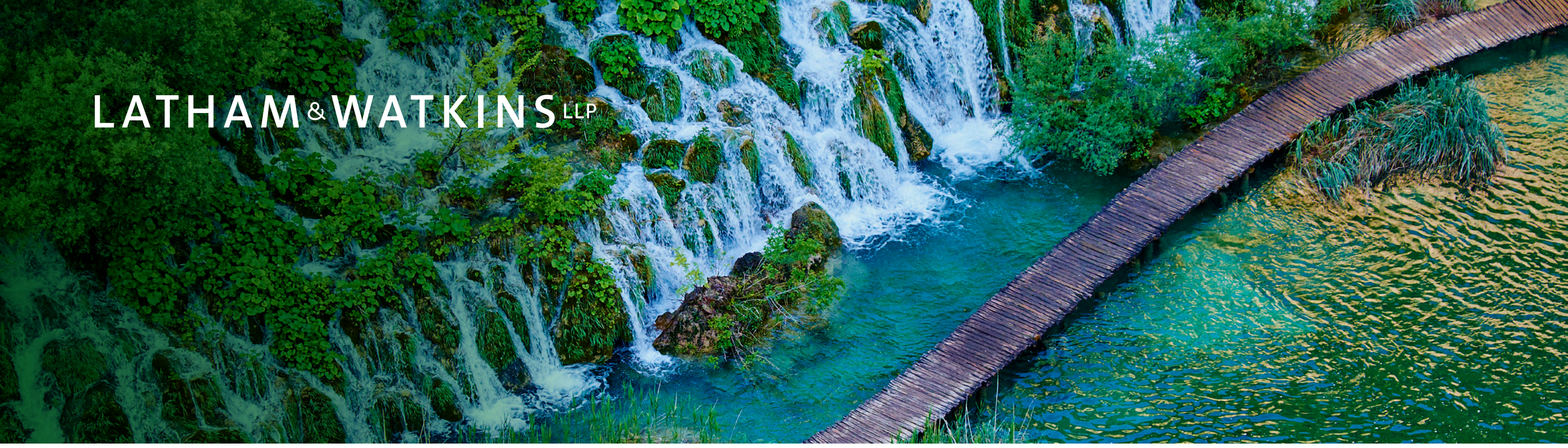

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ESG and Sustainability Insights: 10 Things That Should Be Top of Mind in 2026

This year we expect ESG/sustainability to be influenced by several macro trends, including technology, geopolitics, and capital markets.

Sustainability, ESG, and related terms like responsible investment (throughout, we will refer to ESG/sustainability) are fundamentally about understanding an entity's business model and how an entity oversees material business risks and opportunities over time. Such factors may inform investment or capital allocation, consumer preferences, or similar decision-making.

In 2026, we expect that business and legal leaders who successfully disentangle and separate economic, political, and legal risk with a clear strategic focus will be best able to capitalize on ESG/sustainability imperatives.

Interest rates are expected to fall across many key markets, which will likely lead to an active IPO and M&A market. Investors are expected to continue to consume and rely on ESG/sustainability data as part of their investment decision-making pre- and post-IPO and acquisitions.

In the world of private capital, ESG/sustainability is hardwired into the investment process, whether in raising funds aligned with the EU's Sustainable Finance Disclosure Regulation (SFDR) or more generally to access LP capital or deploy capital in the acquisition of assets or provision of credit. Specifically, given the current trends of buy-and-build deals and carveout transactions, targets can have a different risk culture from the buyer, which makes ESG/sustainability diligence especially important for both valuation and integration purposes.

A new generation of AI tools is helping to shed light on what are challenging ESG/sustainability diligence topics like child labor, human rights violations, and other critical social factors that can degrade valuation as well as investor and customer trust. We expect increased AI use by buyers and investors to deepen their understanding of companies' business models and risk, including through the value chain.

Geopolitics continue to have a significant influence on financial markets. Several countries will hold elections in 2026, including the US, South America (Brazil and Peru), and Israel. In the US, the political balance of Congress will have important implications for ESG/sustainability, and at the state level, various gubernatorial elections could shape the ESG/sustainability space and debate.

