



September 2026

Developments in ESG governance, disclosure, financial regulation and litigation

ESG Matters



In this September edition of ESG Matters, our Highlight discusses the EU Electrification Action Plan and the review of the EU ETS. Our Spotlight section provides updates on recent developments in ESG governance, disclosure, financial regulation, and litigation.

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1 July and August in brief

After a holiday break, this edition of ESG Matters updates you on ESG-related legal developments during July and August. As always, the developments are structured around four categories in which ESG plays a vital role:

- Governance & transition
- Disclosure
- Financial institutions & regulation
- Litigation

Our Highlight article discusses the EU Electrification Action Plan and the ETS review. These initiatives aim to incentivise heavy industry, energy companies and the broader economy to accelerate electrification and to reduce emissions, while strengthening EU competitiveness.

2 Highlight: Powering up: the EU Electrification Action Plan and review of ETS

The EU Electrification Action Plan aims to make Europe the first electro-powered continent, while boosting competitiveness and improving EU sovereignty. It has important implications for energy-intensive and fleet-heavy businesses as well as industrial operators. Simultaneously, the review of the EU Emissions Trading System (ETS) brings changes from which businesses can benefit.

Electrification Action Plan: a 46% target and pressure on prices

In July 2026, the European Commission (EC) published the EU Electrification Action Plan, aiming to make Europe the first electro-powered continent. It is underpinned by three drivers: (i) increased competitiveness; (ii) EU security of supply and sovereignty in turbulent geopolitical times and volatile global markets; and (iii) lower energy prices for the EU economy and citizens. The plan aims to cut gas imports by more than 70% and crude oil imports by more than 40% by 2040, saving up to EUR 260 billion per year on fossil imports and reducing electricity generation costs by around 20%.

To achieve these targets, the plan contains the following seven key actions.

- An indicative EU electrification target of 46% by 2040, to be assessed as part of the Energy Union Package in Q4 2026.
- Proposed measures on electricity networks, including the increase of storage capacity from 55 GW in 2026 to 200 GW in 2030, and measures on electrical vehicles and data centres.
- A call to Member States to reduce the ratio of electricity/gas prices, and the announcement of proposals in Q4 2026 to phase out fossil fuel subsidies;
- Measures to reinforce RED III implementation and facilitate the EU renewable energy market;
- The announcement of a Geothermal Stakeholder partnership by Q1 2027 to eliminate barriers for the deployment of geothermal energy.
- A call to Member States to lower tax rates for electrification technologies (such as heat pumps, solar panels, residential batteries and electric vehicles), and the announcement and electrification of corporate fleets as part of the Clean Industrial Deal.
- The launch of a second industrial heat auction under the Innovation Fund in 2026, further support measures for electrified and renewable heat solutions, industrial flexibility solutions to reduce reliance on imported fossil fuels; investigation of an EU-level mechanism for industrial electricity demand pooling to reduce financial risks associated with power purchase agreements.
- Measures relating to direct-use renewable heating technologies, development of sector-specific electrification roadmaps.

ETS review: measures to foster transition and investments

The EU Emissions Trading System (ETS) has been in place since 2005 and is one of the EU's main instruments to achieve its greenhouse gas (GHG) emissions reduction targets. The ETS is a 'cap-and-trade-system': EU emissions are capped by issuing a limited number of allowances to emit GHG for sectors covered by the system, and allowances can be traded.

In July 2026, the EC published its proposal to review the ETS, proposing several financially and environmentally impactful changes. We highlight a few key aspects:

