Navigating the future of sustainability and ESG

An overview of key trends impacting global businesses and insurers in 2025

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Foreword

As we look ahead to 2025, organisations must **assess the implications of shifting sustainability and environmental, social, and governance (ESG) priorities** amidst a global polycrisis – where complex geopolitical, environmental and social risks intertwine.

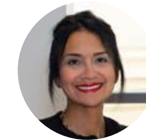
Whilst 2024 was a landmark year for companies to embed corporate sustainability practices within their governance frameworks, 2025 is expected to bring new challenges and opportunities as regulatory frameworks globally continue to advance, and appetite for litigation in the ESG and sustainability space remains high.

Other new complexities are also emerging, including a new US administration and evolving geopolitical risks that could impact the pace and direction of the sustainability agenda.

This report provides a high level overview of the legal and regulatory trends expected to reshape how the insurance industry and global businesses approach sustainability and climate resilience.

We offer this overview with reference to four key focus areas that are central to the sustainability discourse, and which are set to frame corporate risk management strategies in 2025 and beyond:

- **Artificial intelligence and technology integration**
- **Climate resilience and adaptation**
- **Biodiversity**
- **Supply chain due diligence**



Safine Hadri
Partner

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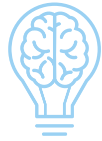
Key takeaways

These trends will expose companies and their insurers to **a broad range of risks.**

Key risks across all trends include regulatory and enforcement challenges, operational and compliance costs, potential contractual penalties, and regulatory fines.

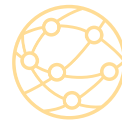
Data quality, data protection and cybersecurity risks may also arise for companies adopting AI and other technologies as part of their decarbonisation and sustainability reporting efforts.

This complex regulatory environment means **that the risk of litigation, and potential reputational damage, also remains prevalent**. Taking action to mitigate these interconnected risks is critical for maintaining business resilience.



Artificial intelligence (AI) and technology integration

AI and other technologies will be increasingly adopted to drive decarbonisation efforts and efficiency with sustainability reporting requirements and disclosures, enabling real-time data analysis to drive sustainable outcomes.

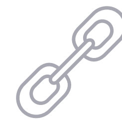


Climate resilience and adaptation

The acceleration and escalation of more severe extreme weather events is expected to lead to further global laws and regulations as well as market-driven demands to combat the impacts of climate change, creating an increasingly complex regulatory landscape for businesses to navigate.

Biodiversity

Amid extreme weather events and biodiversity decline, there is growing pressure on businesses to transition to regenerative practices to protect natural ecosystems and reduce climate damage, whilst future-proofing their own business operations.



Supply chain due diligence

As companies (including insurers) continue to face pressure from a range of stakeholders to enforce ethics and sustainability, requirements around supply chain sustainability and transparency in general are increasing, with companies obliged to disclose information on the environmental and social impacts across their value chains.

AI and technology integration

AI and technology are increasingly becoming integral to companies' decarbonisation efforts and sustainability reporting procedures. A recent survey conducted by Boston Consultancy Group revealed that **more than half of respondents globally have found that AI has had a significant impact on their decarbonisation efforts**, including emissions measurements and reporting.

AI's automation of data aggregation from multiple sources provides stakeholders and regulators with reliable, detailed insights into a company's environmental impact and progress, supporting companies and shareholders to make informed, accountable decisions toward achieving their carbon reduction and sustainability goals.

As these technologies continue to improve and add value, they are expected to play a significant role in delivering companies' sustainability related priorities in 2025.

AI and decarbonisation

Since the 2015 Paris Agreement, decarbonisation remains a priority for businesses across all sectors, with AI and technology integration playing an increasingly crucial role in the drive to meet net zero targets and tackle climate change.

A joint report by Adnoc, Masdar and Microsoft published on 30 October 2024, which surveyed more than 400 global leaders across several sectors including technology, energy and finance, pledged that AI is set to revolutionise the energy sector, significantly reducing emissions and boosting efficiency.

The significance of AI's role in decarbonisation is also reflected in government investment. In the UK, twelve green AI initiatives will receive a share of £1 million to decarbonise and boost generation of renewable energy. The government has also pledged to provide a further £2.25 million to support AI innovation with the aim of cutting emissions specifically in energy sectors.

The EU's Green Deal also promotes the deployment of technology, including AI, to achieve its goals. The EU has invested €4.8 billion in 85 innovative net-zero projects, such as cleantech manufacturing, that aim to reduce emissions by approximately 476 million tonnes of CO_2 equivalent.

Other innovative technologies are also playing a transformative role. In September 2024, leading energy and automation digital solutions provider, Schneider Electric, launched a new Building Decarbonisation Calculator, designed to enable building owners and operators to quickly test and explore a range of energy and carbon conservation measures. The company reported that a large office retrofit project used the calculator to estimate US$3.7 million in energy savings and US$1 million in avoided fines over the next decade.

AI for sustainability reporting

Sustainability reporting processes are becoming increasingly challenging for companies owing to the time and cost of collating a vast amount of data across different sources. These challenges are particularly significant for international companies required to compile several reports to comply with different regulations across multiple jurisdictions.

With manual processes found to be inefficient, companies are increasingly turning to AI solutions to simplify and streamline complex data collection and analysis and improve accuracy and transparency.

