action plans and list of recommended actions**

On March 4, 2026, the UK Government published [guidance](#) intended to assist employers with 250 employees or more in producing a voluntary action plan alongside their gender pay gap report setting out the steps that the employer is taking in order to reduce its gender pay gap and support employees experiencing menopause. Such actions plans are to become mandatory from spring 2027.

The guidance explains that, as part of developing an action plan, employers are expected to select at least one action to address their gender pay gap and at least one action that supports employees experiencing menopause. Alongside the guidance, the UK Government published [Collection: Action plans – list of actions](#) which contains 18 recommended actions, including recommended actions related to recruitment, development and promotion of staff, building diversity within the organization, increasing transparency, and supporting women's health.

The UK Government also notes that additional guidance will be published in April 2026.

2. **UK-EU Sanitary and Phytosanitary Agreement (SPS Agreement): UK Government sets out scope and asks businesses what they need**

On March 9, 2026, the UK Government [published](#) further information on the SPS Agreement, which was initially agreed to by the UK Government and the EU on May 19, 2025 and which applies to a broad range of sanitary and phytosanitary measures, including the trade, production and movement of animals, plants and related products; food and feed safety; nutrition and labelling requirements; wider agri-food standards; and the regulation of pesticides and biocides, with implications across sectors such as farming, food production, logistics, retail and regulated product supply chains. The SPS Agreement is intended to make it easier, cheaper and more predictable for goods to move between the UK and the EU, and also within the UK.

The SPS Agreement will affect a variety of sectors, from importers and exporters of SPS goods to retailers and farmers. Under the SPS Agreement, UK businesses will need to meet EU rules within the scope of the SPS Agreement, whether they are trading with the EU or serving only the UK market. All businesses, including small and medium enterprises in the food and farming sectors—and related industries such as retail and processing—may need to make operational changes, such as changing processing methods or making changes to IT systems to ensure they comply. The Government confirmed that it will publish more detailed guidance for these businesses from May 2026.

The Government [announced](#) that from March 9, 2026 to April 23, 2026 it is running a Call for Information (CFI) to hear about the potential impact of the SPS Agreement and how the Government can support affected businesses as they begin to prepare. The SPS Agreement is intended to take effect in mid-2027.

3. Financial Reporting Council (FRC) publishes updated guidance on ‘comply or explain’ reporting

On March 16, 2026, the FRC [published](#) updated guidance on ‘comply or explain’ reporting. This guidance is designed to help investors, proxy advisors, and other users of corporate reporting better understand and appreciate the value of companies that choose to depart from provisions of the UK Corporate Governance Code.

The FRC’s guidance acknowledges that a culture has developed across the community of issuers and investors and their advisers that considers departures from the Code suspiciously. Therefore, the guidance encourages shareholders and advisors to take into account properly explained departures from the Code less suspiciously in their voting politics and build in flexibility to consider the alternative arrangement chosen by the company. A meaningful explanation for a departure shows that an alternative arrangement is more appropriate and beneficial in upholding high governance standards. The guidance provides the following five criteria as a checklist for the drafting of explanations:

- set the context and background;
- give a convincing rationale for the approach being taken;
- consider any risks and describe any mitigating actions;
- set out whether the company intends to comply (and when); and
- explain in an understandable and persuasive manner.

III. [EUROPE](#)

1. France – duty of vigilance: landmark decision confirming parent company liability for overseas subsidiary conduct

On March 12, 2026, in a landmark ruling, the Paris Judicial Court held a French parent company liable under France’s Duty of Vigilance Law for violations of trade union rights committed by its Turkish subsidiary. The decision is the first time a French company has been ordered to compensate damages arising from a foreign subsidiary’s activities under the Duty of Vigilance Law. It is also among the first clear examples of extraterritorial application, and groups with a controlling entity in France and international operations should therefore pay close attention. For further details, see our [client alert](#) on the decision.

