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Regulatory Evolution and Consolidation of Standards

As global jurisdictions refine ESG disclosure requirements, exemplified by regulations such as the EU's Corporate Sustainability Reporting & Corporate Sustainability Due Diligence Directis t-2 s tr5-qralFrit6orpon76(a)22.9 (b)11.9 (76()-5.]TJ)]6TusDuse(a)20.94 4 4.3β316G4.1 (214 /s(i)-5

Meet the Contributors

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Political Polarization on ESG Disclosure

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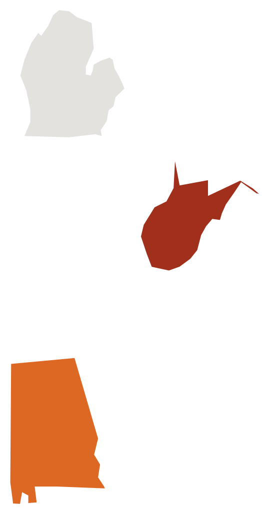

The Rise of Anti-ESG Legislation

According to law firm Ropes & Gray, which tracks the progress of anti-ESG bills, at least 61 such bills have been identified as either introduced by state legislatures but pending in committee or are supposed to carry over from the last legislative session to the 2024 session. The most active states in this regard have been Oklahoma (14 bills), South Carolina (9), Missouri (8), and West Virginia (7). The rapid growth in anti-ESG policies since the start of 2022 leaves little doubt that sustainable investing has become a target in the ongoing U.S. culture wars.

Factors Influencing the Success of Anti-ESG Bills

The success of anti-ESG bills depends on various factors, including the political dynamics in the state, such as which party controls the legislature and the governor's office. In states where Democrats control both houses of the legislature and the governor's office, like New York, anti-ESG bills have little chance of passage. Similarly, in states with divided political power between the legislature and governor's office, such as Arizona and Wisconsin, the likelihood of these polarizing bills getting adopted is low. Even in states with Republican control over both the governor's office and state legislature, like New Hampshire, bills that are too aggressive or go too far are likely to fail.[2]

The Rise of Restricted Lists and Anti-Boycott Laws

Apart from legislation, certain states have compiled restricted lists targeting financial institutions that allegedly boycott industries such as fossil fuels and firearms. States such as Kentucky, Oklahoma, Texas, and West Virginia have enacted anti-boycott laws in the last two years, authorizing the state comptroller or treasurer to maintain a list of restricted financial institutions barred from contracting with or doing business with the state. These lists can have dramatic consequences for financial institutions, potentially leading them to change their investment practices or withdraw from global climate coalitions to avoid being placed on a restricted list.

Asset managers have borne the brunt of the anti-ESG crusade. Because of this, firms operating in such states need to move through the complexity of the state, federal, and global regulatory environment, carefully being measured and cautious in communications with government officials in multiple jurisdictions. They must be thoughtful when responding to state inquiries and understand contractual requirements in light of the divergence in state, federal, and international laws related to ESG performance and disclosure.

Although the focus has been on the rise of anti-ESG legislation, some states have introduced bills that seek to insert ESG factors in the decision-making process of state pension funds. The absence of pro-ESG policies in Democratic strongholds such as New York, Vermont, and Washington state does not necessarily mean that fiduciaries in those states are not expected to consider ESG risks.

Some commentators view the anti-ESG movement as being driven by Republican officials considering their presidential ambitions rather than the welfare of their pension funds. The idea of not taking ESG factors into account is seen by many as misguided because these risks have long been considered in investment decision-making. Although the impact of anti-ESG policies is technically limited to business with state entities, there is a concern that such actions will have a wider chilling effect on the market. The fear of being placed on a restricted list can impede the free flow of information necessary for an efficient market.

The battle over ESG in public investments is far from over and may even be just beginning, with pro and opposition forces expected to remain active in 2024, especially given the upcoming U.S. elections. Asset managers and the broader investment community will need to navigate this complex and evolving landscape carefully, balancing the demands of state laws, fiduciary duties, and the growing importance of considering ESG factors in investment decision-making. As the debate continues, it remains to be seen how the anti-ESG movement will ultimately

Live From COP

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The Global Stock-Take

One of the most significant outcomes of COP 28 was the conclusion of the first “global stock-t [illegible]

New Funding for Loss and Damage

COP 28 began with a historic agreement on the operationalization of funding arrangements for addressing loss and damage, including a new dedicated fund under the UNFCCC. This landmark decision builds on the progress made at COP 27, where nations agreed to set up a fund to support vulnerable countries and communities already experiencing the adverse impacts of climate change. Commitments to address loss and damage totaled more than USD 600 million by the end of the conference, reflecting global solidarity and a step forward in international climate justice.

Enhancing Global Efforts to Strengthen Resilience

Looking Ahead

The negotiations on the “enhanced transparency framework” at COP 28 laid the groundwork for a new era of implementing the Paris Agreement. As host of COP 29 in 2024, Azerbaijan will play a crucial role in establishing a new climate finance goal that reflects the scale and urgency of the climate challenge. Brazil, as the host of COP 30 in 2025, will be instrumental in ensuring countries come prepared with new nationally determined contributions that are economy-wide, cover all greenhouse gases, and are fully aligned with the 1.5 °C temperature limit.

