Harvard Law School Forum on Corporate Governance

ESG in 2024: A Midyear Review

Posted by Raquel Fox, Simon Toms and Justin Lau, Skadden, Arps, Slate, Meagher & Flom LLP, on Wednesday, August 7, 2024

Editor's note: Raquel Fox and Simon Toms are Partners and Justin Lau is an Associate at Skadden, Arps, Slate, Meagher & Flom LLP. This post is based on their Skadden memorandum.

Environmental, social and governance (ESG) matters, and diverging opinions on approach, continued to dominate headlines across the globe in the first half of 2024. Companies and their stakeholders started the year navigating between proponents and detractors of ESG, and while it appears ESG momentum has slowed in recent months, the topic remains an important one for companies in both the European Union and U.S.

Key ESG trends and developments in 2024 so far, and which we will explore in more detail in this article, include:

- The continued pressures of ESG litigation and activist pressure.
- ESG backlash in the U.S. and EU.
- Progress on ESG matters, despite the backlash.

We also look forward to what we expect to see in the second half of 2024, in particular focusing on incoming EU regulation and U.K. greenwashing rules, and how companies and their stakeholders can balance competing demands.

Key Trends and Developments in H1 2024

ESG Litigation Increases, and Activist Pressure Continues

Continuing a trend from 2023, ESG activism remains on the rise. Activists continue to promote ESG objectives through litigation and corporate governance structures, and corporates are taking preemptive measures.

In Switzerland. The European Court of Human Rights (EctHR) ruled in April 2024 that Switzerland's efforts to meet its emission reduction targets have been deficient to the point of violating Article 8 of the European Convention on Human Rights, the right to respect for private and

family life. This was the first time the EctHR has given a ruling on a climate change case, but it is unlikely to be the last.

In the U.K. The U.K. government has also faced a successful challenge by climate activists. In May 2024, the High Court of England and Wales found that the U.K.'s Carbon Budget Delivery Plan was flawed. The secretary of state for Energy Security and Net Zero was determined to have made an irrational decision, based on inadequate evidence, because the plan would likely not be able to deliver on its carbon budget.

Challenges to IPOs. ClientEarth challenged the U.K. Financial Conduct Authority's (FCA's) approval of Ithaca Energy's prospectus, on the premise that it suffered from omissions regarding climate-related financial risks. The challenge was dismissed: The High Court found that the FCA had not acted irrationally in approving the prospectus, which addressed financial risks arising from climate change and contained the necessary information material to an investor.

Shareholder activism. A group of investors of Shell backed a resolution proposed at its annual general meeting in May 2024 calling for the company to align its medium-term emissions reductions targets with the Paris Agreement. The resolution failed (as was the case for a similar resolution at the annual general meeting in 2023), but the effort highlights the persistence of activist investors in seeking to garner support for resolutions that challenge companies on their climate change goals.

That said, not all activism is seeking to escalate the decarbonization efforts of companies. For instance, Bluebell Capital has urged BP to drop green commitments and increase production of fossil fuels. The essence of Bluebell Capital's position is that BP is not well placed to pursue clean energy growth in a profitable manner and should instead prioritize distributing funds to investors, who then can invest that cash in companies with better prospects of advancing renewable energy profitably.

Although it is increasingly common for shareholders to seek to challenge companies on their environmental policies, there are also examples of companies opposing shareholder proposals that may be considered inconsistent with investors' interests, and on the basis that such proposals diminish and detract from the company's existing business, especially where they have been repeated and rejected previously.

ESG Backlash in the US and EU

Since 2023, the ESG movement has experienced turbulence on both sides of the Atlantic. It appears that the ESG momentum has been slowed by increasing backlash against green policies and climate disclosures in both the U.S. and Europe. Geopolitical events, including Russia's invasion of Ukraine, have increased the demand for oil, which may run counter to activist demands to phase out fossil fuel development.