Generative AI and advanced analytics also have the capabilities to analyse diverse data sources, enabling faster reporting and decision-making. This is evidenced by the offerings from the world's top technology companies which have the capabilities to simplify reporting for companies navigating a complex and evolving regulatory environment.

In October 2024, leading ESG research and data provider, Morningstar Sustainalytics, launched a series of new tools as part of its EU Sustainable Finance Action Plan Solutions Suite. These tools are designed to help companies and investors address emerging EU regulatory reporting requirements, including those imposed by the EU Corporate Sustainability Reporting Directive (CSRD). These types of technologies could have a profound impact on companies, particularly those with fewer resources, that are concerned about successfully fulfilling their reporting obligations under the CSRD and those imposed by other regulations.

The EU AI Act

The EU's AI Act, which entered into force on 1 August 2024, aims to ensure that AI systems – which covers those used for the purpose of ESG reporting and disclosures – are safe, transparent, traceable, non-discriminatory and environmentally friendly.

The AI Act groups AI systems into four risk categories, namely:

- **Unacceptable risk** – systems which violate fundamental rights such as those that use deceptive or exploitative techniques to cause harm.
- **High-risk** – systems that govern critical infrastructure or risk harm to human health, such as AI-assisted medical devices.
- **Limited risk** – systems such as chatbots where there is a clear risk of manipulation or deepfakes.
- **Low or minimal risk** – these cover most AI systems that can be developed and used in accordance with existing legislation, such as video games.

Generative AI

Under the EU AI Act, general-purpose AI models are subject to specific requirements (from 2 August 2025), including the provision of technical documentation for authorities and cooperation with the European Commission and national competent authorities.

Companies that deploy AI technologies as part of their corporate ESG strategy will need to consider which category their AI technologies fall into as different rules apply. If those AI technologies fall within scope of the high-risk category, they will be subject to stringent requirements including adequate risk assessments, detailed record keeping for authorities to assess compliance and the logging of activity to ensure traceability of results. Non-compliance with certain AI practices exposes companies to fines of up to €35 million or 7% of a company's annual turnover.

Regulatory and litigation risks

Businesses that implement AI technologies for sustainability reporting are exposed to several risks, particularly around data quality, data protection and cybersecurity.

Poor-quality data can lead to unintentional bias and the reporting of false or misleading information and misinformed decision making. This has particular significance for AI models which are only as effective as the quality of the data they are trained on. General-purpose AI models, such as large language models (commonly referred to as generative AI), are trained on diverse data and are therefore susceptible to incorporating 'greenwashed' data in their outputs. Such inaccuracies in sustainability reporting can expose companies to regulatory fines and/or legal liabilities.

Data and cybersecurity breaches also pose significant risks, as unauthorised access to sensitive information, such as investment insights or confidential ESG data, can have severe implications for company stakeholders.

To mitigate these risks, robust cybersecurity measures and strict data protection protocols are essential. Additionally, companies face challenges in navigating overlapping regulatory frameworks, including the GDPR, the EU AI Act, and the CSRD, alongside jurisdiction-specific laws. Further companies must address AI ethics as part of their ESG strategies, particularly as regulators and stakeholders increasingly demand greater transparency around how AI impacts data protection and decision-making processes.

> “ AI and digital technologies offer significant potential to enhance transparency in ESG and sustainability initiatives while streamlining reporting processes with greater accuracy. However, organisations must carefully balance these benefits with their data protection obligations, ensuring compliance without compromising innovation. ”

Dr. Nathalie Moreno

Climate adaptation and resilience

A billion-dollar (US) extreme weather event occurs every three weeks, whereas four decades ago one occurred every four months. **Climate records are shattered regularly as events become more intense and frequent**, as illustrated by the violent hurricanes in Florida and the severe floods in Spain in October 2024.

Climate change is increasingly occurring beyond the land, with sources reporting that it is contributing to increased air turbulence. This is causing aircraft damage and personal injury to passengers. The accumulation of space debris in low orbit, caused by increased numbers of decommissioned satellites, is also contributing to increased emissions and climate change when re-entering Earth's atmosphere.

Climate damage from global natural disasters in 2023 was estimated at US$380 billion, reported to be above long-term and short-term averages and a significant increase from the US$268 billion reported losses in 2020.

Moreover, it has been reported that climate damage costs 12% in GDP for every 1%C temperature rise. In addition to the economic impact, climate change is reported to be having a significant impact on health and wellbeing. Stakeholders globally, including governments, businesses and their insurers are increasingly implementing measures to mitigate against, and adapt to, the growing risk of extreme weather events. Those measures include:

- **Technologies** such as AI, Earth Observation and renewable energy innovation, providing infrastructure resilience such as the benefit of early warning systems, storms and flood forecasting and climate risk analysis.
- **Innovative insurance and risk management solutions** are helping businesses recover faster from climate damage.
- **Climate change mitigation and transition planning** to promote climate resilience and preparedness for future events. Such action will also contribute to the reduction of global emissions as well as a company's own carbon emissions.
- **Voluntary climate change disclosure frameworks,** such as the Global Reporting Initiative (GRI) Standards, which came into effect for reporting on 1 January 2023 and provides a comprehensive framework for climate and sustainability reporting. These voluntary frameworks also support companies with identifying key metrics, building a systematic approach to data collection and reporting, and effectively communicating sustainability achievements to stakeholders.

