View on our website.

ESG: Risk, Litigation, and Reporting Update May 19, 2026

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 April 2026. Please click on the links below for further details.

I. GLOBAL

1. **Update on GHG Protocol Corporate Value Chain (Scope 3) revision**

On March 31, 2026, the Greenhouse Gas Protocol (GHG Protocol) published an update on its ongoing efforts to revise the GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard. The update provides insight into potential changes to the Scope 3 Reporting Standard. The draft text remains subject to revision, and a formal public consultation draft will be released at a later stage. GHG Protocol’s standards have been incorporated into and referenced in key global sustainability reporting frameworks, such as the IFRS Foundation’s International Sustainability Standards Board (ISSB) standards and the European Sustainability Reporting Standards (ESRS).

The working group tasked with the revisions have focused on three main topic areas: data quality and related topics, Scope 3 boundary-setting, and revisions to the classification and reporting requirements for investments (Category 15). Key proposals under each topic include:

- To enhance transparency and comparability, Scope 3 emissions are to be classified into different tiers based on the data type and calculation method used for each Scope 3 category, and companies would be required to disclose whether their Scope 3 inventory was “fully”, “partially” or “not” verified.
- To enhance the completeness and comparability of Scope 3 emission measurements across companies, companies would be required to report at least 95% of total required Scope 3 emissions and would be allowed to exclude minor sources of emissions. This change would contrast with the current standard that states that “companies shall account for all Scope 3 emissions and justify any exclusions.” Companies must also report required and optional Scope 3 categories separately.
- Adding a new Category 16 for other value chain activities, which would capture emissions arising from third-party activities from which the company derives direct transaction revenue without buying, selling, or owning the activity itself (e.g. licensing activities). However, all subcategories under Category 16 would be optional except for distribution of fuel and/or energy.
- The classification and reporting requirements for investments under Category 15 (Investments) are to be updated. A proposed change would apply Category 15 to *all* companies and not just investment managers. Financial services such as insurance and underwriting would be included in Category 16, while only investments by reporting companies (financed emissions), such as joint venture interests, equity and debt securities, loans, and asset-backed securities, would remain in Category 15.

Other highlights:

- On April 22, 2026, the ISSB announced that it had agreed to proceed with the development of nature-related disclosure guidance through an IFRS Practice Statement, rather than through a standalone mandatory disclosure standard. The ISSB stated that the Practice Statement would complement IFRS S1 and IFRS S2 but would not change the requirements under the existing Standards. The ISSB expects to publish an exposure draft for public consultation in October 2026.
- On April 16, 2026, Glass Lewis announced the launch of Glass Lewis Climate Intelligence, a new climate analytics research platform designed to evaluate the effectiveness of corporate climate transition strategies. The platform uses AI technology to assess how companies’ climate transition strategies and execution may affect financial measures such as revenue and long-term returns in a lower-carbon economy.
- The Iran war and related volatility in global oil and gas markets have prompted governments and international organizations to increasingly focus on clean energy deployment and electrification as matters of energy security and economic resilience. In April 2026, the European Commission introduced its “AccelerateEU” package to address rising energy costs and reduce the EU’s reliance on fossil fuel markets through expanded investment in renewables, electrification, energy grids, and storage, and the International Energy Agency launched a tracker of government emergency energy-response measures adopted following the conflict.

- On March 28, 2026, the ISSB published an exposure draft ("Proposed Amendments to the SASB Standards and IFRS S2 Industry-based Guidance") of proposed amendments to the SASB standards for three industries: Agricultural Products; Meat, Poultry & Dairy; and Electric Utilities & Power Generators. The Exposure Draft will be open for consultation until July 24, 2026.

II. UNITED KINGDOM

1. **Mandatory ethnicity and disability pay gap reporting: UK Government publishes consultation response**

The UK Government has published its response to the consultation on mandatory ethnicity and disability pay gap reporting for employers with 250 employees or more.

The Government confirmed that it intends to introduce mandatory reporting for large employers, broadly aligned with the existing gender pay gap reporting framework. Employers will be required to report the same pay gap measures used for gender pay gap reporting, publish workforce composition data by ethnicity and disability status, and report employee declaration rates. Employers will also be required to publish action plans setting out steps to address ethnicity and disability pay gaps.