Given this context, we have once again set out to assess what we foresee as the 10 substantive legal trends in ESG/sustainability that emerge from these macro trends. In short, we expect top businesses and legal departments will continue to need to adopt creative and strategic problem-solving regarding ESG/sustainability matters in response to shifting uncertainty.

1. Global ESG/Sustainability Reporting Steps Up, but Interoperability Issues Remain

Some 40 jurisdictions have decided to use, or are moving to incorporate, the International Sustainability Standards Board (ISSB) standards into their regulatory frameworks, covering nearly 60% of global GDP (according to the ISSB in November 2025). The upward trajectory since the inaugural ISSB standards were published in 2022 has been one of steady momentum. The ISSB intends the standards to serve as a global baseline, helping companies navigate the global reporting landscape. For instance, California's Climate-Related Financial Risk Act (SB 261) specifically references and provides equivalence to ISSB standards as a form of regulatory compliance.

Nonetheless, material differences persist in national implementation as a result of timing, phase-ins, scope of application (often limited to listed entities), and local regulatory expectations. The split between mandatory and voluntary use of the ISSB standards is also significant.

The Asia-Pacific region demonstrates this balance of convergence and divergence. The region has shown notable uptake in shifting from voluntary to mandatory disclosures. In-scope entities in several jurisdictions, including Australia, Hong Kong, Malaysia, and Singapore, are scheduled to issue their first ISSB-aligned reports in 2026, mostly starting with the largest listed companies (although Australia's reporting also extends to large private companies). In 2025, Singapore announced a delay for most listed companies in respect of ISSB-based climate disclosures, following feedback that smaller listed issuers required additional time to prepare. Given this decision, we will watch to see if Singapore's regulatory stance has an impact on the reporting timeline for other jurisdictions. Separately, South Korea is proposing an ambitious ESG/sustainability reporting and due diligence agenda.

Global alignment around the ISSB standards is advancing, but the path to a high level of convergence will be gradual and uneven. Companies should plan for jurisdiction-specific timelines, phased scoping mechanisms, and evolving supervisory expectations, while leveraging the ISSB baseline. The expanding regulatory dialogue on interoperability is encouraging. However, without true interoperability, companies operating across borders will need to manage a hybrid environment that combines a global baseline with local overlays.

2. US Federal, State, and Local Outlook

The inauguration of President Trump on January 20, 2025, heralded a year of marked change in the policy, regulatory, and enforcement environment.

From day one, the administration reversed course on US energy and environmental policy, with the president issuing a suite of executive orders that prioritized domestic production of traditional energy sources. The administration's marquee piece of legislation, the One Big Beautiful Bill Act, which became law in July 2025, scaled back clean energy tax incentives put forward under the Inflation Reduction Act of 2022. At the same time, many states are pressing ahead with countervailing measures, as we discuss in more detail below. Businesses will need to take a dynamic approach amid diverging federal and state regimes in 2026.

In 2025, covered entities closely monitored developments regarding California's Climate Corporate Data Accountability Act (SB 253) and Climate-Related Financial Risk Act (SB 261), each as amended by SB 219. These laws represent key climate change disclosure requirements in the US, though they have been subject to litigation since January 2024. On November 18, 2025, the US Court of Appeals for the Ninth Circuit granted an injunction pending appeal, halting enforcement of SB 261 — but not SB 253.

In response, the California Air Resources Board (CARB) published an Enforcement Advisory to clarify its stance, and oral arguments are slated for January 9, 2026. In parallel, CARB continues to work toward finalizing its implementing regulations. Nonetheless, we are seeing companies voluntarily post their California climate disclosure reports despite the injunction on enforcement.

On December 11, 2025, President Trump issued an executive order titled "Protecting American Investors From Foreign-Owned and Politically-Motivated Proxy Advisors," directing the Department of Labor (DOL), Federal Trade Commission (FTC), and Securities and Exchange Commission (SEC) to take specific actions, which we may expect in the coming year.

