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ESG Compliance Should Be a Significant Consideration for Many U.S. Businesses in 2025

For businesses with substantial operations in the European Union and United Kingdom, Environmental, Social, and Governance (ESG) regulations have been the talk of boardrooms and conference rooms for years. Increasingly, more U.S. companies are becoming acquainted with the burgeoning role of ESG compliance. For those executives, ESG and sustainability specialists, internal auditors, compliance practitioners, and in-house counsel tasked with navigating ESG compliance, it is time to engage. 2025 appears poised to usher in increasing regulatory oversight of climate-related financial risk and greenhouse gas (GHG) disclosures – primarily at the state level.

The SEC Rules Remain in Limbo for Public Companies

First, an update on the status of federal ESG regulations. Last year, the U.S. Securities and Exchange Commission (SEC) under the Biden administration adopted rules to standardize climate-related disclosures by public companies. In response, multiple parties sued to stop enforcement of the rules. The consolidated cases are pending before the U.S. Court of Appeals for the Eighth Circuit. This month, Acting SEC Chairman Mark Uyeda issued a statement describing the rules as “deeply flawed,” requested the court not schedule the cases for oral argument, and announced his intention to deliberate on and determine the appropriate next steps. Accordingly, it appears the rules will remain in flux for the foreseeable future. Notably, because the rules were adopted after notice-and-comment rulemaking and are before a court on judicial review, the current administration will have to proceed through certain judicial and administrative procedures before the rules can be changed or withdrawn.

California Leads the Way

GHG Disclosure Laws

In 2023, California enacted a suite of ESG laws to regulate climate-related disclosures. Under the Climate Corporate Data Accountability Act (SB 253), U.S. partnerships, corporations, limited liability companies, and other business entities with total annual revenues exceeding $1 billion that do business in California are required to report on their scope 1 and scope 2 GHG emissions from the prior fiscal year starting in 2026. They are required to disclose their scope 3 GHG emissions from the prior fiscal year starting in 2027. Under the law, companies must follow the Greenhouse Gas Protocol standards and obtain assurance from an independent third-party assurance provider.

Climate-Related Financial Risk

In 2023, California also enacted SB 261, which requires covered entities to disclose their climate-related financial risks and the measures they adopt to reduce and adapt to climate-related financial risk by January 1, 2026. The law applies to U.S. partnerships, corporations, limited liability companies, and other business entities with more than $500 million in total annual revenue that do business in California.

The law defines "climate-related financial risk" to mean, "material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health."

Disclosures should follow the framework set forth by the Task Force on Climate-Related Financial Disclosures (TCFD) or an equivalent framework, which may include the International Sustainability Standards Board's (ISSB) International Financial Reporting Standards Sustainability Disclosure Standards. Covered entities are required to provide disclosures to the State of California and publicly on their own websites, and an independent third party is required to verify disclosures relating to

GHG emissions.

The California Air Resources Board (CARB) is the state agency responsible for issuing regulations relating to SB 253 and SB 261. In December 2024, CARB issued an enforcement advisory stating the first reports under SB 253 will be due in 2026 on a date to be determined in its rulemaking. CARB also solicited comments from stakeholders in December 2024 for both laws. In response to the Southern California wildfires, the agency has extended the comment deadline to March 21, 2025.

In January 2024, the U.S. Chamber of Commerce and other parties sued to block enforcement of SB 253 and SB 261 in the U.S. District Court for the Central District of California. This month, the federal court dismissed the U.S. Chamber's claims – some with prejudice and others without prejudice pending CARB's rulemaking. Therefore, the laws remain in effect, and businesses should begin preparing now.

Voluntary Carbon Market Disclosures

Rounding out the list of its recent climate-related disclosure laws, California enacted a voluntary carbon market disclosures law, also in December 2023 (AB1305). The law requires companies that market or sell voluntary carbon offsets within the state to make certain disclosures on their websites. Similarly, companies that operate in the state and make claims relating to, among other things, achieving net zero emissions, carbon neutrality, or significant reductions to their carbon dioxide or GHG emissions must provide specific disclosures on their websites relating to those claims. Companies are required to disclose annually, and violations may incur civil penalties of $2,500 per day in an amount not to exceed $500,000.

U.S. companies doing business in California, regardless of whether they operate within the state, should evaluate their obligations under its ESG laws and prepare to comply as appropriate.

State Action Beyond California

Climate-Related Disclosures

Significantly, in 2025, lawmakers in Colorado (HB25-1119), Illinois (IL HB3673), New Jersey (NJ S4117), and New York (NY S3456, A4282) have proposed legislation in their states similar to SB 253. Under each proposed bill, entities with total annual revenue exceeding $1 billion and doing business in the respective states would be required to disclose scope 1, 2, and 3 GHG emissions and to obtain third-party assurance or verification in the coming years.

Additionally, New York (NY S03697) is considering a bill similar to California's SB 261 requiring climate-related financial risk disclosures. The law would apply to U.S. companies with total annual revenues in excess of $500 million that do business in New York.

Illinois Proposes the Extreme Weather Recovery Act

Proposed in February 2025, Illinois's Extreme Weather Recovery Act (IL HB3594) is noteworthy. The bill provides a private cause of action against a responsible party by a harmed party who has suffered damages caused by climate disaster or extreme weather attributable to climate changes.

The bill defines a "responsible party" to mean an entity that emitted or caused to be emitted through the "extracting, storing, transporting, refining, importing, exporting, producing, manufacturing, distributing, compounding, marketing, or offering for wholesale or retail sale," a product with total GHG emissions of at least 1 billion metric tons of carbon dioxide equivalent during the covered period. This bill signals an increasing significance of GHG disclosures and reduction efforts to lawmakers.

We will continue to monitor the progress of these laws and bills and the trending state regulatory engagement on ESG compliance and enforcement, and we are available to answer questions.

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