For ethnicity reporting, employers will be required to use the Government Statistical Service harmonized ethnicity standards and report, at a minimum, a binary comparison between White (including White Other) employees and all other ethnic groups, with further reporting across five broad ethnic groups where thresholds are met. For disability reporting, employers will be required to use a binary comparison between disabled and non-disabled employees, using the Equality Act 2010 definition of disability.

2. **UK Emissions and Trading Scheme (UK ETS): authority consults on treatment of sustainable aviation fuel**

The UK ETS Authority has published a further consultation on how it should treat emissions reductions claimed by aircraft operators using sustainable aviation fuel. The deadline for responses is June 15, 2026, with respondents only needing to reply to the questions that interest them or that they have views on.

The consultation follows earlier engagement on the development of the UK ETS and considers the interaction between the UK ETS and the forthcoming SAF Mandate. Sustainable aviation fuel is identified as a key technology for aviation decarbonization. Aircraft operators can currently claim emissions reductions from eligible SAF and reduce their UK ETS surrender obligations.

The Authority also notes that, following the UK-EU Summit on May 19, 2025, the UK and EU agreed to work toward linking the UK ETS and EU ETS. The Authority will consider any implications for SAF policy once ETS linking negotiations have been concluded.

3. **Extended producer responsibility (EPR) for packaging: who is affected and what to do**

The UK Government has published updated guidance on the EPR regime for packaging, setting out which organizations are in scope and the steps required to comply.

The regime applies to UK organizations that import or supply packaging and meet certain thresholds, including having an annual turnover of at least £1 million and handling more than 25 tonnes of packaging annually. Obligated organizations must collect and report packaging data and, depending on their size, may also be required to pay waste disposal fees, scheme administration costs, and registration charges.

Organizations are classified as either "small" or "large" producers based on turnover and the volume of packaging handled with large organizations facing additional obligations. The guidance also clarifies the range of packaging activities that may trigger obligations, including supplying packaged goods under a brand, importing packaged products, operating online marketplaces, and supplying or hiring reusable packaging.

III. EUROPE

1. **European Commission publishes draft revised ESRS and voluntary sustainability reporting standard**

On May 6, 2026, the European Commission launched a public consultation on revised reporting standards based on the Corporate Sustainability Reporting Directive (CSRD), namely revised draft ESRS and a new voluntary sustainability reporting standard for companies outside the scope of CSRD. The revised ESRS, which build on EFRAG's simplification proposals from December 2025 (for a summary of these proposals, see our client alert), aim to reduce mandatory datapoints by more than 60% and total datapoints by more than 70%, while simplifying the materiality assessment process and introducing additional flexibilities for companies. For companies remaining within the scope of the CSRD, the proposed revisions are expected to significantly ease reporting burdens, including by providing flexibility in greenhouse gas emissions boundary-setting through a choice between a financial control or operational control approach in line with the approach in the ISSB standards. The Commission also retained the ESRS' "double materiality" approach, despite reports that the Commission had considered the use of the IFRS Foundation's ISSB's "financial materiality" approach.

In parallel, the Commission proposed a voluntary reporting standard designed primarily for companies with fewer than 1,000 employees, including a "value chain cap" limiting the sustainability information that larger CSRD-reporting companies may request from smaller suppliers and business partners out of scope of CSRD.

The consultation period runs until June 3, 2026, with the Commission aiming to adopt final standards later this year for application from financial years beginning on or after January 1, 2027.

2. **Switzerland proposes new sustainability reporting and due diligence law**

On April 2, 2026, the Swiss government published a draft of its proposed Federal Act on Sustainable Corporate Governance, a new law that would establish updated sustainability reporting and due diligence requirements for large companies. The Federal Council opened the consultation process, which will run until July 9, 2026. The Parliamentary vote is expected in 2027, after which a transition period of two years will take effect. Therefore, initial implementation of the proposed law is not expected before 2029. The proposed law would broadly align obligations for Swiss companies with those of their European counterparts following the EU's recently updated CSRD and Corporate Sustainability Due Diligence Directive (CSDDD), requiring larger Swiss companies to bring their reporting in line with international standards. The presentation of the new proposal follows the completion of the EU's "Omnibus I" process, which drastically reduced the sustainability reporting and due diligence requirements for companies. Similar to the revised CSRD, the new sustainability reporting requirements in Switzerland would apply to Swiss companies with at least 1,000 employees and revenue of CHF 450 million (EUR 488 million). Reporting would have to be conducted in accordance with the ESRS or an equivalent standard. The due diligence obligations under the proposed law apply on a threshold of 5,000 employees and CHF 1.5 billion (EUR 1.6 billion) for Swiss companies and provide for an extraterritorial application to international companies with a CHF 1.5 billion (EUR 1.6 billion) turnover on the Swiss market. Similar to the CSDDD, the proposed law would require companies to assess whether their activities have negative impacts on compliance with internationally recognized human rights and environmental standards, as well as to develop a strategy to prevent and remedy such adverse impacts.