The executive order follows recent actions by Florida and Texas aimed at proxy advisor practices, amid escalating scrutiny from Republican officials regarding proxy advisors' influence over companies. This scrutiny is part of a broader trend, with, for example, state attorneys general alleging that net zero memberships or other climate commitments may run afoul of antitrust rules.

We expect the debate over antitrust violations, consumer harm, and fiduciary duty to continue in 2026. More broadly, we also expect asset managers, as well as LPs, to continue to refine and develop their approaches in response to the evolving landscape.

Under the Trump administration, we have also seen a resurgence in federal attention on "debanking," addressing what the administration considers significant harm to individuals and businesses that have restricted banking services access allegedly "on the basis of political or religious beliefs or lawful business activities." This resurgence includes the August 2025 executive order "Guaranteeing Fair Banking for All Americans" and a variety of actions taken by prudential financial regulators.

3. EU "Simplification" Initiatives and Omnibus Proposals

The European Commission's "simplification agenda" was a defining theme of the ESG/sustainability landscape in 2025, starting with publication of the Sustainability Omnibus in February 2025. The Sustainability Omnibus seeks to streamline overlapping obligations and reduce compliance costs across core EU ESG/sustainability frameworks, including the Corporate Sustainability Reporting Directive (CSRD), the EU Taxonomy, and the Corporate Sustainability Due Diligence Directive (CSDDD).

In practice, however, the path to simplification has been anything but simple. Political fault lines among Member States and within the European Parliament — including divergent views on the scope of standards, the treatment of climate transition plans, and the extraterritorial reach of EU requirements — led to procedural delays and ambiguity over the scope and content of forthcoming obligations. For many companies, this complicated resource planning led to ambiguity across aspects of reporting, due diligence, and product regimes.

Following finalization of the Sustainability Omnibus in late 2025, this year will likely mark a shift from new rulemaking toward implementation and supervisory convergence, with the European Commission expected to issue targeted guidance to assist companies regarding implementation. Companies will need to closely monitor how the Sustainability Omnibus has reframed compliance interactions across ESG/sustainability reporting (including human rights and environmental due diligence).

Looking ahead, the European Commission's stated direction of travel regarding ESG/sustainability frameworks focuses on three aspects:

- competitiveness, including reducing burdens for companies (primarily SMEs);
- digital infrastructure for ESG/sustainability data, with enhanced access to machine-readable information to reduce duplication and enable proportionate supervision; and
- external alignment with international frameworks to increase interoperability for cross-border value chains, while preserving core EU concepts such as double materiality and transition finance.

The European Commission published several other Omnibus proposals in 2025, including a Chemicals Omnibus and Environmental Omnibus. The Chemicals Omnibus, published in July 2025, intends to cut compliance costs for the chemical industry through simplification of core chemicals rules. The Environmental Omnibus, published in December 2025, intends to simplify environmental legislation across industrial emissions, circular economy, environmental assessments, and geospatial data. These Omnibus proposals will be submitted to the European Parliament and the Council for adoption, with details on timing to be determined.

A further development expected in 2026 is the adoption of the Circular Economy Act, which aims to establish a single market for secondary raw materials, increase the supply of high-quality recycled materials, and stimulate demand for these materials in the EU.

In short, while the simplification agenda has in some respects created near-term complexity, many of the core ESG/sustainability frameworks that underpin the Green Deal remain intact. Companies will want to consider how the changing thresholds impact application and whether any of the existing work can be redeployed for the revised regulatory positions.

For more information, refer to our EU Sustainability: State of Play article series, which covers the Sustainability Omnibus, competition, product-related frameworks, and more.

4. Supply Chains and the Increasing Link Between Trade and ESG/Sustainability and EPR

Across major markets, ESG/sustainability regulation is increasingly setting the terms of market access. A range of politicians and businesses globally have alleged that some of these regulations constitute non-tariff trade barriers. Certainly, expanding due diligence, traceability, and import-compliance requirements are fundamentally influencing and reshaping sourcing choices and logistics globally, and these developing regimes may become defining features of cross-border trade.

