

The Sustainability Regulatory Horizon



Freshfields Bruckhaus Deringer



The sustainability regulatory horizon

Sustainability-related regulation is one of the fastest-evolving branches of rulemaking governing businesses globally. Our sustainability regulatory horizon explains the regulatory hot topics which may affect your organisation, with examples including the latest on ESG reporting, upcoming obligations to manage environmental and social impacts in supply chains, sustainability collaborations and merger control, and tax and people issues.

We have experience advising across the full spectrum of sustainability-related regulation and would be delighted to discuss any topics with you in more detail.

Click on a topic in the grid to explore our in-depth insights on recent regulatory developments and find out what's on the horizon.



Competition and antitrust



Competition and antitrust

Sustainability collaborations

Recent regulatory developments in sustainability collaborations

Any company considering a collaboration with one or more competitors, potential competitors, suppliers or customers to further sustainability goals (eg joint research into green technologies, committing to minimum or pro-sustainability standards, combining resources and/or operations) should seek specialist antitrust/competition law advice. A careful jurisdiction-by-jurisdiction assessment will need to be carried out on any collaboration before they are entered into, and in some cases it may be possible to approach authorities for informal assurances on whether the collaboration is likely to breach antitrust/competition laws.

Breaches of antitrust/competition law can result in harsh penalties (eg in the EU, potential fines of up to 10 per cent of annual worldwide turnover), heavy sanctions for individuals (eg in the US, criminal penalties of up to \$1m and up to 10 years in prison) and costly litigation.

Competition laws and policies are in flux and there are important differences in approach internationally. Authorities in the EU, UK and Asia Pacific have updated their policies and guidance to better enable businesses to collaborate in a way that is competition law compliant – although the guidance differs on some important points. The UK Competition and Markets Authority (**CMA**), European Commission (**EC**) and the Dutch and Greek authorities also encourage informal consultations on initiatives, so businesses can get direction as to how their agreement is likely to be viewed. Other authorities such as the US are not flexing their rules or practices.

US antitrust authorities have stated clearly that ESG should be considered an element of competition as within any market. Anti-ESG politics has led to certain government actors repeatedly threatening that ESG collaborations may violate US antitrust laws.

ESG collaborations face investigations from state attorneys-general and the House Judiciary Committee. At the other end of the spectrum, businesses also face pressure from state laws and consumer lawsuits targeting greenwashing. Such divergence creates risks for business.

The combined forces of international divergence, litigation risk from anti-ESG groups, and the general consensus that competition is a key driver of green innovation and that authorities need to take a tough approach towards enforcement means that collaborations to achieve ESG goals are under the regulatory spotlight. Each must be assessed carefully under the relevant laws and jurisdictions that may apply.

Outlook: What's on the horizon?

Many competition authorities will continue to consider and consult on reforms to enable greater collaboration on legitimate sustainability initiatives (as seen most recently in Australia, Japan and Singapore). Further clarity on the line between legitimate and illegal 'green agreements' is expected to emerge in 2024/2025 as authorities apply their new policies and respond to requests for informal guidance.

Significant legislative developments to look out for in the meantime include:

- The implementation of the EU's Corporate Sustainability Due Diligence Directive (**CSDDD**), which envisages that companies can share information/collaborate to reduce emissions.



Competition and antitrust

- The forthcoming EU Green Claims Directive, which is indicative of increased regulatory scrutiny of ‘greenwashing’, following similar initiatives by the CMA and Australian Competition and Consumer Commission (ACCC).

As ESG is often at the centre of political debates, the range of key elections which have been taking place on both sides of the Atlantic in 2024 could also impact ESG policies more broadly and the role that competition law should play in facilitating or deterring industry collaborations.

Merger control

Recent regulatory developments in sustainability and merger control

There is no consistent approach between regulators on the way sustainable development should be considered in merger control processes, potentially raising uncertainty when clearance is required in multiple jurisdictions.

Consumer preferences for sustainable products, services and technologies may, for example, be seen as a differentiating factor in the competitive assessment or in the market definition. They may also be reflected in the design of remedies.

Authorities are more likely to pursue innovation theories of harm as a means of preventing the loss of ‘green’ innovation. So called ‘green killer acquisitions’ – incumbents buying smaller, innovative players – are likely to attract particular scrutiny under the EC’s new approach to referrals of deals falling below EU or national thresholds.

There is also scope under most merger control frameworks for authorities to take account of environmental benefits as efficiencies, particularly when consumers on the relevant markets

directly benefit. However, the evidential bar is high.

There is a clear trend for these issues to feature more heavily in merger reviews and this is set to continue.

Outlook: What’s on the horizon?

As authorities such as the EC and the UK CMA have included sustainability as a relevant non-price factor of competition in their guidelines, we expect to see more cases where consumer demand for sustainable products plays an important role in merger reviews and decisions.

In the US, the federal antitrust agencies continue to take the position that ESG considerations remain an element of competition and that there is ‘no ESG exception’ to the antitrust laws, including with regards to merger review.

How can Freshfields help with sustainability and competition and antitrust issues?

Sustainability collaborations

We can help you navigate this complex (and shifting) terrain by:

- Advising on how to reduce the antitrust/competition law risk associated with joint initiatives and collaborations
- Liaising with all relevant authorities
- Helping you navigate and shape legislative and regulatory processes across different jurisdictions



Competition and antitrust

Merger control

- We develop global strategies to ensure our clients get the best possible outcomes in merger control proceedings. This includes in relation to cross-border deals with sustainability components, where we have market-leading expertise in developing efficiency arguments and/or remedies to address regulators' concerns.
- We actively contribute to policy debates at national and international levels and regularly help our clients respond to consultations and engage with the authorities on these issues.

Our publications

- [Antitrust and sustainability will 2024 bring regulatory alignment or will the chilling effect of uncertainty persist?](#)
- [French Competition Authority publishes first informal guidance in the animal nutrition sector following Sustainability Notice](#)
- [Singapore Competition and Consumer Commission publishes Guidance Note on environmental cooperation agreements](#)
- [JFTC proposes revisions to the Environmental Sustainability Guidelines](#)
- [Sustainable global supply chains: EU's CSDDD finally adopted by Council](#)
- [Antitrust & sustainability – takeaways from our recent debate](#)

All our blog posts on [competition](#) and [sustainability](#).

Related topics

[EU state aid and UK subsidy control](#), [Global trade](#), [Human rights](#), [People](#), [Supply chain and procurement](#), [Sustainable finance](#), [The European Green Deal](#).

EU state aid and UK subsidy control



EU state aid and UK subsidy control

Recent regulatory developments in sustainability and EU state aid and UK subsidy control

Europe's state aid rulebook has been adapted to cater for the new regulatory and political environment under the European Green Deal. Comprehensive guidelines on EU state aid for climate, environmental protection and energy (CEEAG) have been applicable since January 2022.

The CEEAG allow for higher aid amounts, extend the categories of permissible aid, and move away from pre-defined limits for state aid towards a more flexible system of competitive bidding. The EU Commission has already made use of its new powers under the CEEAG and approved a number of aid measures under these new rules.

In light of Russia's war on Ukraine and its impact on the European energy markets, the EU Commission has even further temporarily loosened its state aid framework to support the European economy and the energy transition.

The Temporary Crisis and Transition Framework (TCTF) gives EU Member States significant flexibility until the end of 2025 to subsidise companies to support the rollout of renewable energy and energy storage, the decarbonisation of industrial production processes and investments in sectors which are strategic for the net zero transition. The TCTF also allows for 'matching aid', ie, where there is a risk that a green investment project is diverted away from the EU, the Member States may match the subsidies companies could receive in a third country outside the EU. As with the CEEAG, there are already a number of EU Commission decisions approving aid for the energy transition under the TCTF, in particular relating to large scale

decarbonisation projects and hydrogen deployment.

In the UK, the subsidy control regime came into force in January 2023, which allows for a more flexible regime based on a principles-based assessment and a non-binding report issued by the Competition and Markets Authority's (CMA) Subsidy Advice Unit. Public authorities and beneficiaries will need to ensure that subsidy measures are also assessed against the energy and environment principles.

Outlook: What's on the horizon?

- The EU Commission will make more use of so-called important projects of common European interest (IPCEIs), which enable Member States to collaborate and pool resources to fund investments in specific industries or sectors, but also require the funding to include various different beneficiaries in different Member States. So far, the EU has approved IPCEIs for microelectronics, batteries, hydrogen, cloud computing and Med4Cure. The EU Commission continues to consider IPCEIs an effective tool to balance the need for public investments with the need for a competitive level playing field and will likely further expand the use of IPCEIs going forward.
- More support in the EU for the development of net zero technologies (eg clean steel, wind power, e-mobility, and hydrogen) can be expected going forward. In parallel, in order to protect domestic industry, the European Commission is continuing its anti-subsidy probe into electric vehicle imports from China, and investigations under the Foreign Subsidies Regulation into Chinese wind turbine and solar panel companies.
- Continued support by local governments and UK government departments in order to achieve the 2050 net zero targets, which will continue to be reviewed by the Subsidy Advice Unit. Indeed, there have been a number of subsidies and subsidy schemes granted in the UK for the purposes of progressing the net zero objectives. It remains to



EU state aid and UK subsidy control

be seen what legal challenges may be brought and how this will impact the risk of such investments in the UK.

How can Freshfields help with EU state aid and UK subsidy control sustainability issues?

- Our EU regulatory and public affairs team helps our clients navigate and shape legislative and regulatory processes in the EU and Germany.
- Our EU state aid team has established working relationships with the EU Commission and Directorate-General (DG) for Competition and supports clients navigating the existing and the upcoming state aid environment and rulebook, including advising on individual notifications for grants.
- Our UK subsidy control team supports clients with ensuring that proposed sustainability-focused measures are compliant with the UK subsidy control regime, as well as navigating referrals to the Subsidy Advice Unit and managing legal challenges.

Our publications

- [The EU Foreign Subsidies Regulation public procurement tool – key takeaways after the first year of application](#)
- [EU leadership shake-up: implications for business and policy](#)

Related topics

[Competition and antitrust](#), [Global trade](#), [The European Green Deal](#).

The background is a solid teal color with a subtle, embossed pattern of interlocking hexagons. The hexagons are slightly recessed, creating a 3D effect. The text "Global trade" is centered in the upper half of the image.