- In the period 2036-2040, the EC would be empowered to purchase up to 260 million high-integrity international decarbonisation credits to complement domestic EU emission reductions. In case such credits are not available, the linear reduction factor will be 2.7% from 2036. This aspect of the proposal, if accepted, is expected to fuel international demand for high-quality credits.
- The ETS review strongly focuses on investments. It introduces the Industrial Decarbonisation Bank, with an envisaged EUR 100 billion funding for industrial decarbonisation. The first phase will be the ETS Investment Booster to support projects with competitive tools, with an estimated budget of EUR 30 billion. Member States will also be required to spend 50% of their national ETS revenues on investments to decarbonise ETS sectors, which is expected to raise EUR 100 billion in investments before 2030.
- The proposal extends free allocation of ETS allowances beyond 2031. However, free allocation would be conditional on companies submitting an 'Invest in EU decarbonisation plan'. This plan should ensure decarbonisation investments in the EU leading to significant emissions reductions. Where relevant production capacity or economic activity is relocated outside the EU after free allocation has been received, free allowances would be reimbursed or deducted.
- The proposal extends the scope of ETS to certain parts of the aviation sector (certain departing extra-EEA flights from 2029), shipping (inclusion of methane and nitrous oxide), and waste incineration (certain larger installations and landfills).

Extended ETS reduction pathway – a broader window for transition

In addition to the above changes, the EC also proposes to extend the current timeline of the ETS' emission reduction pathway. Under the current ETS, the linear reduction factor of emissions allowances is set at 4.3% for 2024-2027 and 4.4% from 2028. The EC now proposes the yearly reduction rate of emissions allowances for the period 2031-2040. For 2031-2035, the EC proposes a linear reduction factor of 3.7%, and for 2036-2040 a linear reduction factor of 1.7%. The more lenient reduction factor would allow EU companies more time to transition and would be beneficial for competitiveness.

What it means for you

- Companies with high energy usage should duly consider the consequences of the EU Electrification Plan for their business. The Plan will likely boost electrification in the EU, reduce the electricity-to-gas price ratio by 2030, reform network charges and tax incentives, and contribute to the phase-out of fossil fuel subsidies.
- The ETS review adds the period 2031-2040 and introduces an Industrial Decarbonisation Bank, which will increase investments in decarbonisation of the EU industry up to EUR 100 billion in 2040. Industrial and electricity-reliant companies can benefit through strategic project and investment planning. Free allocation under the ETS will continue from 2031, subject to an 'Invest in EU decarbonisation plan'. The EC targets a definitive legal text on the ETS review by Q1 2027.

Contact our experts



Bart Vis | counsel
Public Law & Regulatory
+31 6 57 67 38 66
bart.vis@nautadutilh.com



Frans van der Eerden | partner
Financial Law
+31 6 51 86 97 12
frans.vandereerden@nautadutilh.com

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Spotlight on ESG developments



Governance & transition

Working paper on EU ESG disclosure rules and green investment

On 28 August, the Dutch Central Bank (DNB) [published](#) a working paper examining whether EU ESG disclosure requirements (such as SFDR and CSRD) affect capital allocation and the cost of capital for green firms. While evidence remains fragmented, it generally points to a positive association between ESG disclosure or performance and access to finance and more favourable funding conditions. At the same time, capital markets seem to anticipate regulatory compliance costs and risks, which can increase uncertainty, and in some settings, adversely affect firms with potential implications for market functioning, capital allocation and pricing. This underscores the need for credible, usable and proportionate requirements.



EC publishes guidance for non-EU operators under CBAM Regulation

On 14 August, the European Commission (EC) [published](#) ten guidance documents on CBAM implementation to help non-EU operators with the implementation of the Carbon Border Adjustment Mechanism (CBAM). The documents include four general guides and six sector-specific guides (cement, hydrogen, fertilisers, iron and steel, aluminium and electricity). On 24 August, the EC also published [guidance](#) for CBAM verifiers and accreditation bodies. Also see the EC's [CBAM portal](#).

EC launches calls for evidence for delegated and implementing acts and publishes FAQs under PPWR

On 14 August 2026, the EC launched three calls for evidence for one delegated act and two implementing acts under the Packaging and Packaging Waste Regulation (PPWR) ([link](#), [link](#) and [link](#)). The acts aim to support the recycled-content requirements for plastic packaging, including imports from third countries. The PPWR applies from 12 August 2026, and adoption of the acts is planned for Q4 2026. On 3 August, the EC also [published](#) updated FAQs on the PPWR, in which the EC encourages national supervisors not to follow a sanction-oriented approach.