In August 2025, the Trump administration issued the 2025 UFLPA Strategy, which further expanded the requirements of the Uyghur Forced Labor Prevention Act (UFLPA). The UFLPA operates on a rebuttable presumption that goods from Xinjiang, China — or certain designated entities that have been determined by the US to be connected to Xinjiang or the use of Uyghur labor — are produced with forced labor, unless importers provide "clear and convincing" evidence to the contrary. Also in 2025, the UFLPA led to increased detention of goods at the US border and heightened documentation expectations. We expect this activity to further increase in 2026, given the state of geopolitics and the fact that the high-priority list of products has been expanded to cover additional inputs such as caustic soda, which is used across chemicals and textiles production.

The EU Deforestation Regulation (EUDR), now set to apply from December 30, 2026, for large- and medium-sized operators, was a key topic of discussion in 2025. The EUDR requires operators to prove that covered commodities (cattle, wood, cocoa, soy, palm oil, coffee, and rubber) and certain of their downstream derivative products are deforestation-free before entering the EU. Certain industry groups and stakeholders have explicitly labeled the EUDR a non-tariff trade barrier, which has led to multiple delays in the application date (which was initially December 30, 2024), and a simplification and reduction of the obligations on in-scope companies. This year will likely be when this regulation gets its final form and businesses get clarity on how to prepare for deforestation-related supply chain due diligence requirements in relation to EU imports and exports of covered products.

Starting January 1, 2026, the EU's Carbon Border Adjustment Mechanism (EU CBAM) moves from its transitional period into the definitive application phase. Under the EU CBAM, charges are placed on certain imports of carbon-intensive goods into the EU, including steel, cement, aluminum, and fertilizers (although payments will not be due until 2027). These import charges will track the EU ETS carbon price and are aimed to prevent EU production from shifting to jurisdictions with weaker carbon constraints (referred to as "carbon leakage").

The EU CBAM remains a focal point in global climate-trade discussions. Despite repeated reports from the European Commission that the EU CBAM is not a tax or tariff measure, certain global stakeholders (including the US) have alleged that the EU CBAM is discriminatory and in violation of World Trade Organization rules. In August 2025, the EU and the US signed a joint statement on trade, which promised "additional flexibilities" on EU CBAM implementation, specifically addressing concerns from the US. Concomitantly, the EU introduced amendments to the EU CBAM that would exempt 91% of businesses, while stating that this would keep 99% of emissions in scope of the regime. The EU CBAM continues to develop, with December 2025 seeing the introduction of secondary legislation by the European Commission in relation to a number of considerations, including the expansion of scope and the calculation of emissions. With the start of the definitive application phase, it will be noteworthy to see how the regime is implemented in practice and further updated in 2026.

Finally, Extended Producer Responsibility (EPR) is a growing trend in certain jurisdictions (e.g., US states, EU level), shifting costs and responsibility for managing products at the end of their life cycle away from municipalities to businesses. Laws implementing EPR may apply across numerous product categories, such as electronics, batteries, textiles, pharmaceuticals, or packaging. EPR involves costs and other obligations for in-scope entities, which may include manufacturers as well as retailers or importers.

5. Governance and Ethics: AI Deployment and Defense Investment

Artificial intelligence (AI) is increasingly central to ESG/sustainability strategies, from data collection and analysis to reporting. As adoption continues to scale, we expect governance and ethics issues to move to the foreground.

ESG/sustainability implications include algorithmic bias, risk management, and privacy protection, which supplement the call for coherent, interoperable frameworks. Policymakers will therefore need to strike a careful balance between innovation and fairness.

Looking ahead, companies are likely to face increasing ethical and regulatory pressure to address AI's impacts on people. Those issues, such as bias and discrimination, should be managed through effective governance and use policies. AI due diligence is also gaining traction in procurement processes, with UN guidance emphasizing transparency and consideration of prohibitions on high-risk uses. Greater and more widespread use of AI will likely only increase such pressures.