2. Germany’s Federal Court of Justice rejects climate cases against German automakers in landmark ruling

On March 3, 2026, the German Federal Court of Justice (Bundesgerichtshof, Court) rejected two climate lawsuits against Mercedes-Benz and BMW that sought to prohibit both companies from selling cars with internal combustion engines after October 2030, despite EU emissions regulation that allows such sales at least until 2035. Gibson Dunn represented Mercedes-Benz in the matter. The Court dismissed the claims in their entirety, confirming important limits on the use of German civil law to advance climate-related claims against private actors, such as large

corporations. The verdicts mark the first time that Germany's highest civil court had to decide a climate lawsuit brought by individuals against private actors. It may have significant persuasive authority in pending climate cases in other European jurisdictions. For further details, see our [client alert](#) on the decision.

Other highlights:

- European Sustainability Reporting Standards (ESRS) Simplification – Platform on Sustainable Finance [warns](#) of risks from ESRS simplification: In its response to the European Commission's consultation on the revised ESRS, the Platform on Sustainable Finance broadly welcomes simplification efforts but cautions that certain changes could lower the ESRS below the baseline of international sustainability reporting standards, with potential impacts on comparability. Key concerns include reduced requirements on scenario analysis, financed emissions disclosures, and the scope and permanence of reporting reliefs, as well as potential inconsistencies across the EU sustainable finance framework, including under the Sustainable Finance Disclosure Regulation and the EU Taxonomy.
- Climate Action Plan Germany – Germany [adopts](#) Climate Action Plan to support 2030 and 2040 climate targets: On March 25, 2026, the German government adopted a new Climate Action Plan comprising 90 measures. The measures aim to reduce greenhouse gas emissions by approximately 25 million tons of carbon dioxide per year by 2030 and include, among other things, promoting electric vehicles, expanding the availability of electric vehicle charging stations, and supporting energy-efficient renovations of buildings used by social service providers, as well as climate-friendly construction of new buildings. The program is intended to close the remaining emissions gap and ensure compliance with Germany's legally binding climate targets under the Federal Climate Change Act (*Klimaschutzgesetz*), including a reduction of at least 65% in greenhouse gas emissions by 2030 compared to 1990 levels, while also contributing to longer-term 2040 targets.
- EU Taxonomy – Court upholds Commission discretion as consultation signals further changes: The European General Court has [dismissed](#) a challenge to the Taxonomy Climate Delegated Act, confirming the European Commission's broad discretion in setting technical screening criteria, including in areas such as forestry and bioenergy. These criteria form part of the EU Taxonomy framework, which defines when an activity substantially contributes to climate objectives without significantly harming others. In parallel, the Commission has launched a consultation on targeted amendments to the Climate Delegated Act and Environmental Delegated Act (the latter covering additional environmental objectives such as water, circular economy, pollution prevention, and biodiversity), aimed at simplifying and improving the usability of the criteria, with adoption expected in Q2 2026.
- **Transposition Tracker:** An overview of the current transposition status of the CSRD into national laws and the "Stop-the-Clock" process under the Omnibus Simplification Package can be found [here](#).

IV. NORTH AMERICA

1. Federal agencies sue California over vehicle emission regulations

On March 12, 2026, the United States Department of Justice and the Department of Transportation filed a [complaint](#) against the California Air Resources Board (CARB) and Steven Cliff in his official capacity as Executive Officer of CARB. The suit alleges that California's regulations setting vehicle emissions standards and zero-emission vehicle mandates violate the Supremacy Clause of the U.S. Constitution and are preempted by the Energy Policy Conservation Act, which directs the National Highway Traffic Safety Administration to establish vehicle fuel economy standards. The plaintiffs seek a declaratory judgment that the California emissions standards and zero-emission vehicle mandates are preempted by the Energy Policy Conservation Act and permanent injunctions barring adoption and enforcement of the regulations.