The oil and gas industry has reportedly voiced concerns that consumers may be unwilling to pay the costs associated with a rapid shift from oil and gas to renewable energy. The industry has also pointed to the need for dependable electricity to feed the soaring power demand sparked by the proliferation of data centers needed for artificial intelligence (AI).[1]

Additionally, scores of major industrial company executives have raised concerns over what they consider to be the deindustrialization of the European economy. As the energy transition accelerates, they have been urging the EU to cut energy costs and the regulatory burden of green rules to help the region stay competitive.

For example, one major oil and gas company had billions of dollars set aside for near-term decarbonization projects but said that it was likely to prioritize “other parts of the world” amid the increasing regulatory burden linked to getting projects up and running in Europe.[2]

Some of the key industry recommendations include:[3]

- Eliminating unnecessary complex legislation and corrective measures on existing regulation.
- Creating a clean tech fund for energy-intensive industries.
- Prioritizing renewable and nuclear projects and bringing forward an EU energy strategy to reduce energy transition costs.
- Avoiding “prescriptive and detailed” rules for European Green Deal policy targets.
- Increasing security and sustainability of supply of raw materials and demand for low-carbon products.

The call for a series of pro-business policies could counteract potential red tape created by the EU’s green policies and allow for competition with global rivals. The EU bloc has ambitiously advocated to cut 90% of emissions by 2040, but the EU’s climate chief made clear in January 2024 that any argument that such action against climate change undermines the competitiveness of European businesses was a “false narrative.”[4]

Meanwhile in the U.S., in February 2024 several leading U.S. financial institutions withdrew from Climate Action 100+, an international coalition of money managers committed to encouraging large companies to address climate issues.[5] Certain large companies that had previously been identified by the corporate climate action group Science Based Targets initiative (SBTi) as having made a commitment to reach net zero emissions are now listed on SBTi’s website as having their commitment “removed” because the companies did not meet SBTi’s two-year deadline to validate their climate strategies and targets as being in line with a global goal of capping warming at 1.5 degrees Celsius.

Around 500 companies did not meet SBTi's two-year deadline for validation and therefore had their status changed on SBTi's website. SBTi has emphasized that these companies can have their status changed back to "Targets Set" once their climate strategies and targets are validated, but the change in the status of a large number of companies underscores the difficulties some have had in establishing a validated approach to achieving emissions reductions that are consistent with the global goal of limiting warming.

In addition, some companies have abandoned or are planning to abandon various environmental and social pledges against the backdrop of backlash from investors, consumers and politicians against companies pursuing nonfinancial objectives.

ESG Growth

The backlash described above, from both multinationals in the energy sector and other industries, has not prevented shareholder support for ESG-related proposals. Data from market reports[6] suggests that, in the U.S., support for governance and compensation-related proposals at Russell 3000 companies was at "unseen" levels for the first five months of 2024.

In 2024 so far, common matters that have received majority shareholder support included those aiming to:

- Enhance shareholder rights
- Reduce greenhouse gas emissions.
- Reduce supermajority voting requirements for amending governance documents.

The volume of environmental-related proposals has decreased, but support for their passage is increasing once again, following a decline from the 2021 peak. Anti-ESG proposals continue to increase in number, but support remains low.

What remains appears to be a mixed picture, but there may be a greater clarity to shareholder sentiment. The rising current of anti-ESG proposals may be attributable to broader litigious activity, and the decline in volume of pro-ESG proposals may reflect the fact that public companies are able to demonstrate green credentials in other ways (such as through compliance with climate disclosure requirements and investment labeling).

Interplay Between Sustainability and Competition Policy

A combination of new guidance and market practice is providing greater clarity over the approach that competition authorities are likely to take in relation to sustainability agreements (i.e., agreements between competing companies that pursue a sustainability objective).

Increasing numbers of jurisdictions in Europe and Asia have adopted guidance for businesses on how to navigate competition laws when collaborating on “green” projects. Final or draft guidance has recently been published in the EU, U.K., France, Portugal, New Zealand, Australia and Singapore, and Japan has published updated, more comprehensive guidance.