EC publishes guidance on non-price criteria under Net-Zero Industry Act

On 29 July, the EC published [guidance](#) on Article 26 of the Net-Zero Industry Act (Regulation (EU) 2024/1735). Article 26 requires Member States to include certain non-price criteria in at least 30% of the volume auctioned per year, or alternatively in at least 6 GW per year per Member State, in auctions for the deployment of renewable energy. The guidance aims to help Member States, auction authorities and market participants consistently apply these requirements. It does not cover renewable energy auctions carried out under EU public procurement legislation.



Delegated acts under ESG Ratings Regulation published in Official Journal

On 28 July, two Delegated Regulations supplementing the EU ESG Ratings Regulation were published in the Official Journal. Delegated Regulation (EU) 2026/871 [contains](#) regulatory technical standards (RTS) specifying disclosures on ESG rating products. Delegated Regulation (EU) 2026/872 [contains](#) RTS specifying the rules for ESG rating providers to separate their ESG rating activities from their other activities. Both Delegated Regulations enter into force on 18 August 2026 and apply retroactively from 2 July 2026. On 30 July, two additional Delegated Regulations under the EU ESG Ratings Regulation were published in the Official Journal. Delegated Regulation (EU) 2026/904 [sets out](#) procedural rules for fines and periodic penalty payments imposed by ESMA, applying from 19 August 2026. Delegated Regulation (EU) 2026/910 [concerns](#) the fees charged by ESMA to ESG rating providers, applying from 31 July 2026.

EC publishes Electrification Action Plan and ETS review

On 17 July, the European Commission (EC) [published](#) its [Electrification Action Plan](#) together with a [proposal](#) to revise the EU Emissions Trading System (ETS). The action plan aims to double the share of electricity in final energy use to 46% by 2040, which could cut EU fossil fuel imports by EUR 260 billion per year. The plan addresses affordability, grid connection and costs of clean technologies. Concrete measures include a legislative proposal to reform transmission and distribution network charges, a target to double heat pump installations by 2030, and expansion of charging infrastructure for heavy-duty vehicles. The ETS review adds the period 2031-2040 and adds the option to use international carbon offset credits from 2036. The phase-out of free carbon allowances for Carbon Border Adjustment Mechanism (CBAM) industries is delayed until 2038.

ESMA publishes Q&As on ESG Ratings Regulation

On 10 July, ESMA [published](#) eight Q&As on the EU ESG Ratings Regulation. The Q&As clarify that consulting activities under Article 16(1)(a) only require separation from ESG rating activities where they could affect independence, such as advice on improving a client's rating; unrelated advice (e.g. tax) does not. The two-working-day pre-issuance notification under Article 15(12) applies fully from 2 July 2026, covers only the notification and access request (not the fact-check itself), and issuer feedback is not binding. Providers without a designated contact must use reasonable alternative channels. ESMA also clarified the intragroup exemption (Article 2(2)(b)) and the SPO exemption (Article 2(2)(i)).



Dutch Ministry launches second consultation on Dutch implementing act of CSDDD

On 3 July, the Dutch Ministry of Foreign Affairs [launched](#) a second consultation on the Dutch implementation act of the CSDDD (*Wetsvoorstel internationaal verantwoord ondernemen*). The consultation concerned amendments to the Dutch implementing act following the EU Sustainability Omnibus I simplification of CSDDD. The CSDDD will be implemented in the Netherlands without national add-ons. The Authority for Consumers and Markets (ACM) is designated as the national supervisor and the Rotterdam District Court and Trade and Industry Appeals Tribunal will be the competent administrative courts. The consultation ended on 3 August.



ESMA publishes statement on transitional period under ESG Ratings Regulation

On 1 July, ESMA [published](#) a statement clarifying how it will apply the exemption for third-party publication and distribution of ESG ratings during the transitional period of the ESG Ratings Regulation. Third parties may continue to publish or distribute ESG ratings from existing providers until ESMA has decided on authorisation or recognition application. ESMA will regularly publish and update a list of eligible providers on its website. The transitional period ends on 2 November 2026, after which date third parties may only publish or distribute ESG ratings from providers included in the ESMA register.