Voluntary disclosures: a thing of the past?

While voluntary disclosures provide some accountability of a company's climate activities, they are deemed insufficient to properly promote decarbonisation and effectively reduce emissions. Without standardised global disclosure requirements, there are inconsistencies in the quality and scope of the information disclosed by different companies (both globally and across different industries), exposing companies to allegations of 'climate-washing' – a form of greenwashing and misstatement.

Corporate climate adaptation strategies can also lack quantitative and systems-level analysis. Data captured from stakeholders is often incomplete and not properly linked to climate impacts. Such data can also lack detail as to the nature of associated climate risks and the impact of those risks on both the short and long-term business operations. Data rating agencies that exist in some jurisdictions are also inconsistent with each other and apply different ratings criteria. These factors can have a negative impact on the accuracy and viability of climate adaptation and resilience strategies that a company may choose to voluntarily adopt.

> As companies increasingly turn to AI technologies to assist with data collation and climate strategies, a lack of high-quality, accessible and standardised data will inevitably produce inaccurate and unreliable outcomes.

Mandatory climate disclosures

Governments have sought to tackle the challenge of increasing decarbonisation efforts through the mandating of climate disclosures and systems to improve and produce accurate data. As we look to 2025, businesses will be subject to an increasing suite of new laws and regulations that focus on climate disclosure.

The UK

The government has pledged to introduce more ESG and sustainability legislation in the next five years. Businesses operating in the UK must therefore prepare for compliance with comprehensive sustainability reporting frameworks in 2025 and beyond.

The Sustainability Disclosure Requirements (SDR) requires UK companies to report sustainability-related information and their impacts on the environment and society. The first reports are to be published for periods beginning on or after 1 January 2026.

The new Sustainability Reporting Standards will also support existing sustainability disclosure requirements and provide the basis for future obligations within company law.

The government will also adopt the International Sustainability Standards Board's (ISSB) S1 and S2 standards in 2025. These standards aim to deliver comparable and 'decision-useful' information for investors to help them compare information between companies. The standards should also improve the quality and consistency of sustainability reporting across the supply chain and generally, for all sectors. The UK joins six other countries in adopting ISSB S1 and S2 with 16 others planning to adopt them by 2026.

Climate transition plans, which set out short, medium and long-term actions to enable companies meet their net zero targets, will become mandatory for listed companies and financial institutions in the next three to five years, as part of TCFD reporting requirements.

> “In November 2024, the UK Government announced a package of reforms for sustainable finance, including a regulatory regime for ESG ratings providers to be introduced through legislation. Draft legislation will be laid before Parliament in early 2025, with the intention of passing the regulatory remit of ESG ratings providers to the FCA. This proposed package of reforms reaffirms the government's commitment to sustainability which was a core feature of Labour's election campaign.”
>
> **Deborah Newberry**, Corporate Affairs Director

The EU

The EU has led the way through regulation to foster global sustainability.

The Corporate Sustainability Reporting Directive: The CSRD requires companies to report on a wide range of sustainability related metrics such as their greenhouse gas emissions, labour practices and governance policies. It also aims to support the global adoption of more sustainable business practices.

In 2025, large companies or parent companies of a large group (including multinationals based outside of the EU), which are public-interest entities and have – at a group or an individual level – more than 500 employees during the financial year, will be required to comply with the CSRD based on FY 2024.

This will expand in 2026 to cover FY 2025 where companies with more than 250 employees and €50 million net turnover will need to be CSRD compliant, as will some SMEs in 2027 and beyond.

The Corporate Sustainability Due Diligence Directive: The EU's landmark Corporate Sustainability Due Diligence Directive (CS3D), in force from 25 July 2024, mandates the publication of climate transition plans for large EU and non-EU companies. This requirement will cascade down to smaller companies in the coming years.

Proposal for an omnibus regulation: Recognising the onerous regulatory burden imposed on companies in the coming years, the European Commission has proposed consolidating the CSRD, the CS3D and the EU Taxonomy Regulation into a single omnibus regulation to "reduce bureaucracy" and enhance competitiveness – a reflection on the significance of the "Future of European Competitiveness" report published by Mario Draghi published in September 2024. As little detail has been given on the initiative so far, preparation for compliance with sustainability reporting should continue.

The US and APAC

Mandatory disclosures are also a requirement in other jurisdictions, including Switzerland, Canada, New Zealand, India and Malaysia.

Beyond the EU, sustainability reporting is mandatory for some companies in certain US states. For example, California's Climate Corporate Data Accountability Act requires large companies to publicly report their greenhouse gas emissions, with first disclosures to be given 2026.

Mandatory reporting is also underway in APAC. In Australia, the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 will require large organisations to produce mandatory climate-related financial disclosures in their annual reports from 1 January 2025. Similarly, Singapore will introduce mandatory climate-related reporting for listed and large non-listed companies, with obligations applying from 1 January 2025. Brazil and China are expected to follow suit in 2026.

Evolving decarbonisation initiatives

Sustainability targets for C-suite executives: Research carried out by a risk management consultancy found that the proportion of companies that linked at least one ESG measure to their remuneration packages rose from 24% to 37% in 2023. To date this year, 45% of the FTSE 100 companies have set measurable ESG targets (including climate targets) for CEOs and have begun to introduce ESG targets in executive remuneration packages. It is reported that this trend is set to continue in the coming years.