As the world looks ahead to COP 29 and COP 30, it is clear that the next teill b ra925.1 (u)-1

	SEC Final Rule	EU CSRD/ESRS	C C (B-253 B-261)
First Reports Due	Starting with 2025 (due in 2026), depending on size and filer status.	Starting with 2024 (due in 2025), depending on entity structure and size.	SB-253: 2025 (due in 2026) SB-261: Due January 1, 2026
Affected companies			

Below o ers additional highlights on alignment between other common frameworks and ESRS.			
UN SDGs Objectives of the Sustainable Development e r			

5. Adverse impacts:
   Companies must identify actual and potential adverse human rights and environmental impacts arising from their own operations, subsidiaries, and value chains. They must take appropriate measures to prevent, mitigate, or end these impacts, prioritizing actions based on the severity and likelihood of the adverse impacts.

6. Complaints:
   In-scope companies must have a complaints procedure for stakeholders (including a ected persons, trade unions, workers' representatives, and civil society organizations) to raise concerns regarding actual or potential adverse impacts.

7. Climate transition plans:
   Companies must adopt a climate transi

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The CSDDD will come into e ect through a staggered approach based on the size and turnover of the companies involved. Here’s a more detailed breakdown of the time line:

1. Publication and entry into force:
   The CSDDD is expected to be published in the EU O cial Journal in the coming weeks and will enter into force 20 days after its publication.

2. Transposition into national law:
   Member states will have two years from the entry into force of the directive to transpose its provisions into their respective national legal systems. This means each EU country will need to adopt its own laws, regulations, and administrative provisions to comply with the CSDDD.

3. Application to larger companies:
   a. Three years after the entry into force of the directive, it will start to apply to:
      - EU companies with more than 5,000 employees on average and a net world-wid1.6 (l)e220.95.1 (u)-12.1 (r)-22.1 (n)17.7 (o)16.9 (v)14 (e)4.4 (r o)19.2 (f m)16.7 (o)19.2 (r)18.9 (e t)-23.1

SBTI—What's Next

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Companies with approved targets must disclose their company-wide GHG emissions and progress against their targets on an annual basis.

Setting and reporting on science-based targets can help companies strengthen investor and stakeholder confidence in sustainability e orts and reporting.

Up until now, the SBTi has required companies to show they can meet these targets through reducing their emissions from their own operations and value chains. There is very limited scope for o setting under existing guidelines.

However, the SBTi's board of trustees announced in April 2024 that it plans to revise its flagship Corporate Net-Zero Standard to allow companies to use "environmental attribute certificates," which include carbon o setting schemes, to abate a greater share of their Scope 3 emissions. There has been a question of due process related to consultation with scientific sta and advisors.[6]

When founded in 2014, the SBTi had the initial goal of getting 100 companies to commit to setting greenhouse gas emissions reductions targets in line with science. There are currently 6,876 companies acting, with 4,023 of them having validated their science-based targets.

ADVICE FROM THE BOARD

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The Importance of Bringing Colleagues Along

ADVICE FROM THE BOARD

What Is TNFD?

1. Nature-Related Dependencies: Businesses rely on natural resources and ecosystems for their operations. Understanding these dependencies helps them manage risks and make informed decisions.

2. Impacts and Risks: Nature-related risks, such as climate change, biodiversity loss, and water scarcity, can a ect business operations, supply chains, and financial stability. TNFD provides a framework to assess and disclose these risks.

3. Integration Into Decision-Making: TNFD aims to integrate nature into decision-making processes. By considering nature-related factors, businesses can create more sustainable strategies.

4. Global Biodiversity Framework: TNFD aligns with the Global Biodiversity Framework, which sets goals and targets for biodiversity conservation. It encourages a shift toward nature-positive outcomes.

5. Capital Providers and Stakeholders: The recommendations provide decision-useful information to capital providers (investors, lenders) and other stakeholders. Transparency about nature-related risks enhances trust and accountability.

What Are Nature-related Risks?

P ca Na e-Re a ed R :

Acute Risks:

ESG Ratings and Rankings

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The fragmented nature of the ESG ratings landscape is evident in the different categories of ratings, each with its own methodologies and coverage. Self-reported data from sources such as CDP rely on voluntary disclosures from companies, while professional ESG opinions from MSCI, Sustainalytics, and others may be derived from sources including, but not limited to, voluntary disclosure, regulatory compliance, and information made public from legal proceedings. Natural language processing (NLP) companies analyze sentiment and unstructured data to gauge ESG performance, while consensus opinions aim to build consensus among diverse lower the rating disagreement.

The Punchlist

Whether you have a little time in your schedule and a little money in your budget for ESG reporting or a lot of each, there is something you can be doing today to make progress toward your ESG reporting goals. Here are recommendations from Advisory Board Members about things you can get started on today. Bolder and larger font indicates those actions prioritized by greater numbers of advisory board members.

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References

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