2. Court rules for consumer-product companies in a first-of-its-kind plastics public nuisance case

Plaintiffs in the United States have used a variety of legal theories to challenge the use of plastics in consumer products in recent years. In one of the most closely watched cases, a nonprofit called Earth Island Institute alleged that major brands' use of plastic packaging constituted a public nuisance because it contributed to marine plastic pollution. *Earth Island v. Crystal Geysler et al.* (San Mateo Cnty. Sup. Ct.). The case, which was initially filed in 2020, made it beyond the initial pleading stages and into discovery. But on March 16, 2026, the court granted summary judgment in favor of the defendants, reasoning that the evidence showed their product packaging was recyclable and the companies could not face legal liability for the accurate labeling of their products. The decision represents an important win for companies in the fast-evolving plastics and recycling landscape.

3. Interfaith Center on Corporate Responsibility (ICCR) and As You Sow file suit against the Securities and Exchange Commission (SEC) alleging SEC policy violates the Administrative Procedures Act (APA)

On March 19, 2026, ICCR and As You Sow filed a [complaint](#) against the SEC as well as SEC Chair Paul Atkins and SEC Commissioners Hester Peirce and Mark Uyeda in their official capacities, alleging that the SEC's no-objection policy applicable to shareholder proposals for the 2025–2026 proxy season violates the APA. As detailed in our [client alert](#), in November 2025, the SEC announced that the SEC's Division of Corporation Finance (the Staff) will not respond to most Rule 14a-8 no-action requests or express any views on companies' intended reliance on any basis for excluding shareholder proposals under Rule 14a-8. Instead, the Staff will respond with a letter stating that, based on a company's "unqualified representation that the company has a reasonable basis to exclude [a shareholder] proposal based on the provisions of Rule 14a-8, prior published guidance, and/or judicial decisions," it will not object to the exclusion of a shareholder proposal from the company's proxy materials.

The complaint alleges three causes of action. First, it alleges that the no-objection policy is "contrary to law" because it deviates from Rule 14a-8's requirements, including companies' burden of persuasion that a proposal is excludable and proponents' rights to submit evidence and

argument. Second, the complaint contends the no-objection policy is “arbitrary and capricious” because the SEC failed to provide a “reasoned explanation for the change” or “articulate a rational justification for adopting” the policy. Third, the complaint argues that the no-objection policy was adopted “without observance of procedure required by law,” alleging that the SEC effectively amended Rule 14a-8 without undergoing the notice-and-comment rulemaking required by the APA. The plaintiffs seek declaratory relief that the no-objection policy is unlawful and an order vacating or permanently enjoining the policy.

4. Glass, Lewis & Co., LLC (Glass Lewis) issues statement regarding proposed legislation to regulate proxy advisors

On March 13, 2026, proxy advisory firm Glass Lewis issued a [statement](#) regarding legislation proposed by 13 U.S. states that would regulate proxy advisors, including to require detailed financial analyses before recommending a vote against company management. In its statement, Glass Lewis states that these regulations would “create a chaotic, impractical patchwork of state regulation that makes providing objective proxy advice near impossible” and “create unnecessary costs for proxy advisors and their clients” as well as “provide for enforcement by litigation – inviting attorney generals, companies, and, in many cases, any company shareholder to sue over any proxy advice they take issue with.”

On March 3, 2026, Indiana signed such a [bill](#) into law, which will be effective July 1, 2026. Enforcement of a Texas law against Institutional Shareholder Services Inc. and Glass Lewis was preliminarily enjoined by a federal court before it could take effect, as detailed in our [client alert](#). The Texas law would impose extensive public and directed disclosure obligations on proxy advisory firms when their recommendations or services are based on non-financial factors, which include environmental, social and governance and diversity, equity and inclusion considerations, diverge from company management’s recommendations, or provide conflicting advice across clients.