Global trade



Global trade

Recent regulatory developments in sustainability and trade

Free trade agreements

Increasingly, free trade agreements (FTAs) incorporate ambitious, and legally enforceable, provisions on sustainability and animal welfare:

- FTAs permit trade-restrictive measures if they can be justified on environmental grounds – including in some cases compliance with the Paris Agreement (the 2022 UK-New Zealand FTA). However, these grounds need to be legitimate, and the measures properly calibrated to their environmental objectives.
- Most modern FTAs also routinely contain sustainability obligations requiring compliance with international labour (International Labour Organization ('ILO') and environmental agreements, and effective enforcement of domestic labour and environmental laws. Mechanisms such as the EU's new Single Entry Point also facilitate the lodging of complaints to enforce such obligations.
- Most recently on 2 July 2024, Costa Rica, Fiji, Iceland, New Zealand, Norway and Switzerland announced the conclusion of negotiations for the Agreement on Climate Change, Trade and Sustainability. Notably, the agreement will eliminate tariffs on over 300 environmental goods, establish a new framework for reducing subsidies for harmful fossil fuels and facilitate trade in more than 100 environmental services. The parties also undertake in the agreement to sustainably manage ecosystems that are relevant to the production of environmental goods.

Investment treaties

Sustainability-related factors are increasingly taken into consideration in concluding investment treaties, as well as giving rise to claims and defences in state-investor dispute settlements.

Host states increasingly seek to have greater flexibility to implement regulatory measures on the basis of sustainability-related concerns.

In addition, some new investment treaties include sustainability-related commitments for investors, mainly relevant in host state counterclaims. The 2023 EU-Chile Advanced Framework Agreement provides for host state counterclaims against an investor that has failed 'to comply with an international obligation applicable in the territories of both Parties'.

Unilateral trade and sustainability measures

Countries are also increasingly adopting unilateral trade and sustainability measures to promote sustainability at home and internationally:

In October 2023, the EU Carbon Border Adjustment Mechanism (CBAM) came into application in its transitional phase. During a transitional period from October 2023 to December 2025, the EU CBAM will only apply as a reporting obligation. The EU CBAM will then be introduced progressively, in parallel with the phase-out of free EU Emissions Trading System (ETS) allowances between 2026 and 2034. The UK has also confirmed plans to implement its own CBAM by 2027 which will affect the aluminium, cement, ceramics, fertiliser, glass, hydrogen, iron, and steel sectors.

Some countries have adopted mandatory due diligence requirements for companies, requiring them to report on human rights and environmental risks in their worldwide operations and supply chains.



Global trade

- On 25 July 2024, the EU's Corporate Sustainability Due Diligence Directive (**CSDDD**) entered into force. In parallel with the EU's efforts, many other countries, including France, Germany, Switzerland, and Norway have introduced or are introducing supply chain legislation.
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- Certain companies, including all listed companies except small enterprises, will have to apply the new rules under EU's Corporate Sustainability Reporting Directive (**CSRD**) which has a staggered application with first companies covered as of 2025 for FY2024.
- The EU's Deforestation Regulation, which entered into force in June 2023, requires products sold in or exported from the EU to be 'deforestation-free'. The majority of its provisions will apply to large and medium sized enterprises from 30 December 2024. The European Commission's latest guidance on the interpretation of the Regulation is expected imminently, although the benchmarking system rating countries' level of risk to deforestation is subject to delays. Because of the delays, many stakeholders are calling for a delay to the application date. New Zealand also adopted its Climate Change (Forestry) Regulation 2022 on 1 January 2023.
- The US Inflation Reduction Act commenced progressively from 2023. This legislation allows companies to earn tax credits for green production, but these are conditioned on use of domestic products or facilities, contrary to WTO rules. The EU has responded by increasing its own green subsidies, without the local content element. In July 2024, China announced a WTO challenge to this legislation.
- These unilateral measures to promote sustainability may face further legal challenges and other countermeasures under international trade agreements. For example, the US

has imposed countervailing duties on imports of certain EU steel products produced in installations benefitting from free allowances under the EU's ETS, and in March 2024, Malaysia succeeded in a World Trade Organization (**WTO**) dispute against the EU for its Renewable Energy Directive II, which targets phasing out usage and imports of unsustainably produced biofuels by 2030, on the grounds that the EU was administering this Directive in an unjustifiably discriminatory (and for a dissenting panellist also a protectionist) manner.

Fisheries subsidies

In 2022, WTO Members adopted a new Agreement on Fisheries Subsidies, which prohibits harmful fisheries subsidies, including those that contribute to illegal, unreported and unregulated fishing. As of 5 September 2024, the agreement has been formally accepted by 57 WTO Members. It requires 110 WTO Members to accept the agreement before coming into force.

Outlook: What's on the horizon?

- The European Commission has imposed provisional countervailing duties on battery electric vehicles (**BEVs**) from China, ranging from 17.4 per cent to 37.6 per cent. Canada has also imposed similar tariffs of 100 per cent on Chinese EVs. In response, China has initiated WTO complaints against both the EU and Canada.
- Additional unilateral EU trade policy measures to promote sustainability in trade – for example the EU Forced Labour Regulation currently awaits formal approval from the European Parliament and the EU Council to become effective. Once it takes effect, the EU Commission plans to establish a Forced Labour Single Portal to enforce the new rules.
- Trade unions from Colombia and Peru have filed a complaint through EU's Single Entry Point mechanism, alleging violations of fundamental labour rights, freedom of



Global trade

association and the right to equality under the EU-Colombia-Peru Trade Agreement by Colombia and Peru, marking the first time a complaint has been presented by trade union organisations before the Single Entry Point.

How can Freshfields help with trade and sustainability issues?

- We inform clients about potential opportunities and risks in trade negotiations and trade policymaking.
- We advise clients on the compatibility of sustainability regulations with countries' WTO, FTA and investment law obligations.
- We provide guidance on sustainability regulatory topics such as deforestation, supply chain due diligence rules, carbon taxes (eg CBAM), digital taxes, and the EU Foreign Subsidies Regulation.
- We help clients handle sustainability compliance mandates ranging from advanced due diligence around corporate transactions and disclosures, to representing them in some of the highest-profile ESG-linked lawsuits in the world.

Our publications

- [EU to impose special tariffs on Chinese electric vehicles](#)
- [Sustainable global supply chains: EU's CSDDD finally adopted by Council](#)
- [What to expect from the new European Forced Labour Regulation](#)
- [Stocktake on the EU and UK Carbon Border Adjustment Mechanisms](#)
- [Navigating the new scope of the German Supply Chain Act and looking ahead for the EU](#)
- [Important Expansion of the German Supply Chain Duty of Care Act – including applicability to non-German Companies](#)
- [CBAM: go-live of transitional phase](#)
- [EU Deforestation Regulation published: A step forwards in global supply chain legislation](#)

Podcasts

- [‘EUUnpacked’ podcast series – Episode #1: The EU’s Corporate Sustainability Due Diligence Directive – a turning point for business](#)

Related topics

[Competition and antitrust](#), [Human rights](#), [Reporting and disclosure](#), [Supply chain and procurement](#), [Taxation](#), [The European Green Deal](#).

Human rights



Human rights

Recent regulatory developments in sustainability and human rights

The legal landscape for business and human rights has changed significantly over the past decade, and multinationals now face a complex array of obligations, with laws not only requiring that they disclose the efforts they are taking to identify and address human rights risk in their supply chains, but also obliging them to take specific preventive and reactive measures. Many laws also carry the threat of civil liability and regulatory enforcement in case of non-compliance.

After lengthy debates between EU legislators and on the EU Member States' level, the EU Corporate Sustainability Due Diligence Directive (**CSDDD**) entered into force on 25 July 2024. The CSDDD aims to foster sustainable and responsible corporate behaviour (ie, human rights and environmental compliance) in companies' own operations and along their global supply chains. Member States are now required to transpose the CSDDD into national law within two years. The CSDDD is the most significant piece of human rights and supply chain legislation that has been passed globally. It will apply to both EU and non-EU companies that reach certain employee and/or turnover thresholds and will require them to implement internal risk and governance frameworks as well as carrying out due diligence in their supply relationships (direct and indirect as well as upstream and – to a certain extent – downstream). Companies also have to set up a Climate Change Transition Plan and publicly report on their fulfilment of the CSDDD requirements, though exemptions are foreseen for companies reporting under the EU's Corporate Sustainability Reporting Directive (**CSRD**). The CSDDD also requires Member States to introduce extensive civil liability regimes that may increase the litigation risk within the EU in relation to the global operations and supply chains of in-scope companies.

Additionally, there are sector-specific supply chain instruments in the EU:

- The EU Conflict Minerals Regulation entered into force in January 2021. This regulation aims to ensure responsible sourcing of certain metals and minerals (tin, tantalum, tungsten and gold).
- The new EU Batteries Regulation entered into force in August 2023 and applies from 18 February 2024; this Regulation promotes the sustainability of batteries across their entire life cycle and requires companies selling batteries to carry out due diligence on the human rights risks (among others) inherent in the extraction, processing and trading of raw materials.
- The EU's Deforestation Regulation, which entered into force in June 2023, requires products sold in or exported from the EU to be 'deforestation-free'. The majority of its provisions will apply to large and medium sized enterprises from 30 December 2024. The European Commission's latest guidance on the interpretation of the Regulation is expected imminently, although the benchmarking system rating countries' level of risk to deforestation is subject to delays. Because of the delays, many stakeholders are calling for a delay to the application date. This Regulation aims to guarantee that products imported to or exported from the EU market do not contribute to global deforestation and forest degradation (ie product ban). While focused on deforestation, the Regulation also prohibits the import of in-scope products that were produced in violation of (eg) local indigenous land rights.

In parallel with the EU's efforts, many other countries, including France, Germany, Switzerland, and Norway, have introduced or are introducing similar legislation. We are also seeing increased levels of regulatory activity in this space, with the German regulator, BAFA, being particularly active in enforcing the requirements of the German Supply Chain Duty of Care Act. In summer 2022, the US started enforcing its Uyghur Forced Labor Prevention



Human rights

Act (UFLPA), which affects US and non-US companies by banning the import of products potentially linked to forced labour. The EU is in the process of adopting an equivalent Forced Labour Regulation that would prohibit the import (or production) of products manufactured with forced labour. Where the CSDDD addresses expectations in relation to due diligence covering forced labour, this Regulation includes specific measures banning the sale and export of products made with forced labour on the EU market. All companies placing products on the EU market will be impacted regardless of their legal form, size, or production location and across all sectors (with the exemption of transport services). Companies will need to demonstrate to national authorities that they comply with the Regulation to avoid bans and potential fines.