The guidance is being complemented by competition authorities proactively publishing their informal assessments of proposed sustainability initiatives under so-called “open door” policies. For example, the U.K. authority has published assessments in relation to two agreements since its guidance was published in October 2023, and the French authority has already published an assessment since its own guidance was finalized in May 2024.

Some competition authorities have also incorporated sustainability considerations into their merger control assessments. The European Commission recently set out in a policy document the various ways in which sustainability issues are taken into account in its merger reviews, including aspects such as market definition and efficiencies. While there are currently limited cases in this area in Europe, the Australian authority cleared a transaction in 2023 on the basis that its public benefits — a reduction in greenhouse gas emissions — outweighed the anticompetitive effects.

Trends and Developments Expected in H2 2024

ESG Will Begin To Feature in Antitrust Policy

As competition authorities publish more guidance based on practical experience, the guidance should provide increasing certainty on the do’s and don’ts of sustainability collaboration. Yet the assessments published so far tend to concern lower risk forms of collaboration and consequently shed little light on how to apply more complex aspects of sustainability guidance, such as weighing environmental benefits against anticompetitive harm.

This, coupled with the fragmentation and limited adoption of guidance globally, means that legal uncertainty is likely to remain throughout 2024. We may also see sustainability considerations start to feature more heavily in other areas of competition policy, such as merger control.

Corporate Sustainability Due Diligence Directive Enters Into Force

On July 25, 2024,[7] the Corporate Sustainability Due Diligence Directive (CSDDD or the Directive) entered into force. It is the latest in a series of EU legislative endeavors aiming to protect human rights and the environment through reporting and due diligence obligations.

EU member states now have until mid-2026 to transpose the Directive into national law. The application of the Directive itself will be phased in through a staggered approach over a three-year period starting in 2027. (See our July 25, 2024, client alert, "Corporate Sustainability Due Diligence Directive: What Companies in Germany Need To Know.")

1. Which companies will be affected, and when?

By 2029, the CSDDD will apply to the following types of EU companies:

- a company with more than 1,000 employees on average and a net worldwide turnover exceeding €450 million in the last financial year,
- the ultimate parent company of a corporate group that collectively satisfies the above threshold, or
- a company that has entered into (or is the ultimate parent company of a group that has entered into) franchising or licensing agreements in the EU in return for royalties that amount to more than €22.5 million and provided that it had (or is the ultimate parent company of a group that had) a net worldwide turnover of more than €80 million in the last financial year.

By 2029, the CSDDD will apply to the following types of non-EU companies:

- a company that has generated a net turnover in the EU of more than €450 million in the last financial year,
- the ultimate parent company of a corporate group that collectively satisfies the above threshold, or
- a company that has entered into (or is the ultimate parent company of a group that has entered into) franchising or licensing agreements in the EU in return for royalties that amount to more than €22.5 million in the last financial year and provided that it had (or is the ultimate parent company of a group that had) a net turnover in the EU of more than €80 million in the last financial year.

Alternative investment funds (AIFs) and undertakings for collective investment in transferable securities (UCITS) are excluded from the scope of the Directive, as are nonoperational ultimate parent companies, as long as one of their EU subsidiaries is designated to fulfill the obligations of the CSDDD on its behalf.

2. What obligations will the CSDDD impose?

The Directive sets out risk-based due diligence obligations for companies regarding actual and potential adverse impacts to human rights and the environment, with respect to:

- their own operations,
- the operations of their subsidiaries, and
- the operations carried out by their business partners in companies' chains of activities.

Drawing from the widely accepted UN Guiding Principles on Business and Human Rights, the CSDDD due diligence process builds on the six steps defined by the Due Diligence Guidance for Responsible Business Conduct found in the OECD Guidelines for Multinational Enterprises.

Accordingly, the due diligence obligations defined by the Directive include:

- Integrating due diligence into corporate policies and management systems.
- Identifying actual and potential adverse impacts on human rights and the environment.
- Preventing or mitigating potential impacts.
- Ending or minimizing actual impacts.
- Establishing and maintaining a complaints procedure.
- Monitoring the effectiveness of due diligence measures.
- Publicly communicating on due diligence efforts annually.

