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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Key Trends Shaping ESG And Sustainability Law In 2026

By **Juge Gregg, Elizabeth Dawson and Olivia Venus** (January 5, 2026, 3:56 PM EST)

Juge Gregg

Elizabeth Dawson

Olivia Venus

2026 promises to be an eventful year for legal developments in the environmental, social and governance area, and around sustainability.

While 2025 saw a chaotic regulatory landscape and novel litigation advancing as-yet-untested theories, this year should be a bit more predictable — if no less challenging.

Companies should expect a continued uptick in litigation, from greenwashing class actions to state-led consumer protection litigation.

And a fracturing regulatory environment — a tug-of-war between federal and state governments in the U.S., alongside European Union internal indecision — will continue to complicate compliance for global companies.

Greenwashing Risk Shifting From Regulation to Litigation

Where We Are

For at least the last decade, companies have faced increasing legal risks from both governmental enforcement and private litigation concerning "greenwashing" — exaggerations or misleading claims about the environmental benefits of products or corporate practices.

While there were recent efforts on both sides of the Atlantic to stiffen greenwashing regulations — an update to the Federal Trade Commission's Green Guides and a draft EU Green Claims Directive — those efforts have stalled.

On the other hand, consumer-focused litigation is increasing. Recently, companies in the technology, food, fashion, airline and other industries have faced class action litigation alleging greenwashing for a variety of claims, from carbon neutrality to green product labels.

In addition, state attorneys general have actively pursued greenwashing claims, particularly in New York and California.

For example, in November, New York settled a lawsuit against JBS USA Food Co. regarding net-zero claims.[1] And in October, California filed the latest in a series of actions regarding plastics and recyclability claims, suing Novolex Holdings LLC, Inteplast Group Corp. and Mettler Packaging LLC.[2]

The EU and the U.K. have specifically targeted the fashion and airline industries. For example, in November, the European Commission announced a settlement with 21 airlines to limit climate-related claims.[3] And in August, Italy imposed a fine on fast-fashion retailer Shein, asserting the company made misleading environmental claims.[4]

What to Watch for in 2026

Shifts in U.S. policy at the federal level have not been a barrier to growth in this litigation, and that is unlikely to change. Enforcement actions from already active states are unlikely to abate, and such actions may even increase overall with new Democratic administrations in states like Virginia and New Jersey.

Meanwhile, the U.K. and the EU show no signs of slowing their greenwashing enforcement actions. Additionally, we expect class action litigation to continue growing in popularity, including both high-profile lawsuits against multinationals and copy-and-paste lawsuits against smaller companies across more industries.

Expanding Impacts From Antitrust and Consumer Protection Enforcement Targeting ESG Efforts

Where We Are

State attorneys general have been wielding their broad consumer protection investigation and litigation authorities to push back against activity in the sustainability space, particularly ESG-related investing and standard-setting.

This includes Texas v. BlackRock Inc., a multistate lawsuit against asset managers in the U.S. District Court for the Eastern District of Texas alleging a conspiracy to reduce coal outputs in service of climate-related goals.[5]

And it includes investigations and litigation into recommendations from proxy firms Institutional Shareholder Services Inc. and Glass Lewis & Co. LLC regarding ESG-aligned voting.[6] The FTC has also taken an interest in the latter.[7]

Beyond ESG investing, some states are alleging coordinated setting of sustainability standards may unlawfully create competitive disadvantages — including plastic-waste reduction initiatives by the Consumer Goods Forum, the Green Blue Institute and the U.S. Plastics Pact.[8]

What to Watch for in 2026

Alongside the continuation of already-launched investigations, 2026 will likely see expansion of consumer protection and antitrust investigation and litigation as a means of targeting ESG efforts more broadly.

The theories being tested, and garnering some degree of success thus far, in the lawsuits filed in 2025 will undoubtedly embolden follow-on activity in 2026.

Difficulty Navigating Regulatory Crosscurrents Across Jurisdictions

Where We Are

The EU adopted an ambitious European Green Deal in 2019, a sweeping set of initiatives intended to transform Europe's economy, energy, transport and industries for a more sustainable future.[9]

However, during 2025, the EU took significant steps to delay and simplify the requirements of multiple Green Deal initiatives, while also scaling back the number of companies affected.[10]

These initiatives include ones addressing ESG disclosures (the Corporate Sustainability Reporting Directive),[11] human rights and environmental due diligence (the Corporate Sustainability Due Diligence Directive),[12] carbon fees (the Carbon Border Adjustment Mechanism)[13] and anti-deforestation efforts (the EU Deforestation Regulation).[14]

Meanwhile, the U.S. regulatory environment has become increasingly fragmented on ESG, with federal climate disclosure mandates halted while state-level requirements move forward.

The U.S. Securities and Exchange Commission's climate-related disclosure rule was paused following legal challenge, and is likely to be reversed under current leadership.[15] While federal enforcement has decreased under the Trump administration, Congress has continued introducing bills intended to regulate ESG investment practices.[16]

At the state level, ESG policies continue diverging. California is the most aggressive, with landmark climate disclosure laws requiring greenhouse gas emissions and climate-related financial risk disclosures set to affect global business beginning in 2026.[17]

Setbacks in implementation, however, are already occurring, including the U.S. Court of Appeals for the Ninth Circuit's preliminary injunction in November against enforcement of California's requirement to disclose climate-related financial risks, in Chamber of Commerce of the USA v. Randolph.[18]

By contrast, other states are moving in the opposite direction, having enacted anti-ESG legislation, including restricting financial institutions' use of ESG considerations.[19] While these state laws may affect narrow sectors, they demonstrate a broader trend of anti-ESG activity at the state level.