Complementing these measures, human rights issues are also at the forefront of recently introduced sustainability reporting obligations. The most significant such example is the CSRD which requires companies to report publicly on the human rights impacts and risks, along with a broader range of sustainability issues. Companies within the scope of the Directive are required to report in accordance with the European Sustainability Reporting Standards (ESRS) or recognized equivalent standards. The ESRS were developed by the European Financial Reporting Advisory Group (EFRAG) and a first set of 12 standards entered into force in January 2024 and will be followed by sector-specific standards in 2026.

This intense regulatory scrutiny is accompanied by a rising litigation risk in this space. Claimants, often backed by NGOs, are targeting companies through the courts over alleged failures to respect human rights, including by pursuing parent companies for the actions of businesses in their group and targeting companies for alleged human rights impacts that take place in their overseas supply chains. National courts are having to decide (or need to assess) whether they can hear such cases, or whether they should proceed in the courts of the country where the alleged misconduct occurred, though with CSDDD being transposed Member

States's courts will have to decide on cases that relate to in-scope companies. The regulatory obligations, namely under the CSDDD, requiring companies to carry out due diligence on their operations and their supply chains, and report publicly on their efforts, are only likely to increase litigation risks going forward. Finally, we have also seen NGOs engaging with regulators as an indirect way of applying pressure on companies in relation to their approach to alleged human rights issues in their supply chains.

The way companies respect human rights is also receiving scrutiny from investors, in part due to the availability of benchmarks that assess companies' human rights records as well as increasing public sustainability reporting. Therefore, ESG — and particularly human rights — compliance became a default due diligence element in the course of corporate transactions aiming at being able to handle litigation, financial and reputational risks associated with (potential) ESG issues.

Finally, human rights arguments are also being used to apply pressure on companies in relation to other sustainability issues, such as climate change and biodiversity, for which the regulatory regimes are not yet as progressed as for human rights.

Outlook: What's on the horizon?

- The implementation of the CSDDD by EU Member States over the next two years.
- The entry into force of the EU Regulation on banning from the EU market any products linked to forced labour.
- Continued enforcement of Germany's Supply Chain Duty of Care Act by BAFA and BAFA becoming the spearhead and role model for other new supply chain compliance agencies within the EU (under CSDDD) and elsewhere.
- Increasing litigation risk in a number of countries, including the UK.



Human rights

How can Freshfields help with human rights and sustainability issues?

We help clients on a broad range of human rights issues, such as:

- Strategic board advice on a company's human rights strategy
- Human rights due diligence and complex risk assessments in a company's own operations and supply chains
- Drafting human rights policies and procedures and supplier contracts
- Internal and external capacity-building and reporting requirements
- Developing due diligence and reporting compliance programmes in light of the emerging legislation in the space
- The approach to grievance mechanisms and remediation issues
- Evaluation of alignment of operations/processes with UNGC, UNGP, OECD
- Advising on interactions with NGOs and complaints filed to 'quasi-judicial' mechanisms such as the OECD National Contact Points
- Advising on human rights litigation, including international class actions etc

Our publications

- [What to expect from the EU's CSDDD #3: key takeaways from Freshfields' CSDDD webinar](#)
- [What to expect from the EU's CSDDD #2: Civil Liability and Litigation Risks](#)
- [What to expect from the EU's CSDDD #1: Enforcement mechanism](#)
- [Sustainable global supply chains: EU's CSDDD finally adopted by Council](#)
- [Climate change and human rights: a new chapter for States, NGOs, and businesses?](#)
- [What to expect from the new European Forced Labour Regulation](#)
- [Navigating the new scope of the German Supply Chain Act and looking ahead for the EU](#)
- [Delving into Dutch NCP Procedures](#)
- [The OECD guidelines and the National Contact Point Process](#)
- [Human rights and supply chain compliance for the financial sector: Clarifications on human rights due diligence?](#)

Related topics

[Competition and antitrust](#), [Global trade](#), [People](#), [Reporting and disclosure](#), [Supply chain and procurement](#), [Sustainable finance](#).

Intellectual Property and AI



Intellectual Property and AI

Recent regulatory developments in sustainability, intellectual property and AI

Patents

In the UK, patent applications for inventions of environmental benefit can be ‘fast-tracked’ through a route called the Green Channel, which was introduced in 2009 for inventions of environmental benefit.

Applicants must state in writing which action(s) they wish to accelerate (ie the channel can be used at different stages in the patent prosecution process) and provide an appropriate explanation of how their application relates to a ‘green’ or environmentally friendly technology. A detailed investigation into Green Channel explanations will not typically be conducted, although Green Channel requests will be refused if they are clearly unfounded.

Green Channel take-up has been steady, with an increased uptake in recent years. The Intellectual Property Office (IPO) received a record 560 requests in 2023 through the Green Channel, a 12.2% increase on the previous record in 2022. Other countries have instituted accelerated environmental channels, including Australia, Canada, Brazil, China, Japan, Israel, Taiwan, the Republic of Korea, and the US.

There is no harmonised ‘green accelerator’ at European level, although inventions of sustainability value can be fast-tracked through the accelerated examination Programme for Accelerated Prosecution of European Patent Applications (PACE), which is available for any technology.

Trade marks and green claims

As companies turn to environment-related advertising, this has led to an increase in trade mark applications incorporating sustainability credentials (such as ‘green’, ‘sustainable’, ‘bio’, ‘natural’). In the UK, the number of green trade marks has increased exponentially since 2015, with the largest share of green trade marks being used in relation to energy conservation.

While corporate commitments to sustainability are commendable, companies risk accusations of ‘greenwashing’, particularly where environmental advertising is false, incomplete or exaggerated.

The existing toolkit against misleading (environmental) advertising is typically contained in consumer and unfair competition law, and the EU is putting further safeguards in place within the context of the European Green Deal proposals to revise EU laws.

In the UK and the EU, the present trade mark system itself can be used to filter out misleading ‘green’ trade marks. ‘Green’ trade marks may be refused registration or subsequently declared invalid if they are deceptive or contrary to public policy or law (for example consumer protection law).

Designs

The EU is updating its EU designs legislation. The EU Commission published its proposals in November 2022 – the proposed legislation liberalises the spare parts market, consistent with efforts to promote the circular economy. The European Parliament approved the updated rules in March 2024. The UK is not planning a reform of its design laws, but an exception relating to the right to repair exists under UK design law.



Intellectual Property and AI

Artificial Intelligence

Environmental concerns have been raised in relation to the rise of artificial intelligence (AI) and the associated energy consumption in the development and running of its models. While more efficient AI models might be developed in future, AI also presents opportunities to support and speed up environmental goals.

The EU AI Act, in force since 1 August 2024, introduces EU-wide minimum requirements for AI systems and recognises the protection of fundamental rights enshrined in the Charter of Fundamental Rights of the European Union, including environmental protection. Specifically, in respect of High Risk AI Systems, the AI Act calls for standardised reporting and processes to improve AI systems' resource performance and requires Member States to facilitate codes of conduct relating to issues such as environmental sustainability.

The UK government has published a Generative AI Framework which provides safety and security guidance for civil servants and others working in government organisations on using generative AI. The guidance provides practical recommendations relating to environmental impacts.

Outlook: What's on the horizon?

- Patents: we expect take-up of the Green Channel to remain steady.
- Designs: the agreed texts on the reform of the EU's designs legislation package are yet to come into force.
- AI: we expect standardised reporting and documented processes to be put in place at EU level.

How can Freshfields help with intellectual property, AI and sustainability issues?

Transactions/collaborations

We have seen an uptake in collaborations in the field of green technologies. Such arrangements aren't without risk, and careful consideration should be given to ownership of any new IP, its exploitation and administration. Our teams of IP experts can help navigate the complex IP landscapes that arise from such arrangements.

Weaker patents may lead to patent litigation

Rapid grant routes, such as the Green Channel, may lead to weaker patents and so there will be increased patent litigation risk for those implementing green tech. Indemnities from suppliers may not suffice, particularly if they are small, innovative and at risk of disappearing. Our team of patent litigators are on hand to help advise clients on dispute risks and strategy. We represent clients in patent disputes at UK and European level.

Artificial Intelligence

We are advising clients on the full spectrum of complex AI-related risks and opportunities across their businesses. With the EU AI Act coming into force, we are helping clients navigate the rules around AI governance, compliance and regulatory matters. We apply our expertise to design and implement AI governance programmes and construct compliance frameworks aligned with new and emerging laws.



Intellectual Property and AI

Our publications

- [What's new in greenwashing? The Green Claims Directive on its way to adoption](#)
- [New Law on Greenwashing finally adopted – The EU Directive on empowering consumers for the green transition](#)
- [Legally-binding international treaty on AI – revised draft published](#)
- [Combatting greenwashing – existing toolkit, EU developments and the role of trade marks](#)
- [Artificial Intelligence Act | Freshfields Bruckhaus Deringer](#)

Related topics

[The European Green Deal.](#)

Nature and biodiversity



Nature and biodiversity

Recent regulatory developments in sustainability and nature and biodiversity

Biodiversity provides the stock of resources on which society depends and, for this reason, there is growing scrutiny (from NGOs, regulators, shareholders and consumers) on the extent to which companies are both dependent on nature and on how companies (or supply chains) impact nature.

Regulations aimed at protecting specific natural habitats or species have been in place for decades in many countries. The international interest in nature, fuelled by the UN Biodiversity Conference (COP 15) has resulted in renewed legislative focus on specific aspects of biodiversity and the protection of nature. The past 24 months have seen the EU lead the way to enact legislation which seeks to protect nature globally, with the UK also taking active steps to address similar issues.