Insurance solutions: Insurers are increasing the use of impact underwriting, which encourages clients to implement climate adaptation measures. They are also reassessing how they price and cover climate risks with the assistance of cutting edge and AI assisted climate analytics. ESG risk strategies are quickly becoming a focus of proposal forms and disclosure is key to the insurance placement process.

> Policy periods of more than one year are on the uptake, encouraging policyholders and their insurers to work together in the long term on risk management strategies, including those focused on climate change.

The adoption of parametric insurance is also growing in popularity. However, parametric insurance still faces challenges such as the need for accurate data and a supportive regulatory environment. Collaboration between governments, insurers and development organisations is also required to make these policies more effective and accessible.

COP29 'Finance Cop'
Azerbaijan, November 2024

An estimated US$7 trillion of total investment per annum is required to reach net zero and avert further catastrophic climate change impacts. COP29, known as 'Finance COP', sought to negotiate a new finance target of US$1 trillion per year to 2030 – namely the New Collective Quantified Goal (NCQG).

Disappointingly, the parties agreed an NCQG of just US$300 billion up to 2030, leaving a significant financing gap to be filled by private investment. Encouragingly, we are already seeing the generation of new, green investment opportunities, particularly for the energy sector and new global policy in support of green investment.

The parties also agreed the adoption of international standards for the global carbon market and standardised carbon trading is expected to start in 2025.

For the first time, judges and legal experts from around the world attended COP29 to discuss the growing role of the courts in climate litigation, suggesting that the courts will play an increasing role in defining the duty of corporates to mitigate against climate change and climate damage.

Regulatory and litigation risks

Managing domestic and global mandatory sustainability reporting across multiple jurisdictions and ensuring compliance with each international regulation will remain costly, challenging and complex.

A recent survey found that 67% of consumers are more likely to trust a company that demonstrates commitment to social issues. Those that do not demonstrate social responsibility within the climate space are likely to attract more scrutiny from consumers of their climate strategies. The mandating of sustainable reporting of human rights and social impacts through legislation such as the CSRD and CS3D aims to reduce these potential litigation risks.

Greenwashing

Greater scrutiny can translate to legal action and the growing trend of greenwashing litigation is set to continue into 2025. Regulators and lawmakers globally are expected to crack down on misleading environmental claims through legislation and guidance, such as California's Voluntary Carbon Market Disclosures Act, the EU's Green Claims and Anti-Greenwashing Directives and the UK's Financial Conduct Authority's anti-greenwashing rule that came into force on 31 May 2024. Companies should prepare for further potential enforcement and litigation.

The Australian Securities and Investments Commission (ASIC) and the Australian Competition and Consumer Commission (ACCC) have proactively taken steps to pursue greenwashing claims aiming to improve the governance and accountability of entities. ASIC considers greenwashing to be a "serious threat" to the integrity of Australia's financial system and to investor confidence.

Having issued several Federal Court civil penalty actions against investment companies in 2023, Australian regulators have treated greenwashing as an enforcement priority during 2024 and will continue to do so in 2025 and beyond. ASIC has also warned entities against greenhushing – where entities hide their climate goals or stop voluntary ESG disclosure.

The ACCC has several greenwashing investigations underway and has indicated that it will target greenwashing more vigorously and beyond consumer and fair trading issues to include competition law and product safety concerns.

" Shareholder litigation is also expected to continue. The Australasian Centre for Corporate Responsibility (ACCR), a shareholder in Santos Ltd, brought the world's first greenwashing claim against the company, challenging the veracity of its net zero emissions plans with reference to representations made in company reports. Judgment is awaited. Whilst no damages are claimed by the ACCR (an injunction and declaration are sought), we anticipate that it will be difficult for shareholders to prove loss in actions where damages are claimed. "

Llinos Kent, Partner

Impact of climate on health and wellbeing

We may also see consumers bring claims against companies for failing to address the impacts of climate change on human health and wellbeing. In a landmark decision, the European Court of Human Rights ruled in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [09.04.24] that Switzerland breached Article 6 (right to a fair trial) and Article 8 (right to private and family life) of the European Convention on Human Rights by inadequately addressing climate change. This significant ruling could influence similar claims to be brought against corporates as well as other states.

Climate claims against corporates and their directors

On 12 November 2024, the Hague Court of Appeal in the Netherlands overturned a landmark order (Shell v Milieudefensie) imposing an obligation on the Royal Dutch Shell Group to reduce its own, third party suppliers and end user carbon dioxide emissions by 45% by 2030 relative to 2019 levels.

This could be interpreted by some as a backwards step by the EU courts in climate change litigation.

Climate change litigation against corporates is difficult as not only do company law regimes differ in each jurisdiction, the courts have been reluctant to interfere with the discretion of directors' decisions. Whilst of fundamental importance, climate action is just one of many competing company considerations, even for Shell, which the court acknowledged had a 'special responsibility' as a prominent and longstanding player in fossil fuels.

The Hague Court of Appeal did, however, confirm that a right to protection from climate change is contained in Article 2 (a right to life) and Article 8 (a right to respect for private and family life) of the European Convention of Human Rights, suggesting that in the EU at least, climate change litigation will, for the moment, continue to be focused against governments with a view to changing policies.

