PERSPECTIVES

ENVIRONMENTAL CLAIMS AND DISPUTES:
Navigating Regulatory Change and Litigation Pressure

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- Advise on building legally defensible governance frameworks
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Executive Summary

Against the backdrop of regulatory fragmentation and rising stakeholder scrutiny, companies are faced with mounting risk across environmental compliance, governance, litigation, and internal controls. Yet, the current conversation often overlooks the strategic and reputational dimensions of environmental risk — failing to connect compliance with long-term resilience and growth. This article examines these gaps and explains how organizations can establish an effective environmental governance framework that serves as a competitive differentiator.

EXPERT VOICES

Kim Logue Ortega

Kim leverages her extensive knowledge of environmental and natural resources law to clarify how rapid regulatory shifts are reshaping corporate reporting, environmental risk disclosures, and cross-border compliance obligations. Her insights highlight the demands organizations must meet to remain resilient amid intensifying scrutiny.

Introduction: The Expanding Scope of Environmental Risk

Multinational companies face increasingly complex environmental risks, particularly as the patchwork of global regulations continues to evolve, and litigation filed by investors and activist shareholders intensifies.

Failing to properly address environmental risks can result in reputational, legal, and ultimately, financial harm, with damages stemming from inadequate processes and controls; failure to comply with evolving state, federal, and international environmental regulations; as well as overstatement (greenwashing) or understatement (greenhushing) of sustainability policies, goals, and progress.

Today, companies also face a growing risk of scrutiny or litigation from regulatory bodies, activist shareholders, and non-governmental organizations (NGOs) for greenwashing or greenhushing reporting environmental performance and progress toward publicly stated sustainability goals. This type of enhanced negative focus can also result in reputational damage, manifesting as monetary damages, decreased consumer confidence, and a decline in stock value.

The Global Sustainability Landscape as Europe Leads the Way

While Europe remains the leader in championing environmental laws and regulations, there has been some backtracking in terms of scope and timeline, creating uncertainty. The European Union's Corporate Sustainability Reporting Directive (CSRD) requires companies with significant EU presence to undergo independent audits of their sustainability reporting. Even US-based companies conducting business in Europe must adhere to certain European regulations. While there may be less regulatory pressure domestically, this does not remove the need for companies to keep these requirements as a strategic priority.

To ease burdens, the EU approved a provisional Omnibus Sustainability Rules Simplification Package. Adopted in December 2025, the revised CSRD and the Corporate Sustainability Due Diligence Directive (CSDDD) exempts companies with fewer than 1,000 employees and allows smaller companies to delay CSRD reporting requirements until 2028.

The EU's Corporate Sustainability Reporting Directive (CSRD)

Scope of Application	Application Date
EU undertakings and **non-EU issuers** which on an individual or group basis has: • more than **EUR 450 million net turnover**; and • more than **1,000 employees** on average during the financial year.	Reporting in **2028** (for the financial year starting on or after 1 January 2027)
Non-EU ultimate parent undertakings that have: • more than **EUR 450 million net turnover** generated in the EU (individually or on a consolidated basis) for each of the last two consecutive financial years; and • an **EU subsidiary or a branch in the EU** with more than **EUR 200 million net turnover** in the preceding financial year.	Reporting in **2029** (for the financial year starting on or after 1 January 2028)

Source: Linklaters. "*EU Omnibus I: CSRD and CS3D Amendments Finalised: What Do You Need to Know?*" Sustainable Futures, December 17, 2025.

International Standards to Advance Governance and Corporate Reputation

ISO 14001 has become a global benchmark for environmental management systems (EMS), enabling European and UK-based companies to navigate complex regulations and enhance their sustainability practices. Though voluntary, its widespread adoption across regions and industries signals a commitment to operational excellence.

Despite the uncertainty of the Omnibus package, Europe and the United Kingdom have long relied on ISO 14001, the internationally recognized standard for certifying environmental management systems (EMS). While ISO 14001 is not a legal requirement, complying with this standard helps businesses navigate the rigors of environmental legislation throughout Europe and the UK.

According to ISO 14001, an EMS must focus on various environmental risk issues, including waste management, resource utilization, and monitoring environmental performance. Receiving certification involves creating an EMS, which includes identifying environmental risks and impacts, establishing objectives, putting controls in place, and having audits performed by a third-party that conducts certifications. ISO requirements have been adopted in many jurisdictions, including China, Japan, the United Kingdom, Germany, France, India, and Australia, among others, despite varying significantly in government sustainability regulations.

