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ESG: Risk, Litigation, and Reporting Update

August 27, 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 July 2026. Please click on the links below for further details.

I. GLOBAL

1. **The International Organization for Standardization and the Greenhouse Gas Protocol announce plans to consolidate their corporate greenhouse gas accounting standards**

On July 29, 2026, the Greenhouse Gas Protocol (GHG Protocol) announced that it and the International Organization for Standardization (ISO) will consolidate their corporate carbon accounting standards into a single, co-branded standard. This announcement follows the strategic partnership that GHG Protocol and ISO established in 2025 as a key milestone of the COP30 Action Agenda. In connection with the announcement, GHG Protocol released a Standard Development Plan for the integration of the standards. The consolidated standard will bring together GHG Protocol’s Corporate Standard, Scope 2 Standard, Scope 3 Standard, and Actions and Market Instruments (AMI) framework with ISO 14064-1, with the aim of reducing duplication, simplifying reporting, and providing a coordinated consultation process. The organizations plan to conduct an integrated public consultation in the second quarter of 2027 and publish the consolidated standard in the fourth quarter of 2028.

2. **The GHG Protocol announces results of public consultation on Scope 2 standard and AMI workstream**

GHG Protocol also announced two related developments on the same day. It published the results of the public consultation on its Scope 2 standard, which received nearly 1,100 responses from more than 50 countries. The responses reflected differing stakeholder views on the treatment of electricity purchases and how they should be reflected in greenhouse gas accounting, but broad support for improving the transparency and alignment of electricity emissions accounting. GHG Protocol will next work with the Independent Standards Board and Technical Working Group to revise the draft standard. GHG Protocol also reported preliminary responses from the Request for Information on its AMI workstream, which addresses reporting of "actions" and "market instruments" used by organizations under a multi-statement reporting structure. Initial responses showed support for (i) a multi-statement reporting structure, (ii) a market-based inventory approach, and (iii) a statement for reporting the greenhouse gas impacts of actions. The Scope 2 and AMI workstreams will proceed simultaneously.

Other highlights:

- On July 15, 2026, the Science Based Targets initiative (SBTi) opened a second public consultation on its revised draft Power Sector Net-Zero Standard, which incorporates feedback from its first consultation and additional research and input from its Expert Working Group. The consultation closes September 7, 2026, and a parallel pilot program will test the draft standard using participating companies' data before the standard is submitted for Technical Council approval and adoption by SBTi's Board of Trustees.
- On July 27, 2026, Verra launched a new carbon project registry, powered by S&P Global Energy, which it described as "the most significant user experience upgrade in [its] history." The registry is integrated with the Verra Project Hub, allowing users to track projects in one place throughout their lifecycle. Verra expects later phases of the registry to add enhanced Paris Agreement Article 6 functionality and data API services, as well as greater integration with various market participants.

II. UNITED KINGDOM

1. **Office for Equality and Opportunity opens consultation on equal pay**

On July 14, 2026, the United Kingdom's (UK) Office for Equality and Opportunity published a consultation on equal pay and pay discrimination. The consultation will be open for 15 weeks, closing on October 27, 2026.

The consultation invites responses from anyone interested in or affected by the relevant issues. Specifically, it welcomes views from those most affected by the measures, such as employers, trade unions, public sector bodies, women's sector, race and disability stakeholders, legal experts, and individuals with lived experience of pay discrimination.

The consultation seeks input from stakeholders regarding policy proposals designed to deliver the following commitments:

- make the right to equal pay effective for ethnic minority and disabled people;
- establish an equal pay regulation and enforcement unit with the involvement of trade unions; and
- ensure that outsourcing services can no longer be used by employers to avoid providing equal pay.

The consultation also seeks views on related pay transparency proposals, for example, publishing pay information in job advertisements and tougher equal pay audits where these are proportionate and effective in supporting a preventative approach to pay equality.