In addition, the Directive imposes obligations for companies to adopt and put into effect a transition plan for climate change mitigation, ensuring compatibility with the transition to a sustainable economy and with the Paris Agreement global warming limit of 1.5 degrees Celsius.

To ensure effective compliance, the Directive permits parent companies to fulfill their due diligence obligations on behalf of their subsidiaries, as long as the due diligence policies of the parent are integrated into the subsidiaries' policies and risk management systems and clearly describe which obligations are to be fulfilled by the parent company.

Companies may face civil liability for damages if they "intentionally or negligently" fail to comply with their due diligence obligations, including failure to prevent or mitigate potential adverse impacts, or bring actual impacts to an end or minimize their extent. Additionally, penalties on companies can include fines of up to 5% of global turnover and other sanctions from national administrative authorities as determined by member states.

3. How will the CSDDD apply alongside the CSRD?

The CSDDD and Corporate Sustainability Reporting Directive (CSRD) are closely interrelated and aim to complement each other; the CSDDD explanatory text itself describes the CSRD as covering the last step of the due diligence duty, namely the reporting stage.

The CSDDD will impose a reporting requirement to publish an annual statement on a company's website within 12 months of the end of its financial year describing how the company is fulfilling its due diligence obligations. However, if the company is already subject to the CSRD framework, such reporting is expected to be included within the company's CSRD-compliant management report.

For more information on the CSRD, please see our October 9, 2023, client alert, "Q&A: The EU Corporate Sustainability Reporting Directive – To Whom Does It Apply and What Should EU and Non-EU Companies Consider?"

4. Next steps: What can companies do to prepare?

Companies can start preparing for the CSDDD by conducting a comprehensive review of existing due diligence practices and beginning to integrate enhanced due diligence measures into corporate policies and strategies. Furthermore, companies may look to start implementing preventive measures with suppliers, updating contracts and conducting regular audits.

Engaging with stakeholders, participating in industry initiatives and seeking legal and expert guidance will further support effective preparation.

Companies should note that the Directive provides for the creation of support measures, such as guidance and resources to help companies fulfill their obligations, including for small- and medium-sized enterprises (SMEs) that may receive tailored support to ease the burden of compliance.

Employment

In September 2023, the FCA and Prudential Regulation Authority (PRA) in the U.K. began a consultation on proposals to introduce a new regulatory framework on diversity and inclusion (D&I) in the financial sector. The consultation closed in December 2023, and policy statements confirming the regulatory framework are expected to be released before the end of 2024.

One proposal calls for firms to determine and set appropriate diversity targets in order to focus their attention on D&I and encourage progress. Firms would be expected to set at least one target for each of the board of directors, senior leadership and the employee population as a whole. Targets and progress toward such targets would then need to be disclosed publicly.

Firms may require support and guidance when introducing formal targets in order to navigate the balance between positive action, in the form of setting targets, and positive discrimination, which is prohibited under the Equality Act 2010.

Another proposal that has drawn attention is the integration of nonfinancial misconduct considerations into fitness and propriety assessments — the Conduct Rules (which set minimum standards of individual behavior) and Threshold Conditions (which represent minimum conditions

that firms must meet to carry out regulated activities). The FCA has made several proposals on this point, including explaining that, within the workplace, bullying or similar misconduct is relevant to fitness and propriety and the same can be said for any similarly serious behavior outside of work.

These proposals would significantly expand the scope of behavior that firms need to look at when assessing regulated individuals. Aside from these matters, the consultation focused on governance, data reporting and disclosure, D&I strategies, board recruitment and individual accountability.

The FCA anticipates that implementation of the changes would be required 12 months after the publication of the policy statements.

UK's Greenwashing Rules

In November 2023, the FCA published Policy Statement PS 23/16 (Policy Statement), setting out the final rules for sustainability disclosure and investment labels (SDR Rules). The SDR Rules constitute a comprehensive suite of measures, which apply in varying degrees to FCA-authorized firms.