Governance and ethics will also be important in relation to defense investment. In Europe, policy signals such as the European Commission's Defence Readiness 2030 Roadmap and the ReArm Europe Plan (designed to accommodate materially higher defense investment) heighten the imperative for robust governance to ensure that funds are used transparently, with credible controls on procurement integrity.

In 2025, the UK published the Strategic Defence Review, followed by the Defence Industrial Strategy (DIS), with objectives to drive growth, support net zero, and strengthen economic security and resilience. The DIS frames defense as an "engine for growth" and highlights the need for procurement transformation and resilient supply-chain governance. In 2026, the UK is expected to develop a new Defence Finance and Investment Strategy in order to provide recommendations on how to remove barriers to investment. Notably for governance and ethics considerations, the review will consider "defence's perception as an 'unethical investment' and what can be done to change this," alongside private market finance barriers, alternative funding models, and other topics.

In the US, AI dominance is and will continue to be central to the federal administration's policies. From a regulatory perspective, businesses will need to stay abreast of whether federal regulations, policies, and programs will effectively override state laws and policies. Businesses will also want to consider how they can develop malleable and leading programs that can pivot depending on how the policy landscape unfolds. From a litigation perspective, the US Attorney General has been directed to establish an AI Litigation Task Force to challenge state AI laws. In addition, the US Secretary of Commerce has been directed to publish a review of state AI laws deemed to be onerous or in conflict with federal policy.

We expect that ESG/sustainability will remain a core business strategy for companies in the AI ecosystem from an ethical, as well as an energy and water use, standpoint. With the drive to build more and more data centers, companies will need to marry their legal, policy, and governmental affairs, as well as their communications functions, to best justify their business models, obtain necessary permits, and maintain their license to operate in the host communities for the long term.

6. Energy Transition, Energy Demand, and New Technologies

Over the past few years, the energy landscape has been reshaped by significant renewable additions, accelerating electrification and digitalization, and a significant change in policy support for decarbonization. This has resulted in emerging technologies, including wider deployment pathways for carbon capture, utilization, and storage (CCUS) and advanced grid-balancing solutions, moving from pilot to scale. At the same time, the transition has encountered significant challenges relating to costs, permitting timelines, domestic content rules, and supply-chain considerations, as well as regulatory pullback in certain jurisdictions.

In the US, there have been policy and legal reversals, such as the administration's signature One Big Beautiful Bill Act, which have resulted in a significant reduction in projected future renewables capacity and a resulting delay in carbon emissions reduction. However, this is not the end of the story globally. China, for instance, continues to build significant renewable capacity, and globally, solar and wind growth outpaced overall electricity demand growth in the first half of 2025. Likewise, the EU continues to pursue an industrial decarbonization agenda, anchored in large-scale public funding and increasingly prescriptive regulatory frameworks, with a focus on clean-tech manufacturing and resilience of critical value chains.

Amid ongoing geopolitical tensions and trade disputes, jurisdictions are redefining energy policy with the intention of strengthening energy security and domestic value chains. Looking ahead, countries may continue to prioritize energy security over global trade and ESG/sustainability priorities.

A prominent 2025–2030 trend is the rapid growth of electricity demand from data centers and AI workloads. While projections vary widely, independent outlooks suggest a sizable share of incremental demand over the next five years will be attributable to digital infrastructure. We expect AI and the use of data centers to remain a major consideration in the energy market going forward. As energy security and industrial strategy increasingly shape policy, the challenge will be to maintain momentum on decarbonization while ensuring dependable, affordable power through a period of unusually rapid demand growth from AI.

7. ESG/Sustainability Litigation Continues

ESG/sustainability-related litigation continues to evolve, with claimants utilizing different pathways to challenge government policy and corporate conduct.