2. **Revised Equality and Human Rights Commission statutory Code of Practice comes into force**

On July 15, 2026, the Equality Act 2010 (Code of Practice on Services, Public Functions and Associations) (Revocation) Order 2026 and the Equality Act 2010 (Code of Practice on Services, Public Functions and Associations) (the Code) (Commencement) Order 2026 were published.

The Code came into effect on August 5, 2026. The Code explains how the Equality Act 2010 (EA 2010) applies in practice. The most significant changes reflect the UK Supreme Court's April 2025 ruling that the terms "sex", "woman", and "man" in the EA 2010 are to be understood by reference to biological sex. On restroom facilities, the Code states that where a provider chooses to offer a separate or single-sex service but allows transgender people to use the service intended for the opposite sex, the service ceases to be separate or single-sex under the Equality Act 2010, and the provider is very likely to be unlawfully discriminating against other users.

Code-compliant options are single-user, lockable unisex facilities open to everyone, or single-sex spaces which are not open to transgender people. In most cases, we expect that a reasonable approach would be to provide a mixture of both options reflecting the number of each type of relevant service user, which falls within the separate-facilities requirements in the Workplace (Health, Safety and Welfare) Regulations 1992.

3. **UK government's Department for Environment, Food and Rural Affairs publishes delivery plan for "30by30" land protection target**

On July 13, 2026, the UK government's Department for Environment, Food and Rural Affairs (Defra) published its delivery plan to outline how it will achieve the UK's target to "conserve and manage" 30% of land and inland waters as it applies to land in England by 2030 (30by30).

The plan outlines a tiered approach for assessing areas of land to contribute to 30by30 as well as an explanation of how the criteria will be applied in assessing land. The plan also provides other actions to make it easier for landowners to help deliver 30by30 on the ground and other actions the UK government is taking to strengthen efforts in delivering 30by30.

The delivery plan notes that Defra's latest analysis identifies that land covering around 32% of England is either already likely to, or has the potential to, contribute to the 30by30 target.

III. EUROPE

1. **New draft of reporting standards for non-EU groups (formerly N-ESRS, now ESRS-40a) published**

On July 23, 2026, the European Financial Reporting Advisory Group (EFRAG) released its Exposure Draft of the European Sustainability Reporting Standards for certain Non-EU Undertakings (ESRS-40a), formerly referred to as the non-EU ESRS (N-ESRS). For further details, see our May 2026 and June 2026 ESG Updates. The ESRS-40a set out the proposed reporting requirements for large non-EU entities with significant operations in the EU. EFRAG estimates that there are approximately 1,200 such entities that fall within the scope of the Corporate Sustainability Reporting Directive (CSRD) by virtue of their EU operations that could be subject to the ESRS-40a. The reporting obligation notably rests solely with the EU entity/branch and first applies for financial years beginning on or after January 1, 2028. Following the "Omnibus I" simplification package, the reporting obligation covers non-EU groups with EU net revenue exceeding EUR 450 million in each of two consecutive financial years that also have an EU subsidiary or branch with revenue exceeding EUR 200 million.

- **Impact materiality only (single materiality):** In contrast to the double materiality standard (financial *and* impact materiality) under the ESRS, the ESRS-40a focus exclusively on impact, or single, materiality. Reporting under the ESRS-40a would, therefore, cover only a group's impacts on people and the environment, and not the impacts on the group of sustainability-related risks, opportunities, resilience, and dependencies.
- **Limitation to EU-related impacts:** The exposure draft provides for a "mixed approach" under which a group may limit its impact disclosures to EU-related impacts for all topics other than climate change and the cross-cutting general disclosures, which would still have to be reported on a global basis.

EFRAG has launched a 100-day public consultation on the exposure draft, which closes on October 31, 2026, and intends to deliver its technical advice to the European Commission by January 2027.