Other highlights:

- On April 28, 2026, the European Parliament's Economic and Monetary Affairs Committee published a draft report on the EU's proposed overhaul of the Sustainable Finance Disclosure Regulation, proposing stricter requirements for ESG-labelled funds, including enhanced disclosure obligations, tighter criteria for "ESG Basics" products, and mandatory disclaimers for non-categorized funds to further address greenwashing concerns.

- On May 4, 2026, the European Commission published its report on the simplification of the EU Deforestation Regulation, accompanied by updated guidance, FAQs, and a draft delegated act on product scope. The European Commission stated that the measures are expected to reduce annual compliance costs for in-scope companies by approximately 75% while maintaining the regulation's core anti-deforestation objectives.

- **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. **Preliminary injunction granted in litigation challenging federal policies cancelling solar and wind projects**

On April 21, 2026, the U.S. District Court for the District of Massachusetts granted plaintiffs' motion for a preliminary injunction in *Renew Northeast, et al., v. United States Department of Interior, et. al.*, a case brought by renewable energy industry groups challenging permitting policies promulgated by the Department of the Interior, Bureau of Land Management, Bureau of Ocean Management, Bureau of Safety and Environmental Enforcement, United States Fish and Wildlife Service, and the United States Army Corps of Engineers. Plaintiffs argued that five agency actions, which established new review procedures and approval policies for solar and wind projects, violated the Administrative Procedure Act. The court determined that the plaintiffs' challenges are likely to succeed on the merits of their case, and granted a preliminary injunction regarding the five agency actions.

2. **Securities and Exchange Commission (SEC) takes action to rescind climate disclosure rule**

As discussed in our March 2025, April 2025, June 2025, and August 2025 ESG Updates, the SEC's climate disclosure rules have remained stayed amid consolidated legal challenges in the Eighth Circuit. This is a result of the SEC's March 2025 vote to end its defense of the rules and the Eighth Circuit's September 2025 order holding the case in abeyance until the SEC either "reconsiders the challenged [rules] by notice-and-comment rulemaking or renews its defense of the [rules]." On May 4, 2026, the SEC submitted a proposed rulemaking titled "Rescission of Climate-Related Disclosure Rules" to the Office of Management and Budget's Office of Information and Regulatory Affairs for review, although the SEC has not yet publicly released the text of a proposed rule. On May 7, 2026 the SEC also filed a letter with the Eighth Circuit stating that it had "determined to 'reconsider the [rules] by notice-and-comment rulemaking'" and "does not intend to renew its defense of the [r]ules." Specifically, the letter states that the SEC staff has "prepared recommendations for a rulemaking to address legal and policy concerns about the [r]ules, including concerns that the [r]ules exceed the Commission's statutory authority and the costs of the [r]ules outweigh their benefits."

3. **Developments in shareholder proposal litigation**

Shareholder proponents have continued to sue companies over exclusion of shareholder proposals under SEC Rule 14a-8 in the 2026 proxy season. Below are a few notable recent developments in these cases:

- Chubb Limited (Chubb) has been sued by the shareholder advocacy group As You Sow over its exclusion of a shareholder proposal relating to subrogation claims for climate-related losses. On March 31, 2026, the U.S. District Court for the District of Columbia denied As You Sow's motion for preliminary injunction seeking to require Chubb to include its proposal in its proxy materials for its 2026 Annual Meeting. In its order, the court explained that As You Sow failed to make a clear showing that it is entitled to emergency injunctive relief.

- BJ's Wholesale Club has been sued in a lawsuit brought by the New York State and Local Retirement System and the New York State Common Retirement Fund over its exclusion of a shareholder proposal relating to deforestation risks. On April 22, 2026, the U.S. District Court for the District of Massachusetts granted plaintiffs' motion for injunctive relief, requiring BJ's Wholesale Club to include the proposal in its proxy materials for its 2026 Annual Meeting. In its ruling, the court explained that the shareholder proposal "focuses on a potential generalized risk — deforestation — posed by one aspect of BJ's business," finding that the proponents are "likely to succeed in establishing that the [p]roposal focuses on 'sufficiently significant social policy issues' such that it 'transcend[s] [BJ's] day-to-day business matters.'"