An EMS is a strategic asset that transforms sustainability from risk mitigation to value creation. Industry leaders have already begun adopting this practice to distinguish themselves and meet the growing expectations of consumers and investors. It should be viewed as an integral part of a company's overall compliance and operational strategy.

For instance, US-based energy giant ExxonMobil states that its lubricant plants are ISO 14001-certified. Additionally, many companies in the automotive industry, including Ford, Honda, Toyota, BMW, and General Motors, have long mandated that their suppliers be ISO 14001-compliant.

Fragmented Environmental Enforcement in the US

The US has shifted its approach to environmental oversight, emphasizing deregulation. An April 2025 executive order directed the Attorney-General to identify and halt the enforcement of state laws addressing climate change, ESG initiatives, environmental justice, and carbon emissions.

Federal agencies have followed suit. In June 2025, the Securities and Exchange Commission withdrew its proposed rules for ESG disclosure. Furthermore, the US Environmental Protection Agency (EPA) has proposed rolling back its Greenhouse Gas Reporting Program (GHGRP). This would remove reporting requirements for most large industrial facilities, all fuel and industrial gas suppliers, and CO2 injection sites. The EPA also plans to reform its preconstruction permitting process, allowing more power plants and data centers to be built in the US.

As environmental oversight shifts, new sectors are emerging as focal points for scrutiny from local communities and environmental groups — particularly data centers, which are rapidly expanding to support AI and digital infrastructure. These facilities require substantial amounts of water, energy, and other resources and must comply with a range of environmental laws, including the US Clean Air Act and the EU's revised Energy Efficiency Directive.

As a result, litigation is on the rise. Residents have filed lawsuits to block construction from a "not in my backyard" standpoint, while environmental groups argue that the centers' footprint threatens the local environment. Data centers also face risks tied to power supply and the US energy grid, which is shifting toward renewable energy sources. While the US government has moved to enable the energy industry by loosening environmental rules, states like California have risen to the forefront in demanding compliance with their environmental laws. California's climate disclosure laws — SB 253, the Climate Corporate Data Accountability Act, and SB 261, the Climate-Related Financial Risk Act — are set to go into force in 2026. However, there has been recent federal court litigation by the US Chamber of Commerce that has stayed part of the California requirements.

California's Climate Disclosure Rules

SB 253 – EMISSIONS REPORTING

Requires companies with more than $1 billion in annual revenue to submit annual Scope 1 and Scope 2 greenhouse gas emission disclosures in 2026, and Scope 3 emissions in 2027.

SB 261 – CLIMATE-RELATED FINANCIAL RISK REPORTING

Requires biennial reporting for companies with annual revenues exceeding $500 million. This includes companies outside the state and even the US that do business in California.

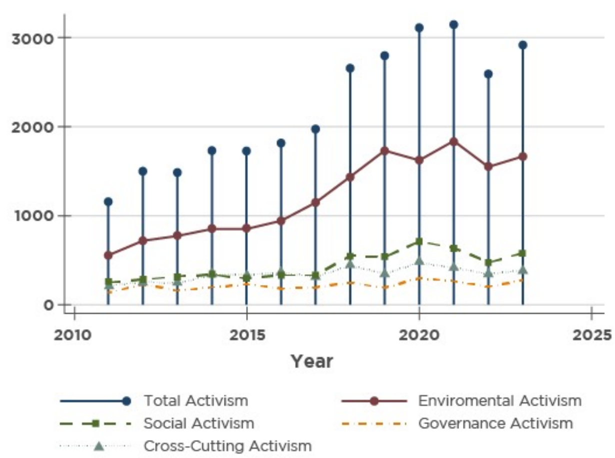
POTENTIAL IMPACT

An estimated 10,000 companies will be subject to SB 261, of which 5,000 are also subject to SB 253. This means increased compliance obligations, particularly around Scope 3 emissions tracking in the wider supply chain.

Investor Scrutiny, Disclosure Pressures, and the Rising Cost of Greenwashing

In addition to governmental and regulatory hurdles, companies with business in several jurisdictions need to be aware of the expectations of shareholders and investors. These drive company disclosures. In fact, shareholders are becoming more active, particularly as more non-profit organizations become shareholders and seek greater influence, putting pressure on boards of directors to address sustainability issues.