In a comment letter regarding the Corporate Sustainability Due Diligence Directive, as amended (CSDDD) published on August 14, 2026, the U.S. Ambassador to the EU called on the EU to further reduce the burden of the CSRD and the CSDDD on U.S. companies, stating that the U.S. would "take any actions necessary to address unreasonable burdens on U.S. commerce absent a solution that addresses these concerns."

2. **Report on CSRD/ESRS reporting practice published by EFRAG**

On July 1, 2026, EFRAG published its second State of Play report, entitled "Implementation of European Sustainability Reporting Standards: FY2025 Observed Practices," an evidence-based assessment of more than 900 sustainability statements for the financial year 2025 (FY 2025), predominantly prepared by EU-listed companies. The report evaluates the sustainability statements against a set of 18 questions, which have been expanded relative to the inaugural edition, and now cover double materiality assessment methodology, the linkage of material topics to executive incentive schemes, the geographic disaggregation of environmental metrics, and — for the first time — governance disclosures under ESRS G1.

Sweden (14%), Germany (12%), and France (11%) account for the largest geographic shares of the analysis, which also includes 26 statements from non-EU undertakings (excluding Norway). The report presents the results broken down by jurisdiction and sector, with manufacturing (36%), financial & insurance services (20%), and information & communication (10%) representing the largest sectors.

Overall, the report identified the following themes:

- **Material topics and impacts, risks and opportunities (IROs)**: Preparers identify on average 6.4 of the ten topical ESRS as material, with ESRS E1 Climate Change, ESRS S1 Own Workforce, and ESRS G1 Business Conduct remaining the standards most commonly considered material. The non-EU statements broadly mirror this. FY 2025 statements identify, on average, 30 IROs, almost 60% of which are concentrated in E1 (6.3), S1 (6.5), and G1 (4.2), with non-EU companies reporting fewer IROs in each of those standards.

- **Targets and executive incentives**: The report identifies a gap between declared materiality and strategic commitment: measurable targets are set for only half of the material topics (3.3 of 6.4 on average), and only 63% of preparers embedded sustainability targets in executive incentive schemes.

- **Double materiality assessment (DMA)**: 82% of preparers updated their assessment relative to their FY 2024 reports, with a hybrid methodology combining bottom-up and top-down elements emerging as the dominant approach (67%), ahead of purely bottom-up (28%) and top-down (5%) approaches.

- **Climate transition plan**: The share of companies disclosing a climate transition plan rose from 55% to 69%, with 57% disclosing near- and long-term decarbonization targets compatible with a 1.5°C pathway.

- **Report length**: The average length of sustainability statements decreased from 115 to 95 pages, which EFRAG attributes to a combination of sample composition and growing familiarity with the ESRS framework.

3. **France: Oil and gas company to appeal Paris Judicial Court ruling requiring inclusion of Scope 3 emissions in its duty of vigilance risk mapping**

As reported in our June 2026 ESG Update, on June 25, 2026, the Paris Judicial Court partially granted claims brought by NGOs and supported by the City of Paris against a French oil and gas company (the Company) under France’s 2017 duty of vigilance law (LDV).

The Company announced on July 27, 2026, that it will appeal the portion of the judgment addressing the LDV claim. In particular, the Company is challenging the court's findings that climate-related risks fall within the scope of the LDV and that Scope 3 emissions associated with customers' use of the Company's products constitute adverse impacts arising from the Company's own activities.

The appeal also challenges the resulting injunction requiring the Company, within six months, to include Scope 3 emissions and related mitigation measures in the risk mapping contained in its vigilance plan.

Because the injunction was ordered to be provisionally enforceable, the filing of the appeal does not suspend the Company's obligation to comply. To date, no appeal by the NGOs appears to have been publicly announced. A hearing before the pre-trial judge is scheduled for January 21, 2027 to review the Company's updated vigilance plan (first instance jurisdiction).