Key recent developments include:

In February 2022, the European Commission proposed the EU Corporate Sustainability Due Diligence Directive (**CSDDD**). This CSDDD imposes corporate due diligence obligations covering human rights, environmental protection and climate change mitigation. The CSDDD was published in the EU's Official Journal on 5 July 2024 and entered into force on 25 July 2024. Member States are now required to transpose the Directive into national law within two years (by 26 July 2026)

- The EU's Deforestation Regulation which seeks to restrict trade in products associated with illegal deforestation and impose mandatory due diligence obligations on EU importers of those products. As noted below, the Regulation's main provisions take effect at the end of this year, although the Regulation has faced increasing political opposition

from certain Member States and non-EU countries that are likely to be impacted. The UK has enacted similar primary legislation, although the detailed secondary legislation implementing many of the principles has not yet been enacted and there is currently no indication of when such legislation will be forthcoming

- The EU's Nature Restoration Law which entered into force on 18 August 2024, requiring Member States to put in place measures to restore at least 20% of the EU's land areas and 20% of sea areas by 2030
- The introduction of the UK Biodiversity Net Gain requirements for planning applications, which seek to achieve nature positive plans for developments
- Bans on single use plastics, changes in law on microplastics and planned reforms for product packaging (eg the proposed EU Packaging and Packaging Waste Regulation)
- Nature-focused investor groups being created to engage with companies on nature and biodiversity loss and more generally individual investors also increasingly scrutinising businesses on their biodiversity track records (a trend which is likely to increase following the introduction of biodiversity-linked reporting duties)
- In the UK and across Europe, increasingly sophisticated networks of NGOs and claimant law firms are applying pressure on companies in relation to their biodiversity impacts, using many of the techniques and arguments that have been deployed in the climate change space in recent years.



Nature and biodiversity

Outlook: What's on the horizon?

The EU's Deforestation Regulation entered into force on 20 June 2023 and the majority of its provisions will apply to large and medium sized enterprises from 30 December 2024. The European Commission's latest guidance on the interpretation of the Regulation is expected imminently, although the benchmarking system rating countries' level of risk to deforestation is subject to delays. Because of the delays, many stakeholders are calling for a delay to the application date.

Further UK or European legislation covering packaging and waste, the right to repair for products, measures to prevent microplastic pollution from the unintentional release of plastics pellets and the management of seeds and plant/forest reproductive material.

Mirroring developments in the climate space, in September 2023 the Taskforce on Nature-related Financial Disclosures (TNFD) released its final recommendations to guide businesses in reporting publicly on their impacts and dependency on nature. As the Taskforce on Climate-related Financial Disclosures recommendations have made their way into compulsory legislative obligations, companies are expected to pay close attention to the new TNFD recommendations, as well as the TNFD's specific guidance (such as the sector-specific guidance published in June 2024 and the guidance on value chains published in July 2024).

How can Freshfields help with nature and biodiversity and sustainability issues?

- We advise multiple clients on the rapidly developing framework of biodiversity regulation, including developing compliance and reporting frameworks to meet the requirements.

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- We also help clients navigate their engagements with the full range of stakeholders on biodiversity issues. This includes investors, regulators, NGOs, suppliers and customers.
- Finally, we frequently advise clients on biodiversity and environmental litigation, including on class actions, often with an international element.

Our publications

- [Sustainable global supply chains: EU's CSDDD finally adopted by Council](#)
- [Nature and biodiversity reporting – live legal risks](#)
- [Nature Restoration Regulation generates storm in European Parliament](#)

Related topics

[Global trade](#), [Human rights](#), [Reporting and disclosure](#), [Supply chain and procurement](#).

The background is a solid teal color with a subtle, embossed pattern of interlocking hexagons. The hexagons are slightly recessed, creating a 3D effect. The word "People" is centered in the upper half of the image.

People



People

Recent regulatory developments in people and sustainability

Global businesses are increasingly looking to embed people-related sustainability initiatives. Compliance with legal and regulatory requirements is a minimum standard, but expectations from a variety of stakeholders, including the workforce itself, place pressure on companies to take actions beyond what is required as a matter of law:

- Hybrid, remote and flexible working arrangements have become a more permanent tool for organisations to attract and retain staff. Several EU member states, including Austria, Belgium and Spain, have passed legislation to encourage and regulate homeworking. These new working practices can have a positive impact on the fight against climate change, for example, through less business travel. On the latter, starting 1 July 2024, employers in the Netherlands with more than 100 employees are required to annually report information on the total number of kilometres of work-related travel by their employees.
- Diversity and inclusion (**D&I**) was once a ‘nice to have’ for businesses, but it is now expected, with increasing levels of reporting, disclosure and explanation obligations being placed upon organisations. In the UK, there are rules in place for listed companies requiring them to publicly disclose whether they meet specific diversity targets at board and executive management level on a ‘comply or explain’ basis. In the US, similar rules apply to most companies listed on Nasdaq’s US exchange. Alongside D&I, better enforcement of equal pay has been a political priority for various legislators, and there has been an increased focus on pay transparency at a national and EU level. In the coming months and years, we expect to see diversity and pay transparency move beyond

the traditional spheres of gender, and towards characteristics such as ethnicity, disability, socio-economic background and neurodiversity – indeed we are already starting to see that in the ethnicity and disability context in proposed legislation in the UK.

- #MeToo and wider workplace issues continue to unfold and there is an increasingly strong focus from regulators on non-financial misconduct and corporate culture. Many businesses now face the very real prospect of regulatory intervention, with many sectors having obligations to report on how whistleblowers and sensitive allegations made by workers are handled. Reporting obligations are also a feature of the EU whistleblowing directive (see below).
- Alongside new working arrangements, working conditions and work-life balance are a real focus. EU Directives on transparent and predictable working conditions and work-life balance for parents and carers set out new standards aimed to improve predictability and clarity on working conditions and equal access to the labour market, fair working conditions and work-life balance. In the UK, certain flexible working changes came into force this year and more have been promised as part of the new Government’s employment law changes. We are also spotting an increasing trend around legislators in certain jurisdictions tackling the right to disconnect from company communication systems, including the UK, Belgium, France, Spain, Greece, Luxembourg, Italy and Portugal.

In the US, there has been a wave of “anti-ESG” shareholder activism where conservative commentators and groups have dedicated to “exposing” companies whose diversity and sustainability commitments do not align with their customer base. The activism has received limited support, but has resulted in some companies increasingly pulling back on their ESG commitments.



People

Outlook: What's on the horizon?

A variety of regulatory changes are expected in the people space, with a focus on the following areas:

- **New working arrangements:** several jurisdictions have introduced or proposed new rules in relation to hybrid, remote and flexible working. Many others have plans to legislate or regulate in this area.
- **Taxation:** with hybrid, remote and flexible working now a new normal, tax authorities across the globe are recalibrating their stance on internationally mobile employees. Employers should factor in the tax angle when updating policies and discussing working policies.
- **Decent wages:** the EU adopted a Directive establishing a Europe-wide framework for adequate minimum wages. Member states have until 15 November 2024 to implement the directive into national law; Belgium is currently the only member state to have made moves towards such transposition.
- **D&I and pay transparency:** this topic remains a primary focus for authorities across the globe, including the UK and US (see above). An EU directive to promote gender equality on boards of listed companies requires in-scope companies to have 40 per cent of non-executive director positions or 33 per cent of all board positions (executive and non-executive) held by women by the end of June 2026. Another EU Directive, which aims to strengthen pay transparency during recruitment and employment, came into force in 2023, and must be implemented into national law by 2026. The Pay Transparency Directive prohibits pay secrecy agreements, offers collective redress, shifts the burden of proof to the employer, and sets out reporting obligations for employers with at least 100 employees. Additionally, new legislation proposed in the UK promises to extend the right to equal pay to those of ethnic minority backgrounds and disabled people.
- **Employee activism and group workforce litigation:** we are seeing a significant increase in strike action, requests made to employers for trade union recognition, and informal 'employee activism' (where workforces mobilise against their employers on certain sustainability issues, such as preventing investment in non-renewables). We anticipate more pressure to be exerted by the workforce going forwards, particularly in the UK, where the direction following the recent general election appears to be in favour of unions. Alongside this, employees may have concerns about the way in which they have been treated, and this could be fertile ground for group workforce actions. We anticipate an increase in group actions in the following areas: equal pay, worker status (see below), changes to terms and conditions, collective redundancies, minimum wage, bonus payments, working time and holiday pay. On the EU front, the EU Commission in January 2024 proposed a Directive aiming to further improve social dialogue in the EU by strengthening the role and capacity of European Works Councils in transnational decision-making processes, including in relation to recent developments such as green and digital transitions. On the US front, while we have seen an increase in number of US workers represented by a union between 2022 and 2023, the share of US workers represented by the union has declined.
- **Atypical working and employment status:** the growth in the number of platform workers and the increase in employment status group workforce claims have led some jurisdictions to increase their regulatory oversight of the gig economy. An EU draft Directive on strengthening the rights of platform workers has now been adopted and is awaiting transposition in member states. The directive introduces a legal presumption of employment for platform workers if their relationship fulfils certain criteria. It also



People

reverses the burden of proof to employers, provides for more transparency when it comes to the use of algorithms, and promotes collective bargaining.

- Climate-conscious pension scheme investment and disclosure: this has increasingly been a focus for pensions legislation and regulation. In the UK, regulations intended to secure effective pension scheme governance and decision-making with respect to the impact of climate change are in force, as are regulations requiring some pension schemes to make climate-related disclosures. In addition, the EU's Sustainable Finance Disclosure Regulation (see above) requires pension schemes to disclose information regarding their approaches to sustainability.
- Enhanced whistleblower protection: the EU Whistleblowing Directive has now been implemented in all member states. The directive imposes stricter obligations on businesses in relation to the handling of misconduct reports, particularly on the protection of whistleblowers. To comply with the new rules, employers must review reporting channels and existing whistleblowing policies. The directive has been implemented in different ways by member states so local advice will be required.
- Corporate governance and due diligence: The EU Corporate Sustainability Reporting Directive (see above) requires in-scope companies to disclose information on a broad range of sustainability matters including employee matters. The directive entered into force in January 2023 and a number of member states have already transposed the directive into national law. In addition, the Corporate Sustainability Due Diligence Directive (see above) aims to improve corporate governance practice of companies and entered into force on 25 July 2024. The currently stayed U.S. SEC's 'Enhancement and Standardization of Climate-Related Disclosures for Investors' rule would require increased disclosure on emissions information. The California Climate Corporate Data Accountability Act will require disclosure of Scope 1 and 2 greenhouse gas emissions with limited assurance beginning

in 2026 (for the prior fiscal year) and Scope 3 emissions beginning in 2027 (for the prior fiscal year). The California Climate-Related Financial Risk Act will require companies to prepare a biennial climate-related financial risk report beginning in 2026.