The measures introduced under the SDR Rules are:

- **Anti-greenwashing rule.** Applicable to all FCA-authorized firms, the rule requires firms to ensure that communications about the sustainability of a product or service are fair, clear and not misleading.
- **Labeling regime.** Applicable to U.K. fund managers, the regime introduces four "labels" that firms can choose from, provided they meet the qualifying criteria: "Sustainability Focus," "Sustainability Improvers," "Sustainability Impact" and "Sustainability Mixed Goals." The labels are not designed to be in a hierarchy. The qualifying criteria is split across a range of factors, including requirements that all products have a "sustainability objective" to pursue positive environmental and/or social outcomes, and that at least 70% of the gross value of the relevant product's assets are invested in line with the sustainability objective.
- **Naming and marketing rules.** Applicable to U.K. fund managers, which are making offerings to retail investors, the rules apply naming and marketing requirements to products not using the sustainability labels or only using certain sustainability labels.
- **Product-level and entity-level disclosures.** These rules are applicable to U.K. fund managers. The product-level disclosures require there to be consumer-facing, precontractual and periodic disclosures. At entity-level, the SDR Rules require firms to

provide disclosure regarding their governance, strategy, risk management, and metrics and targets regarding the management of sustainability-related risks.

- **Rules for distributors.** Applicable to U.K. firms that distribute products to retail investors, these SDR Rules require distributors to communicate labeling and disclosure information to retail investors. In instances where the distributor is distributing a non-U.K. product that uses a sustainability term in its marketing materials, the distributor should include a disclosure that the product is not subject to the U.K. SDR regime.

For more details on the SDR Rules, see our January 8, 2024, client alert "FCA Finalises UK Sustainable Investment Rules, With More To Follow After Further Consultation."

In April 2024, the FCA published Consultation Paper CP24/8 (Consultation Paper) containing proposals to extend the regime introduced under the SDR Rules to portfolio management services. If the proposals are implemented, the SDR Rules would be extended to firms that provide portfolio management services to clients on a discretionary basis or advisory services in relation to private markets (including model portfolios, customized portfolios and bespoke portfolio management services).

Under the proposals, the rules would apply as follows:

- **Labeling regime.** Sustainability-related labels may be used in products offered to both retail and professional clients, provided that the qualifying criteria (as outlined above) is met.
- **Naming and marketing rules.** These rules would apply to retail clients but not to services provided to professional clients.
- **Product-level and entity-level disclosures.** These rules would apply to retail clients where the portfolio manager is using labels or sustainability-related terms. In relation to services provided to professional clients, the disclosure requirements would only apply where the portfolio manager is labeling their products.

The consultation period ended on June 14, 2024, with feedback from the FCA still pending.

Key ESG Regulatory and Legislative Updates

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CSDDD	The CSDDD was formally adopted by the EU Council on May 24, 2024, and published in the Official Journal of the EU on July 5, 2024.

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	As outlined above, the rules apply to certain types of EU and non-EU companies. EU member states will have two years to transpose the Directive into national law.
FCA anti-greenwashing rule and related guidance	The FCA's anti-greenwashing rule came into effect on May 31, 2024. As outlined above, the rule applies to all FCA-authorized firms with respect to all clients.
FCA's SDR and labeling regime	Firms subject to the FCA's labeling regime can begin to label their products, and make the accompanying disclosures, on July 31, 2024. Under the Consultation Paper, it is proposed that portfolio managers can begin to use labels, with the accompanying disclosures, as of December 2, 2024. • In addition, on December 2, 2024, the naming and marketing rules will apply to U.K. fund managers, with the accompanying disclosures. • December 2, 2025: The first deadline for ongoing product-level and entity-level disclosures for firms with assets under management over £50 billion. • December 2, 2026: The deadline for entity-level disclosures for firms with assets under management over £5 billion.
Consultation on design of the U.K.'s carbon border adjustment mechanism	HM Revenue & Customs and HM Treasury's joint consultation on the design and administration of the U.K.'s carbon border adjustment mechanism closed for responses on June 13, 2024. The government previously announced that the regime will be implemented starting on January 1, 2027, and that it is expected to apply to the imports of certain carbon-intensive goods (including aluminum, cement, ceramics, fertilizers, glass, hydrogen, iron and steel). Further details of the responses received are anticipated in the second half of 2024.