Disclosure



EFRAG publishes 2026 draft datapoint list for revised ESRS

On 28 August, the EFRAG [released](#) its new draft list of datapoints for the revised European Sustainability Reporting Standards (ESRS), succeeding the previous IG 3 implementation guidance. It sets out the disclosure requirements and datapoints companies must consider when preparing sustainability statements under the ESRS delegated act adopted by the EC on 3 July 2026. The draft list is open for public fatal-flaw review.



EC publishes corrigendum to sustainability reporting standards for small undertakings

On 25 August, the EC [published](#) a corrigendum to the draft Delegated Regulation establishing sustainability reporting standards under the CSRD for voluntary use by undertakings protected by the value chain cap. The corrigendum corrects errors and omissions in the original Delegated Regulation, without altering the substance of the voluntary reporting standard itself.

ISO and GHG Protocol announce merger of corporate carbon accounting standards

On 29 July, the Greenhouse Gas Protocol (GHG Protocol) [announced](#) that it will merge its corporate carbon accounting standards with those of the International Organization for Standardization (ISO). The resulting co-branded standard will bring together GHG Protocol's Corporate Standard, Scope 2 Standard, Scope 3 Standard, and Actions and Market Instruments (AMI) framework, with ISO 14064-1. GHG Protocol has published a [Standard Development Plan](#) for the integration. A public consultation is planned for Q2 2027, with the consolidated standard due in Q4 2028. On 29 July, GHG Protocol also [published](#) the results of the public consultation on its Scope 2 standard. The GHG Protocol will now revise the draft standard, in parallel to its Actions and Market Instruments (AMI) workstream.

EFRAG launches consultation on ESRS for non-EU groups under CSRD

On 23 July, the EFRAG [launched](#) a public consultation on its [exposure draft](#) for the European Sustainability Reporting Standards for certain Non-EU Undertakings (ESRS-40a). It contains the proposed reporting requirements for non-EU groups with net revenue in the EU exceeding EUR 450 million in two consecutive financial years and that have an EU subsidiary or branch with revenue exceeding EUR 200 million. EFRAG [estimates](#) that approximately 1,200 non-EU entities are in scope. The reporting obligation first applies for FY 2028. Unlike the double materiality standard under the ESRS, the ESRS-40a focuses exclusively on impact materiality. The consultation closes on 31 October 2026. EFRAG intends to deliver its technical advice to the EC by January 2027.



EC adopts delegated and implementing acts and publishes corrected FAQs under EUDR

On 13 July, the EC [adopted](#) a Delegated Act and Implementing Act under the EU Deforestation Regulation (EUDR). The Delegated Act amends Annex I EUDR by removing certain products from scope (including cattle hides, skins and leather, retreaded tyres and soybeans for sowing) and adding soluble coffee, palm oil derivatives and frozen cattle tongues from 30 December 2027. The Implementing Act describes the information system for due diligence statements and simplified declarations. The EUDR will start applying on a phased-in basis from 30 December 2026. On 21 August, the EC also [published](#) a corrigendum to its FAQs on the implementation of the EUDR. It corrects FAQs 3.1.1 and 3.7, and the headings of FAQs 3.2 and 4.8.

EC adopts revised ESRS under Omnibus revision of CSRD

On 3 July, the EC [adopted](#) the revised European Sustainability Reporting Standards (ESRS). The revised ESRS form part of the Omnibus I simplification package and reduce reporting requirements. Mandatory reporting datapoints are cut by over 60% and total datapoints by over 70%. On the same day, the EC also adopted a voluntary reporting standard for smaller companies not in scope of the Corporate Sustainability Reporting Directive (CSRD). It offers a proportionate reference framework for smaller companies and introduces a value chain cap, preventing companies in scope of CSRD from requesting more information from smaller companies in their supply chains than the voluntary standard. The delegated acts will apply after the scrutiny period of the EP and Council has ended.

EFRAG publishes second report on CSRD/ESRS reporting practice

On 1 July, EFRAG [released](#) its second annual [review](#) of how companies are applying the ESRS in practice. It covers more than 900 sustainability statements for FY 2025, mostly from EU-listed companies. The assessment covers 18 criteria, including coverage of double materiality methodology, links between material topics and executive pay, geographic breakdowns of environmental metrics, and, for the first time, ESRS G1 governance disclosures. Manufacturing (36%), financial and insurance services (20%) and information and communication (10%) are the most represented sectors.