Other highlights:

- On April 8, 2026, the leadership of the new Canadian Taxonomy and Transition Planning Council was announced, which will oversee the "development and approval of a new Canadian sustainable finance taxonomy." The Council is also tasked with overseeing the development of guidance for climate transition planning for companies in Canada.
- On April 13, 2026 and April 30, 2026, proxy advisors Institutional Shareholder Services (ISS) and Glass Lewis filed lawsuits challenging Indiana statute H.B. 1273, which requires proxy advisors to issue warnings if they have not conducted a "written financial analysis" considering the financial costs and benefits of a proposal when advising clients to vote against company management's recommendation.
- On April 22, 2026, a coalition of 23 state attorneys general published a letter to Moody's Investors Service, S&P Global Ratings, and Fitch Ratings relating to the downgrades of fossil fuel companies or sectors that the coalition describes as "based on highly speculative ESG predictions and goals." The letter warns that enforcement action may be taken if the groups fail to take certain corrective actions.

In case you missed it…

- The Department of Justice announced its first DEI-related False Claims Act settlement under the Civil Rights Fraud Initiative, as covered in more detail in our recent DEI Task Force Update.
- On May 11, 2026, U.S. EPA announced a new proposed rule and updated guidance aimed at improving the process for Clean Air Act Title V operating permits. For more details, see our 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. **Uzbekistan announces $6 billion sustainable aviation fuel project to advance clean energy transition**

On April 2, 2026, Jurabek Rakhimov, the regional governor of the Khorezm region of Uzbekistan, signed a project implementation agreement with Allied Biofuels to form a large-scale biofuel complex. This complex will be dedicated to developing sustainable aviation fluid (SAF) and is considered one of the largest clean energy commitments made in this region of the world.

The clean-aviation fuel hub is anticipated to produce over 160,000 tons of SAF, 257,000 tons of electro-synthetic SAF, and 5,040 tons of green diesel annually, and is expected to be valued at over $6 billion. The project will rely on renewable energy to power production. This will include battery storage and hydrogen production capacity. Additionally, the project will use a "closed-loop" model that converts biogenic carbon dioxide into fuel while using agricultural feedback as the primary input.

Uzbekistan has granted this project special economic zone status by presidential decree. This provides Allied Biofuel with certain tax exemptions and customs incentives designed to ensure long-term financial stability and increase investor confidence. This agreement reflects Uzbekistan's desire to create policies directed at energy diversification and participate in global climate markets.

Other Highlights

- Sustainability reporting standards instituted by the Sustainability Board of Japan became mandatory with effect from April 1, 2026 for companies with annual earnings exceeding JPY 3 trillion, for fiscal years beginning on or after that date.

Read More

Warmest regards,
Susy Bullock
Perlette M. Jura
Ronald Kirk
Julia Lapitskaya
Michael K. Murphy
Robert Spano

Chairs, ESG: Risk, Litigation, and Reporting, Gibson Dunn & Crutcher LLP

For further information about any of the topics discussed herein, please contact the ESG Practice Group Chairs or contributors, or the Gibson Dunn attorney with whom you regularly work.

The following Gibson Dunn lawyers prepared this update: Carla Baum, Mellissa Campbell Duru, Ellie Carter*, Sydney Colopy, Becky Chung, Georgia Derbyshire, Ferdinand Fromholzer, Julia Lapitskaya, Vanessa Ludwig, Babette Milz, Johannes Reul, Annie Saunders, Meghan Sherley, Maggie Valachovic, and Mason Ye.

ESG: Risk, Litigation, and Reporting Leaders and Members

Susy Bullock
London
+44 20 7071 4283
sbullock@gibsondunn.com

Perlette Michèle Jura
Los Angeles
+1 213.229.7121
pjura@gibsondunn.com

Ronald Kirk
Dallas
+1 214.698.3295
rkirk@gibsondunn.com

Julia Lapitskaya
New York
+1 212.351.2354
jjlapitskaya@gibsondunn.com

Michael K. Murphy
Washington, D.C.
+1 202.955.8238
mmurphy@gibsondunn.com

Robert Spano
London/Paris
+33 1 56 43 13 00
rspano@gibsondunn.com

**A trainee solicitor in the London office who is not yet admitted to practice law.*