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European Supervisory Authorities on the SFDR	On June 18, 2024, the three European Supervisory Authorities (the European Banking Authority, the European Insurance and Occupational Pensions Authority, and the European Securities and Markets Authority, together the ESAs) published a joint opinion on the assessment of the Sustainable Finance Disclosure Regulation (SFDR). The opinion recommends: • introducing simple and clear categories for financial products, consisting of two voluntary product categories — “sustainable” and “transition” — whose rules should have clear and objective criteria to reduce greenwashing risks; and • introducing a sustainability indicator that would grade financial products from A to E. The opinion also discusses potential improvements to the SFDR regime and its definition of sustainable investments, makes technical suggestions on which products should fall in scope of the SFDR and highlights the need for consumer testing before putting forward any policy proposals to review the SFDR.
TPT sectoral guidance	The Transition Plan Taskforce (TPT), which was launched by HM Treasury in 2022 to develop regulatory gold standards for climate transition plans for companies and financial institutions, published its sector-specific guidance in April 2024. This guidance is designed to complement the TPT Disclosure Framework that was released in October 2023. The guidance includes: • **TPT Sector Summary.** An overview of transition plan guidance for 30 financial and real economy sectors, including recognized decarbonization levers, metrics, targets and key sources of specific guidance. • **TPT Sector Deep Dive.** Sector-specific guidance for interpreting the TPT Disclosure Framework across seven sectors: asset management, asset ownership,

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	banking, electric utilities and power generators, food and beverage, metals and mining, and oil and gas.
ESMA's new anti-greenwashing guidelines for using ESG terms in fund names	ESMA's new guidelines (required under EU rules for collective investments and alternative investment funds) for using ESG terms in fund names require 80% of the fund's investments to match the claimed criteria to combat greenwashing risk. Funds using an ESG- or sustainability-related term in their name should apply minimum safeguards in the form of exclusions of certain types of activity from the investments under the guidelines. If funds use the word "transition," investments must be on a measurable path to social or environmental transition.
ESMA's proposed changes to the CRAR framework to require credit rating agencies to clarify how they use and disclose ESG factors	ESMA has proposed changes to the framework set by the Credit Rating Agencies Regulation (CRAR) to require credit rating agencies to clarify how they use and disclose ESG factors. Credit rating agencies must already take ESG factors into account when rating companies for creditworthiness, but the proposed changes would make the requirements more explicit by mandating that credit rating agencies identify every ESG factor it uses to help rate companies. The changes would also enhance ESMA's ability to assess how well agencies are complying with CRAR.
The European Parliament's new legislation to regulate ESG rating providers	On April 24, 2024, the European Parliament adopted the Regulation on the Transparency and Integrity of ESG Rating Activities (ESGR), making the EU the first jurisdiction in the world to formally regulate the growing ESG ratings market. The ESGR regulates "ESG rating providers" that operate within the EU, imposing authorization, transparency and governance requirements. The ESGR also imposes requirements to manage conflicts of interest, including a restriction on persons who hold a "significant influence" in an ESG rating provider from holding a significant influence in any other ESG rating providers. The scope of the ESGR is deliberately broad and captures both ESG rating providers established in the EU and non-EU entities that issue and distribute ESG ratings into the EU through a subscription or other contractual model, with certain limited exemptions. The ESGR is expected to apply starting in H1 2026.
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The U.S. Supreme Court's decision in SFFA	Emboldened by the U.S. Supreme Court's landmark 2023 decision in Students for Fair Admissions, Inc. v. President and Fellows of Harvard College and Students for Fair Admissions, Inc. v. University of North Carolina (together, SFFA), which struck down race-based admission practices in higher education, certain groups and officials have accelerated efforts targeting diversity, equity and inclusion (DEI) initiatives at corporations and other institutions. Soundly conceived and properly implemented DEI policies remain lawful, but careful review of related statements, goals and strategies is advisable in the face of heightened focus on these policies.
Examples of post-SFFA challenges to corporate DEI programs	In the wake of the new landscape mentioned above, subsequent court rulings have removed racial preferences from two major COVID-19 relief programs, one federal contracting program and the U.S. Minority Business Development Agency, and some private companies have taken preemptive actions with respect to their DEI programs and policies in an effort to reduce litigation risk.[8] America First Legal, led by former President Donald Trump adviser Stephen Miller, has filed numerous lawsuits alleging that corporate DEI programs violate Title VII of the 1964 Civil Rights Act. The group has sent over 30 letters asking the EEOC to probe companies.[9] In June 2024, the U.S. Court of Appeals for the Eleventh Circuit authorized a preliminary injunction of a grant program for Black women in business, adding further pressure on institutions' DEI initiatives.[10]
Nasdaq Board Diversity Rule appeal	The full U.S. Court of Appeals for the Fifth Circuit is reconsidering the Securities and Exchange Commission (SEC) decision to approve the Nasdaq Board Diversity Rule requiring Nasdaq-listed companies to disclose board diversity data and comply with board diversity requirements (or explain reasons for noncompliance).[11]
Challenge to the SEC's recently adopted climate disclosure rule	The SEC has faced a wave of litigation, including from businesses and Republican-led states, following its March 2024 rule requiring larger publicly traded companies to disclose material Scope 1 and Scope 2 emissions. These lawsuits, which argue that the regulation exceeds the SEC's