4. **France: Landmark greenwashing decision finds a mineral water bottling company liable for misleading commercial practices**

On June 23, 2026, the Paris Judicial Court found a French mineral water bottling company (the Company), a subsidiary of a major international food and beverage group, liable for misleading commercial practices under Articles L. 121-1 et seq. of the French Consumer Code, on account of the claims "carbon neutral," "100% recycled" and "100% recyclable" displayed on its bottles. This is the first French decision [finding liability for the use of the terms "carbon neutral" and "100% recyclable" on a mass-market consumer product. The proceeding was brought in October 2021 by a leading French consumer rights association.

Regarding the carbon neutrality claims, the Court held that, when used alone and without explanatory information or quantitative data, the terms do not allow consumers to understand whether neutrality results from emission reductions, offsetting, or a combination of both, nor in what proportions. The Court further found that the reference to "certified" reinforced the impression that an objective balance had actually been achieved.

Regarding the packaging claims, the Court found that the label, cap, handles, glues, and inks were not made from recycled material, such that the use of "100%" was misleading, and that polyethylene terephthalate can only be recycled a limited number of times, such that the claims "100% recyclable" and "always recyclable" were inaccurate. The claims were held likely to materially distort consumer behavior, as they could be decisive, not as to whether to purchase bottled water in the first place, but as to the choice of this brand over its competitors.

Notably, the Court applied France's existing misleading commercial practices regime interpreted in light of the new European Directive (EU) 2024/825 (Empowering Consumers for the Green Transition) prior to its transposition, which becomes applicable from September 2026. The Company was ordered to pay EUR 75,000 in damages for collective harm to consumers, EUR 10,000 in costs, and to publish the judgment on the homepage of its website for six months. The parent group has announced that it will appeal the decision.

Other highlights:

- On July 1, 2026, the European Securities and Markets Authority (ESMA) as well as the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) published proposals to simplify EU Taxonomy Key Performance Indicator (KPI) disclosure requirements for companies, asset managers, banks, and insurers as part of the Omnibus I simplification agenda. Each consultation closed on August 12, 2026.
- On August 3, 2026, the European Commission published its second edition of Packaging and Packaging Waste Regulation (PPWR) – Frequently Asked Questions, providing new and updated guidance for economic operators, including on key definitions of, for example, "manufacturer" and "producer," on topics surrounding Substances of Concern (SoC), on manufacturers' obligations such as the treatment of pre-existing packaging stock, and generally stating a supportive initial enforcement approach – shortly before the PPWR's general application date of August 12, 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. **The Canadian Climate Institute opens consultation on draft sustainable finance taxonomy methodology**

On July 9, 2026, the Canadian Climate Institute and Business Future Pathways, working in collaboration with the independent Canadian Taxonomy and Transition Planning Council (the Council), released the draft Canadian Sustainable Finance Taxonomy: Methodology Report for public comment. As discussed in our December 2025 and April 2026 ESG Updates, the Canadian government has mandated that the Canadian Climate Institute and Business Future Pathways develop taxonomy guidelines for six sectors, under the oversight of the Council, by 2027. The report proposes the foundational methodology for the Sustainable Finance Taxonomy, designed to "establish credible and standardized definitions for climate-aligned investments." The initial phase focuses on climate mitigation, and technical screening criteria are informed by Canada's target of net-zero emissions by 2050. The taxonomy will encourage the use of entity-level criteria such as climate-related disclosures, transition plans, and net-zero targets, but these will not be prerequisites for determining whether an investment is taxonomy-aligned.

The proposed framework would establish three categories of economic activities that are eligible for inclusion in the taxonomy: (i) "green" activities, comprising climate solutions with zero- or near-zero-emissions and activities that directly enable those solutions; (ii) "transition" activities, or activities that are emissions-intensive and can help achieve significant emissions reductions and are expected to experience stable or growing demand under Paris Agreement-aligned pathways; and (iii) "abatement measures," which applies to certain emissions-reduction investments that are expected to result in substantial near-term emissions reductions in activities expected to experience declining demand under Paris Agreement-aligned pathways and cannot achieve significant long-term decarbonization, such as investments in the oil and gas sector. The Council expects technical screening criteria to be developed initially for three sectors in late 2026 and for three additional sectors in 2027, covering electricity, buildings, transportation, mining, manufacturing, and agriculture and forestry. The public comment period closed on August 13, 2026.