- Incorporation of sustainability metrics into variable remuneration: executive compensation is increasingly made conditional upon meeting ESG targets, and we expect this to remain a significant topic for stakeholders going forwards. For example, the draft ISSB standards (see above) include requirements relating to sustainability- and climate-related performance metrics in executive remuneration.

How can Freshfields help with people and sustainability issues?

We advise clients on long-term strategies to create more sustainable workplaces, including in relation to:

- Hybrid and remote performance assessments and investigations, renewed oversight arrangements, regulatory compliance, global HR policies
- Board composition and mentoring and networking programmes designed to improve the representation of minority groups in the workplace
- Addressing a growing union voice within the workforce including facing issues such as requests for union recognition
- Workforce activism and employment litigation on issues including discrimination and equal pay
- Whistleblowing frameworks and associated governance arrangements, sensitive workplace investigations including in relation to issues including discrimination and whistleblowing-related victimisation



People

- The incorporation of sustainability measures into variable remuneration including structure, alignment to strategy and disclosure
- Assessing employment-related costs/footprint (reduced office space, reduced commute, other salary adjustments etc)

We deliver this advice either on a standalone basis or as part of bigger projects, such as M&A deals and corporate restructurings.

Freshfields has unparalleled employment and class action expertise, including experience advising tech and other companies on potential group workforce litigation, and defending innovators and market disruptors against such claims.

We advise companies and trustees on a range of legal matters related to pension schemes and related obligations.

Our publications

Briefings

- [Market study: ESG factors in management remuneration](#)
- [Strengthening the transnational social dialogue](#)
- [Whistleblowing survey 2023](#)

Blogs

- [Towards balanced representation of men and women in decision-making bodies The Parker Review 2024: Shaping ethnic diversity in UK business](#)
- [EHRC consultation closes: new duty to prevent sexual harassment in the workplace](#)

- [The EBA publishes the report on the application of gender-neutral remuneration policies by institutions and investment firms](#)
- [UK Election: the King's Speech — employment and pensions changes employers need to know](#)
- [UK Election: Labour's 'New Deal for Working People' — what has changed on the employment agenda?](#)
- [The Parker Review 2024: Shaping ethnic diversity in UK business](#)
- [FTSE Women Leaders Review: the findings and recommendations](#)
- [Sexism in the City: the FCA's latest efforts to tackle non-financial misconduct in the workplace](#)
- [ESG Reporting for EU and non-EU companies: Entry into force of the Corporate Sustainability Reporting Directive](#)

Related topics

[Human rights](#), [Reporting and disclosure](#), [Taxation](#).

Reporting and disclosure



Reporting and disclosure

Frameworks and standardisation

Regulators are tightening ESG disclosure rules – and enforcement of them – to support market stability and are promoting standardised disclosure to facilitate comparison.

About 600 mandatory and voluntary frameworks for sustainability disclosure exist worldwide, making it difficult for corporates to select a framework which will meets the requirements of a broad number of stakeholders and mandatory reporting requirements, also putting a high compliance and administrative burden on them.

Established voluntary international frameworks

Task Force on Climate-related Financial Disclosures (TCFD) recommendations	Taskforce on Nature-related Financial Disclosures Risks (TNFD)	Global Reporting Initiative's (GRI) standards	Carbon Disclosure Project (CDP)	Sustainability Accounting Standards Board (SASB) standards	International Sustainability Standards Board (ISSB) standards
This is a common foundation for many climate-related disclosure frameworks. It also forms the basis for the SEC's stayed climate disclosure rules in the US. It has now been adopted in a number of UK mandatory regimes. The ISSB has taken over monitoring since 2024.	Published in September 2023. As of June 2024, 416 companies, financial institutions and market service provisions signalled their intent to adopt the TNFD recommendations.	Provide guidelines for reporting on economic, environmental and social impact.	Provides a system for carbon and environmental disclosure.	Provide industry-based sustainability disclosures. Since August 2022 the SASB organisation is part of the IFRS foundation and the ISSB has committed to maintain, enhance and evolve the SASB standards.	Standardising frameworks IFRS S1 and IFRS S2 on sustainability disclosures, published in June 2023. The standards can apply to annual reporting from 1 January 2024 for companies reporting in accordance with IFRS.

Recent regulatory developments in sustainability and reporting and disclosure

All businesses must engage with ESG disclosure, especially those facing a sustainability-related transformation, such as energy, chemicals, and automotive. Banks, insurers and investors must also strive for transparency on ESG disclosure. Many disclosure obligations are increasingly unavoidable and require time to embed into businesses.

Institutional investors are mobilising, making it increasingly more difficult to secure investment and finance without transparency.

EU

The EU's Corporate Sustainability Reporting Directive (**CSRD**) came into force in January 2023 creating new sustainability reporting obligations for companies within and outside of the EU, with the first report for the first companies due on 1 January 2025 for the year 2024. The CSRD replaces the Non-Financial Reporting Directive that has already been in effect since 2014 and will eventually apply to more than 50,000 companies. It creates a uniform and binding reporting standard with an external assurance requirement. For this purpose, the EU also adopted the first set of European Sustainability Reporting Standards (**ESRS**) in July 2023. Further ESRS setting sector-specific and reporting on non-EU companies-specific standards have been delayed and are currently expected to be adopted in 2026. The draft non-EU global group standard is expected to be shared in Q1 2025 for consultation.

The EU also finally adopted what is expected to be one of the most transformative pieces of regulation globally, the EU's Corporate Sustainability Due Diligence Directive (**CSDDD**). It is in force from July 2024 and its application will be rolled in gradually over three years starting on 26 July 2027. It applies to all large multinational companies over certain revenue and employee thresholds regardless of whether they are headquartered in the EU. It requires companies to



Reporting and disclosure

carefully manage human rights, social and environmental impacts throughout their supply chain, including their own business operations. The Directive introduces new civil liability regimes in this respect, as well as an obligation to set up corporate climate change plans that align with the Paris Agreement. Companies must generally annually report on the fulfilment of their obligations under the CSDDD, unless they are required to report under the CSRD. In the latter case, they are exempted from specific CSDDD reporting and only have to address supply chain compliance via their general annual report under CSRD as implemented in EU Member States.

The EU has enacted various regulations and directives as part of its sustainable finance agenda. The main legislative acts are: the EU Taxonomy Regulation, the SFDR and the EU Benchmarks Regulation (see [Sustainable Finance](#)).

The EU Taxonomy Regulation, in force since 2020, establishes a classification system for sustainable economic activities and identifies relevant conditions that activities need to meet along five climate and environmental objectives without doing 'significant harm' to others. This aims to direct investments towards sustainable projects and activities in line with the European Green Deal objectives. Generally, any company reporting under CSRD also has to report under the EU Taxonomy Regulation.

United States

On 6 March 2024, the Securities and Exchange Commission (SEC) adopted its long anticipated final rules on climate related disclosures, amending Regulations S-K and S-X to set forth the climate-related information that companies will be required to disclose in their filings with the SEC. The final rules, currently stayed, apply to both US domestic companies and foreign private issuers who file periodic reports with the SEC.

On October 7, 2023, California signed into law the "Climate Accountability Package," including

the Climate Corporate Data Accountability Act and the Climate-Related Financial Risk Act. These new laws will require disclosure of Scope 1 and 2 greenhouse gas emissions with limited assurance beginning in 2026 (for the prior fiscal year) and Scope 3 emissions beginning in 2027 (for the prior fiscal year) and will require companies to prepare a biennial climate-related financial risk report beginning in 2026.

California's Voluntary Carbon Market Disclosures Act (VCMDA) imposes detailed disclosure requirements on companies that market or sell voluntary carbon offsets in California or make claims regarding the achievement of net zero emissions, carbon neutral status, or significant carbon emissions reductions for a product or company. In 2021, California regulated recyclability claims, inspiring anti-greenwashing bills in various states, including New York, Washington and New Hampshire to regulate recyclability claims and in Colorado to regulate compostability claims.

In 2022, the Biden administration signed into law the Inflation Reduction Act 2022, which has a focus on decarbonisation in the US and seeks to address social impacts of inflation.

Hong Kong

On 19 April 2024, the Hong Kong Stock Exchange (HKEX) published the consultation conclusions on Enhancement of Climate-related Disclosures under the ESG Framework. HKEX is one of the pioneering exchanges in implementing enhanced climate-related disclosure requirements based on IFRS S2 (Climate-related Disclosures). A new Part D will be added to the ESG Code of the Hong Kong Listing Rules, specifically focusing on disclosure requirements for climate-related risks and opportunities.



Reporting and disclosure

The new climate disclosure requirements are not ‘one size fits all’. Hong Kong listed issuers will be categorised into three groups:

1. LargeCap issuers — Hang Seng Composite LargeCap Index constituents.
2. Main Board issuers other than LargeCap issuers.
3. Growth Enterprise Market (GEM) issuers

HKEX has adopted a phased-in approach. This means each category of issuers will have different timelines and compliance requirements for reporting on the new climate disclosure requirements. Compliance requirements may vary, including mandatory reporting, ‘comply or explain’, or voluntary reporting.

ESG reports prepared in compliance with the ISSB standards, covering both IFRS S1 and S2, are considered to have complied with the new climate disclosure requirements under the Hong Kong Listing Rules.

UK

The Transition Plan Taskforce, which was created following COP26, published its final guidance for disclosing climate transition plans in October 2023 and its sector specific guidance in April 2024. The purpose of the framework is to support internal actions to drive a transition strategy, but also provide information to investors to support investment to accelerate transition. The disclosure framework includes five elements of reporting and 19 recommended elements within that disclosure. The Taskforce has also prepared summary guidance for sectors to adopt recommendations tailored for their businesses.

The Government has indicated it will consult on the approach to transition plans in 2024, before commencing formal consultation on amendments to the legislative frameworks in 2025. The Government announced the preparation of a UK Sustainability Disclosure standard

in August 2023. It is expected to closely reflect the ISSB standards and endorsement of the UK standards is expected in the first quarter of 2025.

Certain large unlisted UK companies are now also required to make various ESG-related disclosures in their annual reports. Subject to requirements, certain large companies need to report on which governance code they have adopted and applied; report on workforce engagement arrangements; make certain non-financial information disclosures (which covers various ESG related topics, including, broadly, TCFD-aligned disclosures).

Most companies with publicly traded securities must disclose material risks in financial filings.

Outlook: What’s on the horizon?