Other highlights:

- In an [op-ed](#) issued by New York Governor Kathy Hochul on March 20, 2026, Governor Hochul announced a plan to amend the state’s Climate Act to postpone the issuance of climate regulations to reduce greenhouse gas emissions until the end of 2030. Governor Hochul reiterated her support for the intentions of the Climate Act but noted that the state “cannot meet the Climate Act’s 2030 targets without imposing new and additional crushing costs on New York businesses and residents,” citing impacts from a “challenging economic landscape” and actions by the federal government that constitute a “full-on assault” on the clean energy transition.
- On March 31, 2026, the U.S. Department of the Interior’s Endangered Species Committee voted unanimously to exempt oil and gas activities in the Gulf of America from Endangered Species Act regulations. In its [meeting](#), the Committee cited national security concerns and energy insecurity due to the conflict in Iran.

- On March 23, 2026, CARB convened a public [workshop](#) that provided an overview of CARB’s preliminary concepts for greenhouse gas reporting requirements, including Scope 3 emissions requirements, for reporting years 2027 through 2030. CARB is accepting comments on its proposed approach until June 1, 2026.
- The California Department of Financial Protection and Innovation (DFPI) [announced](#) that enforcement of the Fair Investment Practices by Venture Capital Companies Law, which required covered entities to file reports by April 1, 2026, will be suspended while the DFPI develops regulations. The rulemaking process is expected to begin later this year. For more details on the law, see our client alert [here](#).

In case you missed it...

- On March 26, 2026, President Trump signed an [Executive Order](#) imposing DEI certification requirements on federal contractors and subcontractors. See our recent client alert [here](#).
- The Gibson Dunn [Workplace DEI Task Force](#) has published its updates summarizing the latest key developments, media coverage, case updates, and legislation related to diversity, equity, and inclusion.
- A collection of our analyses of the legal and industry impacts from the current administration is available [here](#).

[V. APAC](#)

1. New Zealand Financial Markets Authority (FMA) grants class exemption for green, social, sustainability, and sustainability-linked bond offers

On March 31, 2026, the FMA announced a [class exemption](#) to facilitate the issuance of green, social, sustainability, and sustainability-linked (GSSS) bonds. The exemption allows issuers to offer bonds with the same features as existing quoted bonds—other than interest rate, redemption date, and GSSS status—without preparing a product disclosure statement. The FMA noted this approach is consistent with the “same class” exclusion under the Financial Markets Conduct Act, which provides relief from disclosure obligations where sufficient information about quoted financial products is already publicly available. While GSSS bonds are not technically the same class as vanilla bonds due to their additional non-financial features, the exemption is intended to provide a more practical and cost-effective route to market while still ensuring appropriate disclosure of GSSS bonds is provided to investors.

2. China adopts landmark Ecological and Environmental Code

On March 12, 2026, China’s top legislature [adopted](#) the Ecological and Environmental Code (Code), marking a significant milestone in the country’s legal framework for environmental protection and green development. Comprising 1,242 articles across five chapters, the Code will come into effect on August 15, 2026. The Code consolidates China’s environmental laws into a

unified and authoritative framework for ecological protection, pollution control, and green and low-carbon development. It elevates environmental protection to a core legal principle underpinning China's economic and social development and aligns with the country's commitments to peak carbon emissions before 2030 and achieve carbon neutrality before 2060.

3. Monetary Authority of Singapore (MAS) finalizes transition planning guidelines for asset managers

On March 5, 2026, the MAS issued three sets of [Guidelines](#) on Environmental Risk Management – Transition Planning (Guidelines) applicable to banks, insurers, and asset managers. The Guidelines supplement MAS's 2020 environmental risk management guidelines and set out supervisory expectations on managing physical and transition risks from climate change through transition planning, governance, and risk management. MAS also expects financial institutions to engage with customers and investee companies in a risk proportionate manner in order to build better resilience to risks and support broader financial stability. The Guidelines will take effect from September 2027 following an 18-month transition period.

Warmest regards,
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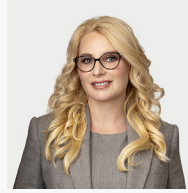
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