Nevertheless, this does not absolve corporates and their insurers from taking action. The Hague Court of Appeal judge remarked that companies such as Shell were obliged to contribute to combating climate change based on the human right to protection against dangerous climate change. Shell also made clear that it was already taking 'serious steps to reduce emissions.

Climate exclusion clauses

In *Aloha Petroleum v National Union Fire Insurance Co. Pittsburgh* [07.10.24], the Hawaii Supreme Court found that a legacy pollution exclusion (i.e. not one specifically aimed at barring claims regarding climate change) within the defendant's commercial general liability policy applied to preclude coverage for the underlying climate change claims in question.

The decision is the first of its kind to consider policy coverage in the context of climate litigation. It may influence other US courts in future disputes regarding the coverage available for potential climate liabilities under general liability and/or product liability policies. Whilst casualty insurers will be rightly concerned with mitigating the risk of climate litigation at future renewals, the decision also indicates that traditional pollution exclusions may continue to shield insurers from climate change claims.

In the UK, some insurers have already begun adopting climate exclusion clauses to address potential liabilities as evidenced by several energy insurers who have started using the *Lloyds Market Association's model climate change exclusion* to guard against the possibility of cover for climate-related property damage. Whilst we predict this practice will grow, the majority of the industry are assisting their policyholders to mitigate against risk prior to inception.

> " Climate activities and consumers are prepared to keep pushing company law principles of law and regulation to influence corporate environmental policies. **Data also shows us that those corporates who are *'doing their bit'* as regards social issues generally outperform those that don't.** Corporates therefore should demonstrate their commitment to climate and sustainability issues, but must be careful not to fall foul of overstating their commitment and *'green washing'.* "
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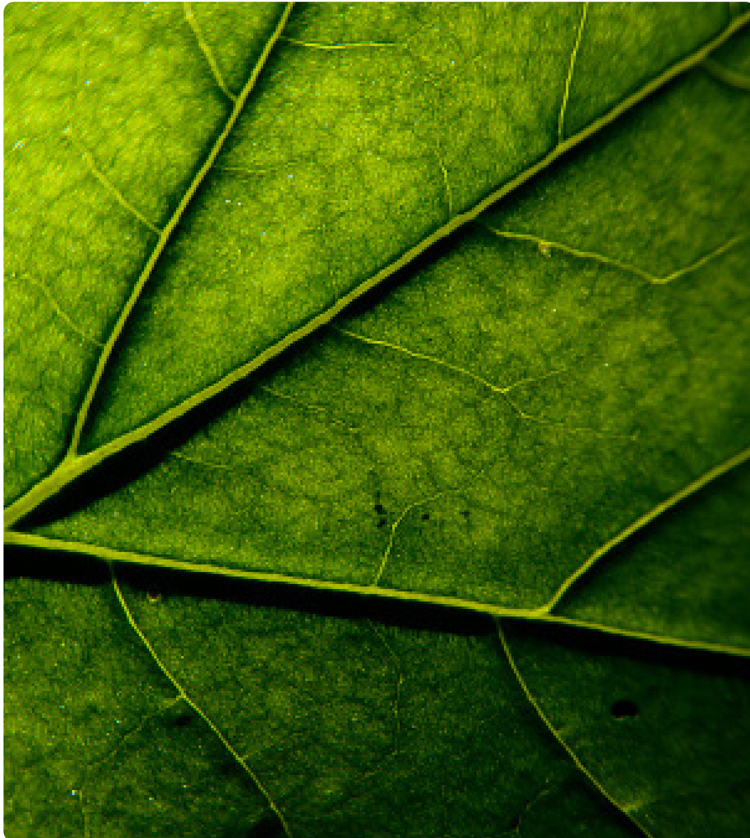
> **Hannah Williams**, Partner



Biodiversity loss

Biodiversity impacts are set to become firmly embedded in corporate sustainability strategies in 2025, with many companies having already made significant commitments to reduce biodiversity loss. The World Economic Forum has stated that as of January 2024, 60% of global GDP is dependent on nature's diverse services, from clean water supplies to pollination services.

Consequently, experts have calculated that one in five companies could face significant operational risks due to collapsing ecosystems, in terms of financial performance and loss, litigation and reputational damage.

As recognised by the United Nations (UN), nature loss has far-reaching consequences. Damaged ecosystems exacerbate climate change, undermine food security and put people and communities at risk. Those impacts will likely intensify in the absence of meaningful nature restoration efforts. We may also see mass migration of displaced communities and workers seeking opportunities elsewhere.

UN Biodiversity Conference COP 16, October 2024

Whilst some progress towards biodiversity goals was made at COP16 in Cali, Colombia, a global action plan for the Kunming-Montreal Global Biodiversity Framework (GBF) was not reached. COP16 agreed parts of an overall implementation plan focusing on systemic transitions, including:

- A Digital Sequence information (DSI) mechanism whereby genetic information sequenced from the natural world can be made available online and used for important research in medicine, agriculture, conservation and public health. This will assist to reverse biodiversity loss but will be more efficient if effective measurement tools and technologies are deployed.
- A New Finance Trends dashboard to increase transparency in nature finance and a new framework to support a high-integrity biodiversity credits market. Both will assist to streamline the various strands of nature finance. Partnerships will be key to accelerate the development of technological solutions.
- The establishment of a new permanent body for indigenous peoples and local communities to empower them and increase their input into formal decision-making.