Financial institutions & regulation

LMA publishes updated sustainability-linked loan provisions, term sheet, and practice note

On 18 August, the Loan Market Association (LMA) [published](#) updated draft provisions for sustainability-linked loans, including an updated term sheet. The updates aim to reflect developments in market practice, including for 'sleeping' sustainability-linked loans. On 20 July, the LMA, together with the Asia Pacific Loan Market Association (APLMA) and Loan Syndications and Trading Association (LSTA), also [published](#) a practice note for identifying and assessing 'pure play companies', whose business activities are primarily focused on environmental or social objectives.

Delegated act under EU Prospectus Regulation published in Official Journal

On 13 August, an amendment to the Delegated Regulation under the EU Prospectus Regulation was [published](#) in the Official Journal of the EU. On ESG, the amendments introduce new prospectus requirements for bonds that are advertised as considering ESG factors or pursuing ESG objectives. The amendment entered into force on 16 August 2026.

IIGCC publishes guidance on aligning NZIF with UK and EU sustainable fund regimes

On 12 August, the Institutional Investors Group on Climate Change (IIGCC) [published](#) a five-part guidance, named 'Navigating fund labels with an NZIF lens'. It maps the voluntary Net Zero Investment Framework (NZIF) to the UK Sustainability Disclosure Requirements (SDR) and the EU Sustainable Finance Disclosure Regulation (SFDR), including the SFDR 2.0 proposal. Across both regimes, the guidance flags common implementation challenges such as clarity on assessing alignment and credibility, better coverage of asset classes beyond listed equity and fixed income, recognition of stewardship and engagement, and closer UK-EU interoperability.

EBA updates ESG risk dashboard

On 6 August, EBA updated its [ESG risk dashboard](#) for the second half of 2025, based on Pillar 3 disclosures from EU/EEA banks. The dashboard shows stable climate risk exposures across the banking sector alongside continued improvements in the quality of banks' ESG data. The EBA will continue to update the dashboard periodically as part of its ongoing ESG risk monitoring.



ESAs launch consultation on EU Taxonomy Disclosures Delegated Act

On 1 July, the European supervisory authorities [ESMA](#) (European Securities and Markets Authority), [EBA](#) (European Banking Authority) and [EIOPA](#) (European Insurance and Occupational Pensions Authority) launched public consultations on technical advice regarding proposed amendments to the EU Taxonomy Disclosures Delegated Act. The consultations by each supervisor focused on the sectors which they supervise. The proposed amendments are part of the Sustainability Omnibus I package and aim to simplify Taxonomy-related disclosure requirements for financial market participants. The consultations ended on 12 August 2026.



Litigation



German automotive supplier settles greenwashing case

On 24 August, German automotive supplier Continental has [settled](#) a greenwashing case at the Hannover Regional Court brought by German NGO Deutsche Umwelthilfe (DUH). The company has agreed to cease advertising without sufficient explanation of its intention to achieve '100% climate neutrality', '100% emission-free mobility and industry' and '100% responsible value chains' by 2050. DUH had accused the company of misleading consumers on the basis that the company had failed to verifiably explain how it intended to achieve these future ambitions.



EC notice on access to justice in EU environmental law published in Official Journal

On 24 July, the EC [notice](#) on access to justice in environmental matters was published in the Official Journal of the EU. It replaces the EC's [2017 guidance](#). The notice provides guidance on EU rules governing access to national courts to challenge decisions, acts and omissions by Member State public authorities in environmental matters. It aims to support consistent application of these rules by national authorities and courts and to guide stakeholders. Key topics include legal standing for individuals and environmental organisations, the scope and standard of judicial review, effective remedies and interim relief, litigation costs and legal aid, procedural time limits, and access to information on judicial review procedures. The notice does not address environmental litigation between private parties or the review of acts and omissions of the EU institutions via the General Court.