2. **SEC Chairman Atkins discusses Rule 14a-8 and potential disclosure reforms**

On July 9, 2026, U.S. Securities and Exchange Commission (SEC) Chairman Paul S. Atkins delivered remarks at the Society for Corporate Governance's 2026 National Conference addressing, among other matters, the future administration of Exchange Act Rule 14a-8 and potential reforms to Regulation S-K. With respect to Rule 14a-8, Chairman Atkins discussed the Division of Corporation Finance's decision, previously covered in our November 2025 and March 2026 ESG Updates, not to issue responses to most shareholder proposal no-action requests during the 2026 proxy season. Specifically, Chairman Atkins addressed the 2026 proxy season, calling it "both a turning point and a proof of concept." He stated that a central takeaway from the 2026 proxy season is that the Staff's "interposition between companies and shareholder proponents is unnecessary to effectively and efficiently resolve whether shareholder proposals should be included in proxy statements." Chairman Atkins also stated that the SEC was conducting a broader review of Rule 14a-8, including the rule's relationship to state corporate law and the scope of the SEC's federal authority. Separately, he discussed comment letters submitted in response to the SEC's request for feedback on potential Regulation S-K reforms. In particular, he noted that some commenters had recommended a "materiality overlay" that would permit companies to omit information otherwise required by Regulation S-K if that information is not material, potentially subject to specified exceptions. Chairman Atkins indicated that this approach could support a principles-based disclosure framework.

Subsequently, on August 14, 2026, the Staff released an updated statement on its role in the Rule 14a-8 process (the "August Staff Statement") announcing that the Staff will not respond to any Rule 14a-8 no-action requests, including no-action requests under Rule 14a-8(i)(1). The August Staff Statement explained that this change was implemented to allow the Staff to "focus . . . resources on the review of Securities Act and Exchange Act filings, including those reviews that are statutorily required, for the protection of investors and facilitation of capital formation" and made "in light of the extensive body of guidance from the Commission and the staff available to both companies and proponents on Rule 14a-8." In addition, the Staff will no longer issue "no objection" letters in response to a company's submission as they did in the 2026 proxy season. For further details, see our client alert here.

Other highlights:

- On July 24, 2026, Representatives Craig Goldman, Jodey Arrington, and Greg Steube introduced H.R. 9892, the "Stop EU Overreach Act," which would require the U.S. Trade Representative, within 30 days of enactment, to initiate a Section 301 investigation into whether the EU's Corporate Sustainability Due Diligence Directive, Corporate Sustainability Reporting Directive, Deforestation Regulation, Carbon Border Adjustment Mechanism, and related measures unreasonably or discriminatorily burden U.S. commerce. If the U.S. Trade Representative makes an affirmative determination, the bill would require consideration of responsive action, including duties or suspension of trade benefits.

- On July 21, 2026, a coalition of 18 states, the District of Columbia, and New York City petitioned the U.S. Court of Appeals for the D.C. Circuit to review the Environmental Protection Agency's final rule entitled "Phasedown of Hydrofluorocarbons: Reconsideration of Certain Regulatory Requirements Promulgated Under the Technology Transitions Provisions of the American Innovation and Manufacturing Act of 2020." The rule took effect on July 27, 2026, and relaxes restrictions on hydrofluorocarbons applicable to several refrigeration and air-conditioning subsectors, including removing or extending the various compliance deadlines and raising global warming potential thresholds for certain refrigeration systems.
- On July 21, 2026, the California Air Resources Board (CARB) presented proposed regulations under Senate Bill 253 that would initially require Scope 3 reporting beginning in 2027 for five categories (purchased goods and services, fuel- and energy-related activities, waste generated in operations, business travel, and employee commuting). CARB staff also proposed requiring limited assurance for Scope 1 and Scope 2 emissions reports beginning in 2027.
- On July 17, 2026, the Bureau of Ocean Energy Management (BOEM) published a Notice of Availability of the Proposed Leasing Notice for American Samoa Outer Continental Shelf Pacific Mineral Lease Sale 1. BOEM proposes offering two lease areas, totaling approximately 31.5 million acres, for deep-sea mining activities through an auction on November 19, 2026. If the auction moves forward, it would represent the first-ever deep-sea mining lease sale.