Nexus between climate change and biodiversity loss

COP16 also recognised that biodiversity conservation is deeply linked to climate action. Aligning biodiversity goals with climate action was a major COP16 theme, with discussions focused on the integration of policies to tackle biodiversity loss and climate impacts cohesively. While this included calls for ending fossil fuel subsidies, a critical driver of biodiversity degradation, the summit did not reach a concrete agreement on a fossil fuel phase-out.

To effectively halt biodiversity loss, COP16 emphasised cross-sector collaboration, policy alignment, and joint accountability across governments, businesses, and local communities.

At the conference, the Taskforce on Nature-related Financial Disclosures (TNFD) introduced new tools for nature transition planning. It also highlighted insurers' role to date, including actively driving change with risk mitigation measures, thereby making investment in conservation, restoration and sustainable resource use more attractive to businesses. Insurers have also provided coverage for nature-based solutions such as underwriting construction and service delivery in collaboration with communities and governments.

Global biodiversity initiatives

The GBF, launched in 2022, has two principal objectives: (i) reverse global biodiversity loss by 2030; and (ii) achieve a nature-positive state by 2050. It also aims to close the biodiversity finance gap of US$100 billion per year and align financial flows with the GBF by 2050. To achieve these objections, the GBF encourages businesses, including insurers, to monitor, assess and disclose their biodiversity-related risks and dependencies.

Many global businesses are already voluntarily including biodiversity loss in their risk assessments and disclosures. Investors are also increasingly considering the impacts of biodiversity loss on investment portfolios.

This shift towards greater accountability is driven by both regulatory pressures and consumer demand for sustainable practices, compelling businesses to disclose their biodiversity impacts more transparently. This has resulted in over 400 global organisations adopting the TNFD's biodiversity reporting framework.

The global drive to regulate

Increased societal concern over biodiversity loss is being borne out in global government initiatives aimed at addressing the issue.

As with climate change, voluntary disclosure and reporting of biodiversity risks and impacts is insufficient to restore ecosystems.

Businesses can therefore expect regulatory compliance to increase next year.

The EU CSRD requires mandatory disclosure of biodiversity and ecosystem impacts from large companies, which will be cascaded down to smaller companies in the next three to five years.

The TNFD has also been pushing governments globally for mandatory disclosure. The UK government is currently considering launching a consultation for mandatory adoption of the TNFD framework.

Mandatory disclosure of nature data sets will eventually be followed by mandatory publication of biodiversity restoration transition plans, transition finance that promotes sustainable outcomes and innovative and concessional funding from worldwide governments.

Several countries in Latin America have also developed policies and mandatory frameworks for biodiversity disclosure and conservation.

The approach varies by country and is not uniformly mandatory across the region. This disjointed approach is mirrored in other worldwide regions, such as Asia.

The increasing use of AI tools will also enhance, improve and hasten the efficiency of disclosure and collation of nature data.

Regulatory and litigation risks

Biodiversity loss exposes businesses to a risk of supply chain disruption owing to the reduced availability of raw materials, increased regulatory compliance costs and eroding consumer confidence – features which are likely to attract biodiversity litigation.

As businesses navigate and comply with biodiversity reporting requirements amidst other extensive reporting requirements, they risk exposure to potential greenwashing claims if inaccurate or misleading information is disclosed.

Litigation risks will also arise in relation to the non-standardisation of biodiversity data from consumers and shareholders.

> “As a response to farming (including subsistence farming) needs as per critical weather events, many countries in Latin America have been resorting to parametric insurance, with governments increasingly incorporating this tool into their national disaster management strategies. Mexico’s Catastrophic Agricultural Insurance is an example of a government-led initiative that provides financial protection to farmers, by combining state funds to cover crop losses and mitigate their devastating impact. It is expected that the use of these new types of insurances will increase, also in the private sector, given the issuance of regulations that expressly enable their use, as in Chile.”

Fernando Hurtado de Mendoza, Partner

Practical considerations for businesses and insurers

Increasing regulatory focus on climate and biodiversity disclosures will require companies to adopt a more integrated and strategic approach to ESG and sustainability compliance generally. Consideration should also be given to developing a co-ordinated global sustainability strategy to ensure consistency in climate disclosures across different jurisdictions.

Regulator audits and reviews of corporate governance strategies will enable interested stakeholders to have transparency over a company’s climate and biodiversity information and mitigate against future risks of greenwashing. A proactive approach to ESG governance will also enhance company reputation and investor confidence. For insurers, regular corporate governance reviews with policyholders will ensure the continuance of building relevant questions into their placement process to mitigate claims and litigation risk.

Supply chain due diligence

From geopolitical shifts and trade tensions to the adoption of AI and regulatory changes, **the opportunities and challenges around supply chain management are expected to evolve in 2025**, with increasing focus on ethical practices impacting human rights and the environment.

As consumers and regulators continue to demand accountability for the environmental and social impacts of the sourcing, production and supply of goods and services, supply chain sustainability and transparency will be a priority focus for businesses globally, across all sectors, in the months ahead.