- Increasing expectations on ESG performance. More timely disclosure is expected on financial conditions due to unprecedented disruptions.
- Shareholder and stakeholder activism will continue to rise.
- Regulators are now focusing on standardisation and interoperability but discrepancies between the different requirements remain, especially as the EU takes a unique ‘double materiality’ approach. Regulators are also showing greater willingness to take enforcement action for corporate governance breaches.
- Compliance scrutiny increases as disclosures are more readily made by business. The TCFD has reported that for fiscal year 2021 only 4 per cent of companies disclosed in line with all 11 of its recommendations in their climate-related disclosures.
- In the UK: The Financial Conduct Authority (FCA) and Financial Reporting Council (FRC) have reported on trends in compliance with those disclosures in 2022, and in relation to trends of metrics and targets disclosures in 2023. The findings of those reports are critical



Reporting and disclosure

for disclosures for publicly listed companies and for all large companies and LLPs who have been reporting from 2023.

- In the EU, more technical reporting standards for specific sectors are expected to be published to assist disclosure exercises under the CSRD.

How can Freshfields help with reporting and disclosure and sustainability issues?

- We advise on the full range of ESG disclosure requirements from investors and regulators, and the underlying substantive obligations.
- We help to develop guidelines on disclosure, manage risks, and present sustainability ambitions and actions to stakeholders in ‘the best possible way’.
- We advise on wider stakeholder communications.
- We help manage litigation risks associated with ‘greenwashing’ or other disclosure related claims and defend clients when needed.
- We assist our clients to use ESG disclosures to test ESG performance in the context of M&A.

Our publications

- [California’s Climate Disclosures - New Legislative Developments](#)
- [UK Sustainability Disclosure Requirements: Implementation Update 2024](#)
- [New climate disclosure requirements for Hong Kong-listed companies: top tips for how issuers can adapt](#)

- [HKSE New Climate Disclosure Requirements – Changes to the HK Listing Rules](#)
- [Comparison of SEC Final Rules on Climate-Related Disclosures against ISSB Standard, EU CSRD/ESRS Requirements, and California “Climate Accountability Package” Disclosures](#)
- [Comparison of SEC Final Rules on Climate-Related Disclosures against Other Climate-Related Disclosure Regimes](#)
- [Sustainable global supply chains: EU’s CSDDD finally adopted by Council](#)
- [UPDATE: SEC Stays Final Rules on Climate-Related Disclosures](#)
- [SEC Adopts Final Rules on Climate-Related Disclosures](#)
- [California Adopts ‘Climate Accountability Package’](#)
- [Nature and biodiversity reporting – live legal risks](#)
- [Advancing climate transition through disclosure – the UK Transition Plan Taskforce’s gold standard framework](#)

Podcasts

- [Unpacking the status of climate disclosures](#)

Related topics

[Global trade](#), [Nature and biodiversity](#), [Supply chain and procurement](#), [Sustainable finance](#), [The European Green Deal](#).

Supply chain and procurement



Supply chain and procurement

Recent regulatory developments in ESG and supply chain and procurement

Procurement (of goods, works and services) by governments and global organisations constitutes a significant proportion of GDP across the world. The amount spent on public procurement in 2023 was estimated at 13 per cent of annual GDP across the 38 OECD countries for which data was available.

An increasing number of governments and global organisations are incorporating sustainability objectives into procurement policies and practices, using their purchasing power to help achieve wider societal goals. The United Nations, the World Bank and the EU have all published guidance on how sustainability-related factors should be taken into account when those entities are procuring goods and services and/or financing projects.

National governments worldwide are also taking steps to support sustainability through procurement:

- The UK requires a minimum weighting of 10 per cent of the total score in tender evaluations to be applied to 'social value' and requires bidders for large contracts to commit to reaching net-zero by 2050.
- German government guidance recommends that all federal agencies include sustainability criteria in all tenders. More recently, an extensive consultation on the modernisation of Germany's public procurement law identified the need to strengthen social sustainable procurement.

- The French public procurement code provides for evaluation criteria to include categories such as biodiversity and environmental performance.
- Spanish public procurement legislation requires all tender specifications to include social and environmental criteria.
- The EU Batteries Regulation lays down rules on green public procurement to be used by Europe's public authorities as regards batteries.
- The European Commission has been developing voluntary Green Public Procurement (GPP) criteria for several product groups. Furthermore, following the adoption of the 2020 Circular Economy Action Plan, the Commission is proposing minimum mandatory GPP criteria and targets in sectoral legislation and phase in compulsory reporting to monitor its uptake. Along with this, the recently adopted EU Corporate Sustainability Due Diligence Directive (CSDDD) foresees that Member States should take into account CSDDD compliance in relation to public procurement offers.
- In the US, green procurement is incorporated at every level of government (including in Presidential Executive Orders, legislation and agency actions). Federal agencies are required to procure sustainable products and services to the 'maximum extent practicable'.
- Singapore's government has rolled out green procurement requirements for nine categories of goods and services and is progressively introducing more environmental sustainability considerations into the government's tender evaluation process, such as setting aside up to 5 per cent of evaluation points for environmental sustainability for large government construction and ICT tenders.

Companies are increasingly following suit, incorporating sustainability-related objectives and criteria into their procurement processes and contracts with suppliers.



Supply chain and procurement

Global trade policy and agreements are also aligning trade with climate and sustainable development objectives. Supplier access to global public markets will increasingly require 'sustainable' credentials.

Outlook: What's on the horizon?

- A shift from softer recommendations to concrete requirements that suppliers meet clear sustainability criteria or risk exclusion from certain supply chains/public markets. This shift is already underway in the UK and other European countries and is likely to be felt more acutely in sectors where sustainability-related risks are higher (eg energy and extractives sectors).
- An increasing body of sustainability-related procurement policies, due diligence and reporting legislation worldwide.
- A competitive edge for suppliers that can demonstrate sustainable practices over other bidders for certain contracts.
- Greater scrutiny of companies' procurement practices by investors and shareholders.
- Increased collaboration will be required amongst key stakeholders such as companies, employees, suppliers and governments.

Jurisdictions are also increasingly introducing legislation requiring companies to conduct due diligence on their supply chains to identify human rights and/or environmental risks.

For example, the EU's CSDDD, in force since 25 July 2024, will require certain large companies (regardless of whether they are headquartered in the EU) to carefully manage human rights and environmental impacts throughout their supply chains, including their own business operations. The Directive introduces new civil liability regimes in this respect

as well as an obligation to set up corporate climate change transition plans that align with the Paris Agreement. For more detail, please refer to the [Human Rights](#) section.

The EU also adopted a new Regulation banning the sale and export of products made with forced labour into the EU. The proposed regulation, which should start applying by mid-2027, introduces robust mechanisms for investigation and enforcement to ensure compliance across the internal market.

As more of such legislation comes into force, companies will need to scrutinise their supply chains, restructure their corporate governance, adjust their procurement processes and supplier contracts accordingly.

How can Freshfields help with supply chain and procurement and sustainability issues?

Our market-leading procurement practice advises procuring entities and bidders on all aspects of procurement processes, global procurement compliance programmes and bid challenges.

We:

- Advise our clients (both bidders and purchasers) on global developments, access to public markets and compliance with procurement law including sustainability requirements
- Assist clients with tender processes (both bidding and buying)
- Help clients with developing internal procurement policies, effective supply chain due diligence processes and internal risk and compliance management
- Represent clients in bid challenges following alleged breaches of procurement law



Supply chain and procurement

- Advise clients on the scope and application of human rights/environmental due diligence legislation (see [Human rights](#) section)

Our experience in sustainable procurement includes:

- Design of procurement policies: advising a global charity on the design of its procurement policy including to take account of wider societal goals and sustainability objectives
- Advice on design of procurement processes and evaluation criteria: advice to UK Government (DEFRA) on the construction, procurement and financing of the 23-km Thames Tideway
- Bid challenges: representing EnergySolutions EU in its challenge to the award of contracts by the Nuclear Decommissioning Authority to decommission 12 key nuclear sites, ultimately leading to a £97m settlement and the Magnox Inquiry
- Advising a professional services client on the development of best practices in content moderation, to ensure respect for human rights based on the United Nations Guiding Principles
- Assisting a client in ‘future-proofing’ its contracts with new suppliers to ensure that they comply with human rights due diligence legislation and best practice
- Advising a bidder on its participation in the UK competition for Carbon Capture and Storage Technology development

Our publications

- [What to expect from the EU’s CSDDD #3: key takeaways from Freshfields’ CSDDD webinar](#)
- [What to expect from the EU’s CSDDD #2: Civil Liability and Litigation Risks](#)
- [What to expect from the EU’s CSDDD #1: Enforcement Mechanism](#)
- [Sustainable global supply chains: EU’s CSDDD finally adopted by Council](#)
- [Taking stock: Four months of notifications under the EU Foreign Subsidies Regulation – More than 150 cases and one Phase II investigation](#)
- [Navigating the new scope of the German Supply Chain Act and looking ahead for the EU](#)
- [Important Expansion of the German Supply Chain Duty of Care Act – including applicability to non-German Companies](#)
- [Human rights and supply chain compliance for the financial sector: Clarifications on human rights due diligence?](#)

Related topics

[Global trade](#), [Human rights](#), [Reporting and disclosure](#), [Sustainable finance](#), [The European Green Deal](#).

Sustainable finance



Sustainable finance

Recent regulatory developments in sustainability and sustainable finance

Financial services regulators recognise the threat of climate change to financial stability and the role of financial institutions in the transition to a net zero economy. Financial services regulators are intervening in four areas:

- Identifying sustainable activity – setting criteria to help financial institutions assess which activities can be considered sustainable so they can be labelled appropriately
- Governance and risk – requiring the integration of sustainability considerations into financial institutions’ governance and risk management practices and ensuring that responsibility is allocated at board level
- Products and services – encouraging financial institutions to make their investment products and services more sustainable and make sustainable options more transparent for investors
- Disclosure: in addition to the ESG disclosure required of corporates (see [Reporting and disclosure](#) section), regulators require financial institutions to publicly disclose information about their products and services, and to disclose additional information about how institutions are managing sustainability risks themselves, with the aim of empowering investors to make decisions based on sustainability criteria

Regulators are looking beyond the climate and governance aspects of ESG. Employee and management diversity, a healthy culture that discourages non-financial misconduct and fair treatment of all stakeholders are increasingly a focus for regulatory scrutiny (see [People](#) section).

Outlook: What’s on the horizon?