In July 2025, the International Court of Justice (ICJ) delivered its advisory opinion "on the obligations of States in respect of climate change." The ICJ opinion stated that States have binding obligations under international law to "ensure the protection of the climate system" regarding greenhouse gas emissions for present and future generations. It also stated that States should regulate private actors to limit emissions. While not legally binding, the opinion has been seen as a significant development that could influence climate action going forward. In particular, the opinion is likely to influence legal strategies for NGOs. Further, recognition of national courts (particularly, Germany) of the potential for climate change cases could prove important in future litigation.

In 2025, we saw recognition from national courts that, in principle, a private company could be liable for its proportional contribution to climate-related harm, and may be obliged to fund preventive measures, even in cross-border settings and even before actual damage materializes. Looking forward, determining liability for climate-related claims will continue to be a complex topic, but similar outcomes in national courts may inform future "polluter pays" type of suits. Further, as attribution science advances, multinational companies may face increasing exposure to claims tied to historic emissions, regardless of where those emissions originated or where the company operates.

Human rights violations also continue to be a focal point of ESG/sustainability litigation, with 2025 seeing high-profile decisions that underscored the scale of potential financial exposure and the impact of cross-border claims involving value chains, alongside significant reputational consequences for defendants. Looking forward, we expect claimants to continue to test the boundaries of human rights enforcement avenues against companies through collective actions and value-chain liability.

8. Greenwashing

This year, soft guidance in relation to greenwashing and consumer protection is likely to crystalize into binding, enforceable rules across multiple jurisdictions. Notably, starting September 27, 2026, the EU's Empowering Consumers for the Green Transition Directive (Green Transition Directive) begins application. In practice, this means a ban on (i) generic green claims (e.g., "sustainable," "eco-friendly") that are unsubstantiated, (ii) a restriction on future-performance claims, unless they are backed by clear, verifiable commitments and an implementation plan, and (iii) prohibition of ESG/sustainability labels that are not grounded in approved certification schemes.

Alongside this, the status of the EU Green Claims Directive, which reinforces the EU anti-greenwashing consumer protection framework, remains uncertain. Reports in 2025 indicated the European Commission's intention to withdraw it, but no formal outcome has been confirmed. The proposed Green Claims Directive included the requirement for companies to have information verified by an independent third party before making an environmental claim, a principle called "ex-ante" verification. According to the EPP (the largest party in the European Parliament), this requirement was difficult to reconcile with the objectives of competitiveness and administrative simplification.

We also expect scrutiny to broaden from climate to nature. For example, biodiversity-linked claims like "nature-positive" and "deforestation-free" may be important to monitor as nature-related reporting frameworks evolve. This is alongside developing mechanisms for nature-focused reporting and nature-related credits as discussed below.

We are seeing developing enforcement mechanisms and powers. In the UK, the Digital Markets, Competition and Consumers (DMCC) Act gives the Competition and Markets Authority (CMA) direct powers to impose fines (up to 10% of global turnover) for consumer law breaches. While not limited to ESG matters, such breaches could include misleading green claims. We saw the first example of these direct enforcement practices in November 2025 (for the first time since the DMCC came into force in April 2025), with the CMA launching actions against eight major UK companies.

Further, in Canada, Competition Act amendments strengthen tools for environmental claims, including higher substantiation expectations and greater remedial powers. Within the EU, the CPC Network and national authorities are likely to intensify their scrutiny of green claims as the Green Transition Directive takes effect. Regulators like the UK Advertising Standards Agency are now using AI to screen high volumes of adverts and claims, increasing the chance that claims are tested and reducing the time between publication and potential challenge.

Financial services will remain in focus. The EU's "SFDR 2.0" proposals have set out potential reforms to product categories, use of ESG/sustainability-related terms in fund names, and disclosure content and format. This year, we can expect impacts on labeling, naming, and pre-contractual and periodic disclosures, alongside ESMA guidance on ESG/sustainability-related fund names.