Key focus areas for businesses in 2025 will be:

- **Increased reporting obligations:** As corporate accountability over supply chain activity and social impacts intensifies, companies globally are subject to increased reporting obligations and new mandatory due diligence requirements. Failure to comply exposes a company to regulatory scrutiny and legal challenges.
- **Fair labour practices and workers' rights:** Supply chain transparency is critical for monitoring, identifying and addressing untoward labour practices, human rights violations and fostering a diverse and inclusive workforce across business operations.

  In September 2024, UN Member States adopted a 'Pact for the Future', a landmark declaration that pledges a safer, peaceful and more sustainable world for future generations. The Pact covers a broad range of issues, from peace and security and sustainable development to climate change and human rights. Notably, it includes a commitment to abolish modern slavery and human trafficking to contribute to the UN's Sustainable Development Goals Target 8.7 which seeks to end forced labour.
- **Human rights compliant sourced products and services:** Companies remain under pressure from a broad range of stakeholders, including governments, consumers, regulators and NGOs, to disclose information regarding the sourcing of raw materials across their supply chains.

  In an era where appetite for greenwashing claims remains high, supply chain traceability across the entire product lifecycle is paramount to ensure that products are made safely and in accordance with human rights. Companies are increasingly leveraging technologies, particularly blockchain, to trace products and verify compliance with human rights standards.

New mandatory due diligence requirements

The CS3D imposes extensive mandatory obligations on large EU (1000+ employees and €450 million turnover worldwide) and non-EU companies (a turnover of at least €450 million in the EU) to prevent human rights abuses and environmental harms across their supply chains. The obligations were introduced on a phased approach from 25 July 2024, with the largest companies (5000+ employees and more than €1,500 million net worldwide turnover) required to comply by 2027.

Comprehensive due diligence measures and the implementation of robust risk management frameworks are mandated by the CS3D to ensure compliance. Companies will be obliged to compensate victims for damages resulting from *'intentional or negligent'* failure to carry out due diligence.

Modern slavery laws

Reform of modern slavery laws is expected to advance in the UK and Australia, with the potential for organisations to be held to a higher level of scrutiny by regulators and stakeholders.

UK: The House of Lords Modern Slavery Act 2015 Committee's report, published on 16 October 2024 as part of the Committee's inquiry into the effectiveness of the Act, found that the Act's existing reporting obligations had "not been effective in preventing modern slavery", with cases "continuing to arise within supply chains of companies that have complied with reporting recommendations".

The Committee makes several recommendations, including the introduction of (i) proportionate sanctions for organisations that do not comply with supply chain requirements; and (ii) legislation requiring certain companies to undertake modern slavery due diligence in their supply chains and to take reasonable steps to address problems.

Australia: While the Government has not made any firm commitment to amend the Modern Slavery Act 2018 following a statutory review in 2023, in December 2024 it has indicated that potential reform will progress on the following four bases: (1) an effective compliance and enforcement framework; (2) increased clarity and simplicity; (3) enhanced support and guidance; and (4) continuous improvement.

The Modern Slavery Amendment (Australian Anti-Slavery Commissioner) (Cth) Act 2024, in force from 7 November 2024, established an Australian Anti-Slavery Commissioner. Former Senator for Western Australia, Mr Chris Evans has been appointed, with a five-year term that commenced on 2 December 2024. He will have a wide remit, to include assisting with the implementation of future modern slavery reforms.

Other supply chain due diligence laws and regulations

Jurisdiction	Legislation	Impact	Dates
EU	EU Forced Labour Regulation 2022	The prohibition of all products made with forced labour, including child labour, from the EU market.	In force from 13 December 2024. Applicable from 14 December 2027.
EU	The EU Deforestation Regulation (EU) 2023	Ensures that certain commodities and products sold in the EU or exported from the EU are deforestation-free. This includes products made from cattle, wood, cocoa, soy, palm oil, coffee, rubber, and some of their derived products.	Entered into force on 29 June 2023. Implementation of the regulation will be delayed by one year (from 30 December 2024 to 30 December 2025) to allow time for stakeholders to comply with the Regulation's due diligence requirements.
US	The Uyghur Forced Labor Prevention Act 2021	Companies must verify that their supply chains are free from forced labour, with non-compliance resulting in penalties, including import restrictions and potential harm to brand reputation.	Effective from 21 June 2022.
Peru	National Action Plan on Business and Human Rights (2021 – 2025)	Makes recommendations for regulatory action across a range of issues, including the prevention of human rights violations in the corporate sphere.	Adopted by Peru in June 2021.
Canada	Fighting Against Forced Labour and Child Labour in Supply Chains Act 2024	Introduced reporting obligations from 31 May 2024 for certain companies, requiring them to demonstrate that they have taken action to prevent child and forced labour across their supply chains.	In force from 1 January 2024.

Regulatory and litigation risks

With legal actions involving environmental degradation and human rights abuses increasing globally, companies will continue to be exposed to an increased litigation risk due to the imposition of regulatory requirements and increased stakeholder scrutiny.

Failure to ensure the implementation of transparent and human rights compliance practices across the supply chain puts business at risk of reputational harm and financial loss.

Liability of parent companies

Municipio De Mariana v BHP Group UK Ltd & Ors [2023] highlights the potential liability of UK-based parent companies for the actions of their foreign subsidiaries. The ongoing action involves over 730,000 claimants pursuing BHP in the UK courts regarding the 2015 collapse of the Fundao Dam in Braziland, and has reportedly attracted over £70 million in funding from third-party investors.