US federal and state authorities have already publicly announced greenwashing investigations involving a number of financial institutions and we expect more hard-edged regulatory enforcement in the US and elsewhere as expectations of firms’ capabilities in this area increase. We also expect more shareholder, stakeholder and investor class actions relating to ESG commitments and disclosure, often initiated by NGOs campaigning on climate change.

Prudential regulators are requiring institutions to integrate climate risk, in particular, into strategic risk management. Examples include climate transition plans, which are now required in the UK and may be considered by the Prudential Regulatory Authority (PRA) in its supervisory process. In the EU, CRD6 will also require banks to draw up and implement transition plans while the newly revised Solvency 2 imposes the same obligations to insurance companies.

Corporate disclosure regimes and additional disclosures for financial institutions are developing at different rates across major jurisdictions and contain differences, even when based on Task Force on Climate-Related Financial Disclosures (TCFD). International interoperability of regulations and standards is key, because financial markets are global.

The EU will shortly review its Sustainable Finance Disclosure Regulation (SFDR) which is currently in force. In the UK, the government aims to make UK-endorsed International Sustainability Standards Board (ISSB) standards available in Q1 2025, following which the FCA will consult on UK sustainability reporting standards for UK-listed companies. The government has also indicated that it may extend these disclosure requirements to UK companies that fall outside the FCA’s regulatory perimeter – a decision on that is expected in Q2 2025. In the US, the Securities and Exchange Commission’s (SEC) new climate risk disclosure rules, set to take effect in 2026, are currently stalled in court, and some states, such as California, have adopted



Sustainable finance

separate disclosure requirements. The authorities in Hong Kong have developed a prototype of the Hong Kong taxonomy (drawing largely from the Common Ground Taxonomy) and have adopted new climate-related disclosure requirements closely in line with the ISSB standards that will take effect from the 2025 financial year.

There is also a growing impetus by regulators to impose rules to mitigate against greenwashing. The US SEC and UK FCA have both announced measures around misleading product labelling relating to sustainability. The FCA recently introduced Sustainability Disclosure Requirements (SDRs) as part of its broader sustainability disclosure and labelling regime and finalised guidance on an anti-greenwashing rule for financial institutions. The European Commission is also considering introducing a product categorisation regime as part of the SFDR review. In parallel, the European Supervisory Authorities (ESAs) have published their [joint position](#) on greenwashing risks. In Hong Kong, the Securities and Futures Commission (SFC) has strengthened the rules on fund managers' management of climate risks and related disclosures to combat greenwashing.

The EU was the first jurisdiction to move ahead with a Regulation on ESG ratings aimed at making such ratings more comparable and reliable. In the UK, HM Treasury consulted in March 2023 on bringing ESG data and ratings providers within the scope of FCA authorisation and regulation — feedback on that consultation is still awaited. An industry code of conduct for ESG ratings and data products providers has been launched in the meantime.

The EU was also the first jurisdiction to develop a green bond standard, a voluntary gold standard for EU green bonds, with the aim of enhancing the effectiveness, transparency, comparability, and credibility of the green bond market.

There has been push back against ESG rule-making in some political quarters, especially in the US and a growing trend in the EU illustrated by the decline of the Green parties in the last

European Parliament elections but regulators are likely to continue developing requirements in the ESG field, sometimes in a disjointed manner which make it hard for companies to comply with the different requirements.

We also expect market-led initiatives to gain further traction, with banks (voluntarily) extending their climate target setting to include their clients' Scope 1, Scope 2 and Scope 3 emissions in connection with capital markets arranging and underwriting services for new debt and equity instruments.

How can Freshfields help with sustainable finance issues?

We help our clients structure financing transactions to deliver sustainable development in:

- Project finance
- Labelled bonds such as green, social and sustainability bonds, green and social loans, sustainability-linked bonds and loans, and social impact bonds
- ESG derivatives
- Green securitisations
- Impact investments

We keep our clients up to date with sustainability-linked legislative changes around the world. Freshfields was commissioned by PRI (the UN-supported Principles for Responsible Investment), the UN Environment Programme Finance Initiative (UNEP FI) and the Generation Foundation to consider the extent to which institutional investors can — and should — use their power and influence to generate a positive sustainability impact. Our report 'A legal framework for impact' was published in July 2021.

We advise organisations on how to disclose their ESG activities effectively to stakeholders



Sustainable finance

while managing risk, and help our clients navigate regulators' expectations in relation to governance structures, management responsibilities and risk management procedures for sustainability and ESG.

We also have market-leading expertise in regulatory investigations and ESG-related complaints (including complaints under the OECD Guidelines) and ESG-related litigation.

Our publications

- [Further greenwashing enforcement in relation to sustainable funds in Australia](#)
- [ESG around the world: The evolving regulatory landscape for financial services firms](#)
- [Portfolio managers look ahead to the extension of the UK's Sustainability Disclosure Requirements](#)
- [FCA publishes finalised guidance on the anti-greenwashing rule](#)
- [Reforms for Level 2 of the European sustainability disclosure framework: ESAs publish final report on revision of SFDR RTS](#)
- [Road to CRD 6 – ESG takes center stage in financial regulation](#)
- [ESG regulation and litigation in 2024: what's on the horizon for UK financial institutions?](#)
- [On the road\(map\) to sustainable investing: The FCA's final rules on sustainability disclosures and labelling](#)
- [Ten Trends in Sustainable Debt](#)

Click [here](#) to view all our blogs relating to sustainable finance.

Related topics

[Competition and antitrust](#), [EU state aid and UK subsidy control](#), [Nature and biodiversity](#), [People](#), [Reporting and disclosure](#), [The European Green Deal](#).

Taxation



Taxation

Recent regulatory developments in ESG and taxation

Policymakers see taxation as a catalyst to promote sustainability in business models and investment decisions:

- **EU Carbon Border Adjustment Mechanism (EU CBAM) and Emissions Trading System (EU ETS):** in April 2023, the EU adopted proposals to revise the EU ETS and introduce a new EU CBAM. The EU CBAM puts a price (linked to the EU ETS) on imports of certain goods (including electricity, cement, iron, steel, aluminium, fertilizer, hydrogen and ammonia, as well as certain downstream products such as screws and bolts) based on their carbon emissions. During a transitional period from October 2023 to December 2025, the EU CBAM will only apply as a reporting obligation. The EU CBAM will then be introduced progressively, in parallel with the phase-out of free EU ETS allowances between 2026 and 2034. Additional proposals to reform the EU ETS have also been approved, including extending its scope to the maritime, aviation, road transport and construction sectors.
- **UK CBAM:** following a consultation published in March 2023 considering a range of potential policy measures to mitigate carbon leakage risk, it was confirmed that the UK intends to introduce a UK CBAM from 1 January 2027. A further consultation outlining proposals for the design and administration of the UK CBAM closed in June 2024, but since then the UK's new Labour government took power. The new UK government stated in its election manifesto that it supported the introduction of a UK CBAM, but has not, so far, confirmed its plans in this regard. Further details may be announced at the upcoming UK Budget in October 2024.
- **Energy taxation:** the intention was for the Energy Taxation Directive (ETD) to be revised as part of the EU Green Deal/Fit for 55 package, but progress on this proposal has been slow. There is pressure to withdraw reductions and exemptions for fossil fuels, including for aviation and maritime transport. The OECD wants to create more sustainable energy taxation systems worldwide. However, recent issues with global energy supplies slowed progress in relation to environmental taxes and some national and more recent multinational 'windfall tax' measures (including the EU's revenue cap) have hit the renewables sector and could discourage investment in this area.
- **Green tax incentives:** we see a surge in tax incentives to divert investment decisions to climate-friendly options, such as capital allowances for investing in environmentally-friendly assets or tax credits incentivising research and development into green technology. In the US, the Inflation Reduction Act introduced and expanded a number of clean energy-oriented tax credits, particularly in the electric vehicle and renewable energy production spaces.
- **Stronger government and redesign of corporate tax systems:** the pandemic has helped shift global tax policy, with an onus on big businesses paying their 'fair share'. The OECD two-pillar approach (see further below), which sees a move away from the need for physical presence for the right to tax and a global minimum tax rate payable by multinational enterprises, was agreed by over 130 members of the Inclusive Framework.
- **Societal expectations:** demands for transparency on how big business is taxed add to pressure for public country-by-country reporting (CbCR) and for publishing effective tax rates. A proposal for an EU directive on public CbCR was adopted by the European Council in September 2021, with reporting due to start in 2024 in relation to 2023. In the UK, large businesses must publish their 'tax strategy'. The role of tax policy in addressing human rights issues, such as gender inequality, is also in the spotlight.



Taxation

- **ESG/Tax good governance:** corporates and investors are prioritising profits less and looking more at the societal impact of an investment. Tax is becoming an important governance consideration. If a company engages in aggressive tax planning, is the business sustainable and robust? Investors are starting to exclude companies from their portfolios due to tax policies.

Outlook: What's on the horizon?

- Governments across the world are showing increasing interest in using national tax measures to tackle climate change, both in terms of environmental taxes and tax incentives. Although the recent energy crisis somewhat slowed progress in this area, others see the potential for proceeds raised from windfall taxes to be used to invest in greener technology and infrastructure.
- Following international agreement on the key components of the OECD's 'pillar two' proposal to introduce a global minimum tax, attention has turned to domestic implementation. Key jurisdictions, including EU Member States and the UK, have enacted domestic legislation with the result that significant aspects of the rules are in effect from January 2024, with additional rules scheduled to apply from January 2025.
- Technical work on aspects of the OECD's 'pillar one' proposals is still ongoing. Progress on the 'Amount A' proposal (a new taxing right not based on physical presence) has now been delayed a number of times. In October 2023, the OECD released the latest version of the text of the Amount A multilateral convention (MLC). Work to resolve the remaining differences on the Amount A MLC has continued into 2024, although as at mid-September 2024 the final text of the Amount A MLC had not yet been published. Continued delay on agreement risks the introduction of new domestic digital services taxes (DSTs) and

reigniting trade tensions with the USA. Progress on these proposals may be impacted by the outcome of the US Presidential election in 2024.