What to Watch for in 2026

The interplay of federal inaction, inconsistent state-level activity and evolving European mandates will likely create a complex — and therefore more costly — compliance matrix in 2026.

Companies should expect continued regulatory uncertainty — and occasional whiplash — from this constantly evolving landscape.

Companies Grappling With Major Carbon Commitments

Where We Are

The popularity of bold corporate net-zero commitments has recently been tempered by realistic evaluations of the economywide changes needed to achieve those goals, with some companies reworking the scope and time frames of those commitments.

We expect this trend to continue in 2026, as more companies set targets for at least Scope 1 and Scope 2 emissions.

The continuing shift of net-zero commitments from aspirational to science-based is ushering in a wave of more pragmatic, transparent commitments characterized by clearly defined milestones and implementation pathways, and short- and medium-term targets backed by science and data.

What to Watch for in 2026

In 2026, expect many new net-zero and other carbon reduction commitments to be more carefully tailored and therefore more achievable, with clearer outlines of how each goal will be achieved.

Commitments will also be influenced by new or revised voluntary standards from organizations like the International Organization for Standardization, which plans to release new standards for developing a net-zero strategy in 2026.[20]

A Not-So-Straightforward Path Toward the Circular Economy

Where We Are

The EU's draft Circular Economy Act is set to be published in 2026, establishing restrictions to create a market for secondary raw materials and improve recycling.[21] The act looks set to include regulations on packaging waste, battery recycling and vehicle parts, among other things.[22]

Extended producer responsibility, or EPR, requirements are another circular-economy effort growing in popularity as U.S. states and Canadian provinces pass recycling requirements for packaging and place the responsibility on the producer or retailer.[23]

The EU has similarly imposed EPR requirements, aiming to reduce environmental impacts from waste and reduce single-use plastics.[24] Industry pushback has been significant on certain EU EPR schemes, including via litigation.

Nevertheless, an EPR scheme in Slovenia was upheld as compliant with EU law against a challenge from waste management company Interzero and others.[25]

What to Watch for in 2026

In 2026, expect U.S. state-level EPR regulation to continue its growth, likely without any input at the federal level. Additionally, EU enforcement is likely to increase in 2026, following the outcome of several high-profile cases.

The move toward the circular economy is not likely to slow, and fractured EPR regulatory requirements will continue to complicate compliance for global companies.

Growing Supply Chain Pressures and Due Diligence

Where We Are

Pressure to engage in supply chain ESG risk management has been increasing for several years. Both regulations and investor concerns are driving this push, as companies rush to adapt.

The EU's Corporate Sustainability Due Diligence Directive, while recently revised, requires deeper scrutiny of upstream and downstream supply chain activities, mandating that companies prevent negative impacts on the environment and human rights.[26]

EU member states are also preparing for implementation of the new Forced Labor Regulation, which became effective in December 2024 and will apply in full starting Dec. 13, 2027.[27]

In the U.S., enforcement under the Uyghur Forced Labor Prevention Act and the U.S. Customs and Border Protection's withhold release orders continues to intensify.[28] Uyghur Forced Labor Prevention Act enforcement is now reaching a broader set of industries, and its geographic focus extends well beyond China.

Similarly, recent CBP withhold release order activity has targeted regions such as Central America and Africa, signaling an increasingly global enforcement approach.

Across jurisdictions, governments are becoming more sophisticated in their enforcement strategies, including partnering with private sector technology providers.[29] The U.S. has also been incorporating forced labor cooperation provisions into its trade agreements.[30]

What to Watch for in 2026

Robust screening has emerged as a key solution to supply chain ESG concerns.[31] It will only be more crucial in 2026, as companies grapple with new enforcement tools and the expanded geographical reach of forced labor requirements.

With U.S. trade negotiations continuing on a number of fronts, and supply chain issues top of mind in areas such as critical minerals, companies will need to stay vigilant and nimble to keep abreast of all the moving pieces.

Conclusion

Weaving together the threads discussed above reveals a continually growing blanket of concerns being raised by a range of stakeholders — including regulators, consumers and investors — regarding corporate sustainability activities on subjects as diverse as GHG emissions and forced labor in the supply chain, with a particular uptick in plastics-related issues.

Efforts to target those concerns come in many forms, from public and private litigation to mandatory disclosure requirements to voluntary industry standardization.

At the same time, pushback against ESG and sustainability shows no signs of stopping — meaning companies must reconcile these opposing forces while still advancing their underlying corporate goals. This is no easy feat.

As companies grapple with the changing ESG landscape for 2026, they must ensure that they are not only looking around corners at what's next, but are ready to respond to expected and unexpected developments as they arise.

Juge Gregg and Elizabeth Dawson are partners, and Olivia Venus is an associate, at Crowell & Moring LLP.

Crowell senior counsel Marcus Navin-Jones contributed to this article.

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