Greenwashing and social washing

Mandatory supply chain due diligence is expected to contribute to the ongoing trend of greenwashing, and its new relation, social washing, namely the practice of making false statements or unsubstantiated claims in relation to a company's social and human rights responsibilities. This risk is borne out in lawsuits brought in the US, particularly in relation to the sourcing of goods such as sugar and cocoa.

A class action lawsuit has been brought against Mondelēz International Inc. alleging deceptive sustainability claims regarding the marketing and sale of its cocoa product. The lawsuit alleges that the company's products are the result of child labour and destructive environmental practices that are harmful to people and the planet. The action highlights the importance of supply chain transparency and traceability and the substantiation of sustainability claims with verified data. The case is expected to set a precedent for how sustainability claims are regulated and litigated.

Australia's ASIC is targeting bluewashing which relates to entities failing to (amongst other things) act on commitments to respect or uphold human rights-related standards or promote the use of investment exclusions and screens to address social issues, but do not in fact apply them. It is anticipated that ASIC will take a similar approach with bluewashing as it has done with greenwashing and greenhushing.

Criminal prosecution

A long-standing action in France brought against Nestle involving allegations that the company extracted water from illegal sources for its bottled water brands, resulted in it agreeing to a fine of US$2.2 million to close the investigation. Under the terms of the agreement, Nestlé Waters Supply Est, a subsidiary of Nestlé SA, agreed to allocate US$1.22 million toward an ecological restoration initiative aimed at addressing the environmental damage that resulted from its actions. The non-prosecution agreement is the largest environmentally related agreement of its kind to be signed in France to date.

Practical considerations for businesses:

- **Supply chain scrutiny:** conduct regular and thorough audits of third-party suppliers to check contract viability and assess compliance with relevant regulations and standards.
- **Due diligence review:** review existing due diligence processes to ensure compliance with regulatory frameworks.
- **Technology:** Consider using integrated supply chain management software to integrate sustainability criteria into supplier evaluation and to aid compliance and ongoing monitoring.
- **Code of conduct:** Develop and enforce a robust supplier code of conduct that sets out minimum sustainability standards and expectations.

> “The implementation of the CS3D will really strengthen the way companies take ESG into account. Companies will have to take steps to conduct due diligence on adverse scenarios related to their entire supply chains (upstream and downstream). It places greater responsibility on companies to identify and address the negative human rights and environmental impacts of their operations inside and outside Europe. This regulation should be considered as a whole, together with the CSRD.”

Safine Hadri, Partner

A US perspective

The US election and its impact on sustainability and ESG.

Some will say that the outcome of the 2024 US presidential election is expected to significantly influence the direction of ESG policy at federal level. As the US is the biggest economy in the world, its future ESG policy will have a significant impact globally and domestically.

Although the extent of that influence is, of course, unclear, the expectation is that President Trump's attention will be on domestic issues, including increasing the availability of affordable energy. If correct, it is anticipated that the new administration will shift towards policies that favour deregulation, prioritise fossil fuel industries, and scale back government incentives for clean energy.

President Trump's previous tenure provides some clues as to the extent of possible policy change, where his administration rolled back more than 100 environmental regulations, including those on clean water, air quality and emissions standards. If a similar approach is adopted by the new administration, it would mark a departure from the Biden administration's climate-focused initiatives and could delay progress on emissions reduction targets.

Under a Trump administration, we might therefore see an increase in climate technologies funded by private investment. We may also see the relocation of EU-based companies to the US that may be attracted to a more flexible regulatory environment.

Inflation Reduction Act 2022

Commentators will be looking to the 2022 Inflation Reduction Act (IRA) which commits the US to investing in clean energy. While there is scepticism that President Trump would be able to repeal the IRA completely, the possibility exists that he may refuse to commit to further funding, thereby compromising sustainability objectives. In the meantime, global markets are expected to trade with the growing power of the anti-ESG rhetoric, providing renewed popularity for traditional energy sectors.

Climate-risk disclosure rules

While the Securities and Exchange Commission (SEC) passed its final climate-risk disclosure rule in March 2024, it has already been met with several legal challenges. The SEC has stayed the rule. The rule requires companies to disclose climate-related risks that are "reasonably likely to have" material impacts for companies. Already facing significant challenges, the fate of the disclosure rules is even more precarious now under a second Trump administration. We expect the same challenges for several other ESG-related regulations on the SEC's agenda.

" Despite the inevitable anti-ESG tide that will come with a second Trump administration, public companies (and D&O insurers) should continue to closely monitor their climate and ESG related disclosures – a material misstatement about an ESG issue still exposes public companies to similar risks as any other material misstatement. "

Greg Steinberg, Partner

Private companies also continue to face risk. For example, it recently became public that the SEC has disbanded its Climate and ESG Task Force. Notwithstanding, the SEC emphasized that it would continue to focus on these issues. In November 2024, the SEC announced that it settled charges against an investment adviser for making misleading statements about the percentage of company-wide assets under management that integrated ESG factors in investment decisions. In settling the charges, the company agreed to pay a US$17.5 million civil penalty.

" Overall, sustainability is likely to remain a highly politicised issue in the US. We should also remain alive to the influence that the anti-ESG movement in the United States may have on the business strategies in countries where opposition also exists, including in the UK and the EU. "

Callie Murphy, Partner

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