- The OECD has officially launched its Inclusive Forum on Carbon Mitigation Approaches to bring together experts on climate, tax and economic policy. This forum seeks to improve the global impact of emissions reduction efforts through better data and information sharing as well as evidence-based learning.
- The EU continues to propose tax reforms. In September 2023, the Commission unveiled legislative proposals, proposing comprehensive structural reform of the EU business tax framework ('BEFIT'), as well as a proposal to implement common transfer pricing rules for EU-based entities based on existing OECD guidelines. Discussions continue on Unshell (or 'ATAD3') - a proposed directive to target the perceived misuse of shell companies for tax purposes. More recently the European Commission launched a public consultation on Directive 2011/16/EU on administrative cooperation in the field of taxation (or **DAC**) which sets out procedures for cooperation between Member States' tax authorities in relation to direct taxation, including a number of tax reporting and exchange of information regimes. The consultation is part of an evaluation to assess the effectiveness and continued relevance of the DAC, as well as its coherence with other policy initiatives and priorities.
- The EU is increasingly keen to link ESG reporting with tax transparency. Businesses should be mindful of non-tax reporting standards incorporating some tax criteria (such as the EU Corporate Sustainability Reporting Directive and its interaction with the EU Taxonomy and OECD guidelines for multinational enterprises).



Taxation

How can Freshfields help with taxation and sustainability issues?

- We help clients navigate new tax rules and adapt tax policies to changing rules and the evolving political and social climate.
- In M&A transactions, we scrutinise a target's tax strategies to identify risks posed by new tax rules and raised standards for tax good governance.
- We advise on tax disputes arising under new tax rules and challenge new tax rules if they are not designed or implemented equitably.
- We help steer the legislative process for new tax rules by providing strategic advice and the right legal arguments for lobbying.

Our publications

- [Stocktake on the EU and UK Carbon Border Adjustment Mechanisms](#)
- [ESG and tax transparency: the next frontier of tax disputes?](#)
- [How does tax fit into the ESG landscape and what does this mean for businesses?](#)
- [CBAM: go-live of transitional phase](#)
- [What you need to know now about the impact of the OECD's global minimum tax on M&A transactions](#)

See our [Global tax reform: the OECD pillars](#) landing page for our latest publications on the OECD's 'Two-Pillar' proposals.

Related topics

[Competition and antitrust](#), [EU state aid and UK subsidy control](#), [Global trade](#), [Human rights](#), [Intellectual Property and AI](#), [People](#), [Reporting and disclosure](#), [Sustainable finance](#), [The European Green Deal](#).

The European Green Deal



The European Green Deal

What are the goals of the European Green Deal?

- To make Europe carbon neutral by 2050.
- To decouple economic growth from resource use.
- To ensure no person or place is left behind.

Climate ambition

The European Climate Law enshrines the EU's commitment to be climate neutral by 2050. Unveiled in July 2021, the Fit for 55 package aims to make the EU's climate, energy, land use, transport and taxation policies fit for reducing net greenhouse gas emissions by at least 55 per cent by 2030. The package comprises proposals to revise existing laws, such as eg the:

- Emissions Trading System Directive
- Land Use, Forestry and Agriculture Regulation
- Renewable Energy Directive
- Regulation on strengthening the CO₂ emission performance standards for new passenger cars and vans

The package also introduced a proposal for a Carbon Border Adjustment Mechanism. Agreements on most of the Fit for 55 files have now been reached and respective (draft) legislation has been issued.

In November 2022, the Commission published a new proposal for the certification of carbon removals. In February 2023, a proposal for CO₂ standards for heavy-duty vehicles was published. The certification agreement is awaiting final sign off, whilst the latter has been published in the Journal.

In March 2023, the Commission presented new measures including:

- A Net Zero Industry Act
- European Critical Raw Materials Act
- Revision of EU's internal electricity market rules

These files have all become law by now.

Post-2030 EU climate policy

The Commission presented a communication on setting 2040 climate targets in February 2024, which favours a 90 per cent greenhouse gas reduction target by 2040. The communication was published alongside a new strategy for Industrial Carbon Management, which aims to scale-up Carbon Capture, Use and Storage (CCUS) in Europe. This topic will be addressed under the new Commission, which is expected to begin its mandate from 1 November 2024.

Financing the sustainable transition

The EU has adopted and/or is in process of adopting legislative acts, such as the Corporate Sustainability Reporting Directive (**CSRD**), the Corporate Sustainability Due Diligence Directive (**CSDDD**), the Forced Labour Regulation, the Sustainable Finance Disclosure Regulation (**SFDR**).



The European Green Deal

Sustainability of food systems	Decarbonising energy	Environmental protection	Zero emissions and smart mobility	Industrial strategy for a clean and circular economy	Further important actions
<ul style="list-style-type: none"> • Farm to Fork Strategy, including the EU Code of Conduct on Responsible Food Business and Marketing Practices. • Consultation on NGTs for sustainable food systems. • Actions to boost organic production. 	<ul style="list-style-type: none"> • New EU Framework to decarbonise gas markets, facilitating the uptake of renewable and low-carbon gases, including hydrogen, now in-force. • Solar energy strategy. • Offshore renewable energy. • Strategy for smart sector integration. • The 'Renovation Wave for Europe' including the revision of the Directive on the energy performance of buildings, now in-force. 	<ul style="list-style-type: none"> • EU Biodiversity Strategy for 2030 including legally binding nature restoration targets, now in-force. • Chemicals Strategy for Sustainability, including revision of the legislation on the hazard classification, labelling and packaging of chemicals. • EU Forest strategy including a new regulation to ensure deforestation free products in the internal market, now in-force. • EU Action Plan: Towards Zero Pollution for Air, Water and Soil including: <ul style="list-style-type: none"> – Revised lists of surface and groundwater pollutants. <ul style="list-style-type: none"> – Revision of EU ambient air quality legislation. – Proposal for a Directive to strengthen the protection of the environment through criminal law (now in-force). In November 2023, the Commission proposed a new forest monitoring framework. 	<ul style="list-style-type: none"> • Strategy for sustainable and smart mobility (updated in December 2021) to modernise EU transport systems by increasing connectivity and shifting more passengers and freight to rail and inland waterways. It includes: <ul style="list-style-type: none"> – Action Plan on long-distance and cross-border rail – Update of the Intelligent Transport Services Directive – New EU Urban Mobility Framework • A smart and sustainable TEN-T framework, now in-force <ul style="list-style-type: none"> – Action Plan on long-distance and cross-border rail – Update of the Intelligent Transport Services Directive – New EU Urban Mobility Framework • Production and supply of sustainable alternative fuels, now in-force. 	<ul style="list-style-type: none"> • EU industrial strategy. • Circular economy action plan (textiles, construction, electronics, plastics; sustainable product initiative). • New regulation on batteries, now in-force. • New Ecodesign framework for sustainable product design, now in-force. • A new Plastics Package: measures to restrict the addition of microplastics to products and to reduce the release of microplastics in the environment (now in-force), as well as a policy framework for biodegradable plastics. • Initiatives on the right to repair (now in-force), new EU Packaging and Packaging Waste Regulation, Empowering Consumers Directive (now in-force) and green claims. • Revision of ELV Directive (change to a regulation) and Waste Shipments rules. • European Chips Act, a comprehensive set of measures to ensure the EU's security of supply, resilience and technological leadership in semiconductor technologies and applications, now in-force. 	<ul style="list-style-type: none"> • Review of state aid guidelines (see EU state aid and UK subsidy control section). • Just Transition Mechanism (which includes the Social Climate Fund). • Initiatives to screen and benchmark green budgeting practices of member states and the EU. • Integration of the Sustainable Development Goals in the European Semester. • Proposed changes to the Innovation Fund – funding clean technologies. • The Commission just published its first Climate Risk and Resilience report setting out how the EU and its Member States can better anticipate, understand, and address growing climate risks.



The European Green Deal

Outlook: What's on the horizon?

The European Parliament elections in June 2024 resulted in a political shift in support to conservative parties and the far-right at the expense of liberal and green parties. Ursula von der Leyen continues at the helm of the Commission for another 5 years and is appointed her new College of Commissioners in September, who will then be subject to hearings in the Parliament in October, before the new Commission starts work by the end of the year. There will be new policymakers overseeing EU Green Deal policy. The mounting backlash from right-leaning political parties and parts of the industry towards the Green Deal did result in electoral success, so we do expect to see some sustainability files watered down or possibly withdrawn in order to safeguard European industry and competitiveness.

That said, we do not expect the sustainability agenda to disappear completely in the next term, because the EU's ambitions are undisputable and a lot of legislation has already been adopted. However, it remains to be seen how the agenda might shift in light of the political change, and if certain sectors where not much progress has been made on reducing emissions so far, like agriculture, transport and chemicals, will continue to be spared from meeting ambitious climate targets.

We are tracking developments and watching the impact of the Green Deal on the global economy (see [Global trade](#) section).

How can Freshfields help with European Green Deal issues?

- Our EU regulatory and public affairs team draws on our sustainability experience to help clients anticipate, navigate and shape legislative and regulatory processes.
- Our sector teams understand sector-specific regulatory and legislative changes, and help clients implement agreed goals and upcoming regulations and directives.

Our publications

- [EU elections unpacked: Has the New Consumer Agenda delivered? And what is coming in terms of digital fairness, greenwashing and more?](#)
- [What's new in greenwashing? The Green Claims Directive on its way to adoption](#)
- [What to expect from the EU's CSDDD #3: key takeaways from Freshfields' CSDDD webinar](#)
- [EU gas market rules aim to promote hydrogen and decarbonise gas consumption](#)
- [What to expect from the EU's CSDDD #2: Civil Liability and Litigation Risks](#)
- [The EU's Chemicals Strategy for Sustainability – The story so far](#)
- [EU Ecodesign Regulation: new sustainability requirements for products](#)
- [EU elections unpacked: Does the Green Deal have a future?](#)
- [What to expect from the EU's CSDDD #1: Enforcement mechanism](#)
- [Sustainable global supply chains: EU's CSDDD finally adopted by Council](#)
- [What to expect from the new European Forced Labour Regulation](#)

Related topics

[Competition and antitrust](#), [EU state aid and UK subsidy control](#), [Global trade](#), [Human rights](#), [Intellectual Property and AI](#), [Nature and biodiversity](#), [People](#), [Reporting and disclosure](#), [Supply chain and procurement](#), [Sustainable finance](#), [Taxation](#).

The background is a solid teal color with a subtle, embossed pattern of hexagons. The hexagons are arranged in a staggered grid, creating a textured, honeycomb-like appearance. The lighting is soft, giving the hexagons a slight 3D effect.

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