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	authority granted by Congress, have been consolidated in the U.S. Court of Appeals for the Eight Circuit.[12] The SEC has voluntarily stayed its implementation of the rule in light of the pending litigation.
Rules relating to greenhouse gas emissions	The Environmental Protection Agency (EPA) is urging the D.C. Circuit to keep its rules establishing greenhouse gas emissions standards for power plants and expanded methane emission control requirements amid legal challenges seeking an administrative stay of the rules, including by Republican-led states and conservative groups.[13]

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[1]Reuters, "Big Oil Executives Push Back Against Calls for Fast Energy Transition" (March 18, 2024); Financial Times, "Oil Executives Talk Down Rapid Shift to Green Energy as Profits Boom" (March 23, 2024).(go back)

[2]Financial Times, "Why EU Businesses Want a Break From Red Tape and Green Rules" (February 20, 2024).(go back)

[3]Bloomberg Law, "EU Industry Calls for Green Shift Help To Rival China and US" (February 20, 2024).(go back)

[4]Financial Times, "EU Climate Chief Rebuts Business Fears That Green Policies Hit Competitiveness" (January 29, 2024).(go back)

[5]Bloomberg Law, "Climate Investors Warn the Right Is Winning the War on ESG" (February 28, 2024).(go back)

[6]ISS-Corporate, "Pro-ESG Shareholder Proposals Regaining Momentum in 2024" (May 22, 2024).(go back)

[7]European Commission, "Corporate Sustainability Due Diligence" (July 25, 2024).(go back)

[8]The Washington Post, "DEI Programs Toppled Amid a Surge of Conservative Lawsuits" (June 27, 2024).(go back)

[9]Bloomberg Law, "Conservative Duo Fights Against DEI One Bias Claim at a Time" (June 5, 2024).(go back)

[10]Law360, "11th Circ. Backs Freeze of Grants for Black Women Only" (June 3, 2024).(go back)

[11] *All. for Fair Bd. Recruitment v. SEC,* No. 21-60626, 2024 WL 670403 (5th Cir. Feb. 19, 2024).(go back)

[12] Law360, "GOP Lawmakers Urge 8th Circ. To Quash SEC's Climate Rule" (June 25, 2024).(go back)

[13] Law360, "EPA Tells DC Circ. Emissions Rules Should Stay in Place" (June 12, 2024).(go back)