Figure 1.
NGO campaigns targeting firms over time



Source: Sustainable Finance Alliance. "[The Role of Non-Governmental Organizations in Corporate Governance.]"

Companies must be vigilant in collecting data to support their claims about environmental goals, frameworks, and processes, in order to avoid potential regulatory pitfalls and defend against litigation. Beyond data collection, companies must strengthen internal controls and governance frameworks to ensure defensible compliance. This includes implementing cross-functional oversight, third-party audits, and third-party verification of ESG metrics to withstand regulatory and legal scrutiny.

Additional risks include greenwashing, where companies provide misleading sustainability information or exaggerate green labeling or credentials. Greenwashing is being addressed by legislation, and government crackdowns on greenwashing are now a global enforcement priority. Greenwashing lawsuits have been filed under the EU's Unfair Commercial Practices Directive (UCPD). The Green Transition Directive will take effect in the EU in September 2026 to strengthen the anti-greenwashing consumer protection structure supplied under the UCPD.

In the US, greenwashing class action lawsuits are being filed in federal court. For instance, in January 2025, a federal district court ruled in Spence v. American Airlines that an airline and its employee retirement plan administrator breached their fiduciary duty of loyalty to beneficiaries under the Employee Retirement Income Security Act of 1974 by allowing corporate interests in ESG objectives (including sustainable aviation fuel and climate change initiatives) and their investment manager's ESG interests to influence their management of employee retirement plans.

Greenwashing backlash has also resulted in "greenhushing," where companies are shifting from transparency to silence regarding their sustainability goals and directives. The 2025 South Pole Net Zero Report noted that one quarter of financial institutions surveyed are deciding to "make more conservative claims on their net zero strategy."

Yet, greenhushing presents its own set of risks. Various governments, particularly the EU, require that specific reporting obligations apply to companies conducting business in the EU or trading on international markets. In the US, some shareholders are filing lawsuits to compel companies to disclose their sustainability goals and milestones. Additionally, the 2025 South Pole Net Zero Report noted that 48% of financial institutions indicate that "heightened scrutiny from investors," industry requirements and regulations, as well as the "availability of sufficient data," influence how they communicate their net zero strategy.

Ortega advises clients to "make sure that they have data to support whatever their green claims are, or their green marketing is." She adds, "As regulations continue to change, if companies have that database of information that's already been collected, it allows them to be nimble in whatever reporting requirements may be applicable."

Transparency as a Catalyst for Trust, Talent, and Sustainable Growth

To defend against greenwashing or greenhushing, companies need to have the necessary data to support public green marketing assertions. As environmental laws and regulations evolve, having this information database allows companies to adapt to the current reporting requirements.

In turn, companies that employ environmental risk initiatives — such as using sustainable products, promoting fuel efficiency, recycling materials, choosing renewable energy sources, implementing zero-net greenhouse gas emission policies, and adopting zero-waste policies — are better positioned to attract investment, earn long-term customer loyalty, and attract top talent. Transparent ESG integration may not only mitigate litigation risk but also help build stakeholder trust and enhance brand reputation. According to one survey conducted by the SHRM Executive Network, 54% of US workers are concerned about whether their company prioritizes environmental risk management. And with strong talent comes innovation in a company's products and services.

Conclusion: Prioritizing Environmental Risk Governance for Strategic Advantage

To minimize the risk of environmental compliance gaps leading to litigation or reputational damage, companies — especially those operating across borders — must understand the applicable requirements in the emerging global market. Regulations change rapidly and vary significantly from one jurisdiction to another. Yet, companies are struggling in this area and need help.

When the C-suite prioritizes environmental compliance, it may reduce enforcement actions and increase employee satisfaction. Even companies outside Europe that intend to conduct business there must consider EU regulations when making strategic decisions, as global sustainability standards increasingly influence business operations. Despite persistent uncertainty surrounding sustainability, 85% of companies are moving forward with emissions disclosures, and 97% believe that strong sustainability reporting creates value beyond compliance (Workiva).

Business leaders need to view environmental risk as a strategic asset, rather than merely a compliance function. They also need to invest in infrastructure and processes that support sustainability claims and reporting. The C-suite needs to focus on managing environmental risk compliance and be prepared to meet laws and regulations in every jurisdiction where they conduct business. This signals a shift: addressing environmental risk is no longer just a regulatory concern in today's global marketplace.

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