In case you missed it…

- The U.S. Equal Employment Opportunity Commission announced it had voted to issue a Notice of Proposed Rulemaking that would rescind employers' legal obligations to collect and file annual reports regarding workforce demographic data, as covered in more detail in our recent DEI Task Force Update.
- 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. **Singapore's ACRA launches public consultation on draft Sustainability Disclosure Standards**

On July 27, 2026, the Singapore Accounting and Corporate Regulatory Authority (ACRA)'s Interim Sustainability Standards Committee (Interim SSC) launched a public consultation on the draft Singapore Sustainability Disclosure Standards, which set out the climate-related information companies would be required to disclose. The draft standards are based on the International Sustainability Standards Board Standards and comprise two components: SFRS S1, covering general sustainability-related financial disclosures, and SFRS S2, covering climate-related disclosures. The Interim SSC proposes that only SFRS S2 be mandatory, while SFRS S1 would remain voluntary, alongside other local adjustments including tailored transition reliefs and a statement of compliance requirement. The consultation period runs until October 25, 2026.

2. **Australian government announces new criminal offense and civil penalties for corporate failure to prevent modern slavery**

On July 16, 2026, the Australian government announced plans to strengthen the country's modern slavery laws through the introduction of a new criminal offense for companies with annual consolidated revenue over AUD 100 million that fail to prevent modern slavery in their supply chains. Such companies would have a defense where they can demonstrate that they took reasonable steps to prevent modern slavery. The government also intends to introduce civil penalties and enforcement powers to address non-compliance with existing obligations under the Modern Slavery Act 2018. The proposed reforms, including enforcement options such as a possible deferred prosecution agreement scheme, will be refined through upcoming consultations.

3. **South Korea finalizes roadmap for mandatory ESG disclosure**

On July 8, 2026, the Korea Financial Services Commission (FSC) announced the final version of South Korea's roadmap for mandatory ESG disclosure. Under the roadmap, KOSPI-listed companies with total consolidated assets of KRW 10 trillion or more will be required to file ESG disclosures from 2028 (covering FY 2027), with the threshold lowered to KRW 5 trillion from 2029 and a possible further reduction to KRW 2 trillion from 2030, subject to review. Disclosures will be made as part of companies' business reports under the Financial Investment Services and Capital Markets Act. To ease the transition, companies will be exempt from civil, administrative, and criminal liability for the content of their disclosures during the first three years, after which a safe harbor will apply to inherently uncertain information such as forward-looking estimates.

Other highlights:

- On July 7, 2026, Vietnam announced a comprehensive framework for forest carbon sequestration and storage services, covering creation, management, and transfer of emission-reduction results and forest carbon credits.
- On July 1, 2026, the Securities and Exchange Commission of Pakistan launched its inaugural ESG Mutual Funds Framework, requiring ESG funds to invest at least 50% of net assets in ESG-aligned investments.

Warmest regards,
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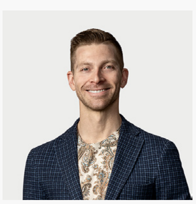
ESG: Risk, Litigation, and Reporting Leaders and Members



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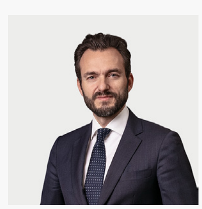

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