Further, we have seen B2B disputes emerge as a growing trend in greenwashing claims. Competitors may challenge claims made in advertising and communications on the basis that such claims can mislead consumers and distort competition. National courts have begun to acknowledge this trajectory, including potential future increase in legal scrutiny over green claims that could be brought under competition-related legislation. Beyond consumer protection, greenwashing instances could also harm companies offering genuinely lower-impact products, reinforcing the rationale for B2B actions and oversight.

In 2026, these developments in enforcement mechanisms could risk the rise of "greenhushing" as companies could downplay legitimate initiatives to reduce risk. We will be monitoring the national transitions of the Green Transition Directive, alongside developments in SFDR reform and enforcement activity.

9. Carbon Markets Following COP30

Carbon markets featured prominently at COP30, which took place in Belém, Brazil, in November 2025. A focus of COP30 was the move from "negotiation to implementation," and parties built on the Paris Agreement Article 6 framework concluded at COP29 in Baku, Azerbaijan, looking to further details of scaling "high integrity" carbon markets. Article 6 sets out a framework for the first UN-related carbon market, allowing for multilateral cooperation on carbon trading. Specifically, Article 6.2 enables bilateral transfers of mitigation outcomes between countries, and Article 6.4 creates a UN-supervised crediting mechanism.

Negotiations at COP30 made incremental progress on Article 6.2 and Article 6.4, including steps to finance the Article 6.4 transition from the Clean Development Mechanism (CDM) (the Kyoto Protocol's carbon crediting system, which will cease operations by the end of 2026). However, certain technically complex and politically sensitive issues were deferred. Notably, issues relating to permanence, reversal risk, and leakage (central to nature-based and forestry removals, and salient given COP30's Amazon setting) remain unresolved. These questions will occupy negotiators and market participants throughout 2026.

On the finance side, Brazil's Tropical Forests Forever Facility proposes performance-based, satellite-verified payments to tropical forest nations, with earmarks for indigenous peoples and local communities. While initial pledges are well below the stated ambition level, the architecture signals a pivot from project-by-project to jurisdictional conservation incentives. In parallel, the Baku-to-Belém roadmap seeks to mobilize up to $1.3 trillion in climate finance for developing countries by 2035. Carbon markets are expected to play a pivotal role in scaling climate finance, in particular in emerging markets.

This year, we expect a focus on building supply and integrity under Article 6 as demand rises from countries updating their Nationally Determined Contributions. Priorities are likely to include operationalizing the Article 6.4 registry and methodologies, completing the CDM wind-down by the end of 2026, and converging on durable, workable rules for permanence, reversals, and leakage.

10. Nature: Deforestation and Biodiversity

Nature, biodiversity, and deforestation remained central to the ESG/sustainability agenda in 2025 and will continue to shape this landscape in 2026. Momentum behind disclosure accelerated in 2025, with rapid uptake of the Taskforce on Nature-related Financial Disclosures (TNFD) recommendations. Looking forward, the ISSB has now confirmed it will develop a global investor-focused standard on nature (drawing on the TNFD recommendations), with an Exposure Draft intended by October 2026, signaling that nature-related risks, impacts, and opportunities have the potential to impact corporate reporting in the future.

The EU Nature Restoration Law entered into force in 2025. The European Commission also launched a roadmap toward a regulated market for nature credits and committed to dedicate 10% of its budget to supporting actions and investments that address biodiversity “protection and restoration” in 2026 and 2027. This year, we expect more insight into criteria and methodologies for nature credit markets.

In short, 2026 will see further developments in nature-related disclosures with the ISSB standard and the development of market infrastructure for nature-related credits. In-scope companies will be preparing for the delayed EUDR to come into effect at the end of 2026 (if there are no further application delays). While reporting in relation to nature-related issues continues to move forward, with the increased understanding of the importance of nature and biodiversity-related issues, complexities in regulation and pushback from companies means progress is not linear.

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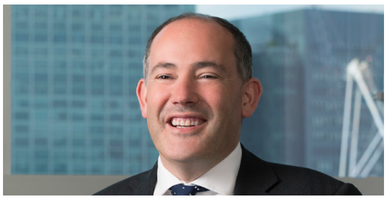

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