German court rules that advertisements with sustainability commitment are misleading

On 23 July, the Düsseldorf Regional Court [ruled](#) on a greenwashing case brought by German NGO DUH against L'Oréal. The case relates to hair dye products being advertised with reference to the 'Garnier sustainability commitment' through, among other things, 'more use' of recycled materials and renewable energy, as well as 'more efforts' in the fight against plastic pollution. The court found these statements misleading as consumers could not determine what measures L'Oréal had taken or specifically planned, nor whether those measures related to the product in question. The court held that the company may no longer advertise the product by reference to its 'Garnier sustainability commitment' without concretely explaining the environmental benefits of those claims.

Dutch NGO files disclosure request against meat company

On 22 July, Greenpeace Netherlands [requested](#) the District Court of Amsterdam to oblige Brazilian meat company JBS to disclose information about its business operations, expansion plans, and the potential damage it causes to climate, nature and local populations. The case relates to JBS's plans to invest USD 2.5 billion in six large meat-processing plants in Nigeria, about which civil society groups say there has been no environmental or social impact assessment and no consultation. Greenpeace intends to use the disclosed information as a preliminary step towards litigation.

Austrian company drops 'net-zero by 2040' claim after greenwashing challenge

On 22 July, Austrian beverage company Red Bull [committed](#) by way of an out-of-court cease and desist declaration to German NGO DUH that it will no longer use advertising claim 'Net-zero emission by 2040'. DUH had accused the company of misleading consumers on the basis that the company had failed to explain in any verifiable way how it intended to achieve this future commitment.

EC opens infringement procedures against Member States on transposition of anti-SLAPP Directive

On 15 July, the EC [opened](#) infringement procedures against 14 EU Member States, including the Netherlands, for failing to communicate complete transposition by 7 May 2026 of the anti-SLAPP (Strategic Lawsuits Against Public Participation) Directive (EU) 2024/1069. The Directive aims to protect journalists, human rights defenders and civil society organisations against abusive legal actions to silence public interest work.



Danish court fines airline for greenwashing over SAF advertising

On 9 July, a Danish court [ruled](#) that Dutch airline KLM's advertising in Denmark of flights using Sustainable Aviation Fuel (SAF) was misleading. The court fined the company for DKK 3 million (approximately EUR 402,000). The case concerned advertising campaigns from 2023 in which the company presented SAF-powered flights as a realistic step towards more sustainable travel, despite SAF accounting for only 1% of the fuel used at the airport. The court concluded that the campaigns created consumer expectations disproportionate to reality and that the advertising was therefore misleading.

German court rules that statements on sustainable aviation fuel are misleading

On 8 July, the Cologne Higher Regional Court [ruled](#) that German airline Lufthansa may no longer advertise that customers can 'reduce their flight-related CO2 emissions directly during booking using sustainable aviation fuels (SAF)'. The court found this statement to be misleading. SAF purchased through a booking was not necessarily used on the booked flight but often used with a time delay elsewhere in the airline's network. The ruling upholds an earlier judgment from autumn 2025.

Dutch prosecutors bring criminal environmental case against steel company

On 8 July, the Dutch Public Prosecution Service (DPPS) [announced](#) that it is bringing a criminal environmental case against Dutch steel company Tata Steel. The investigation followed a complaint filed on behalf of 800 petitioners. Pursuant to the website publication of the DPPS, the case relates to allegedly intentional and unlawful emissions of harmful substances into the air with possible adverse effects on public health, breaches of its duty of care through insufficient maintenance, operating without the required permits, and failure to report incidents involving raw coke (a by-product of coal heating). A first procedural hearing is scheduled on 20 November 2026 at the Amsterdam District Court.

Questions?

If you have any questions or comments on a specific ESG topic, please contact our [Sustainable Business & Climate Change team](#). To receive ESG Matters, please [sign up](#).

Key contacts



Frans van der Eerden | **partner Financial Law**. Focus on financial regulatory & sustainability



Maartje Govaert | **partner Employment & Pensions**. Focus on social pillar of ESG (employment law matters)



Iris Kieft | **partner Public Law & Regulatory**. Focus on public regulatory, energy, climate change and the circular economy



Suzanne Kröner-Rosmalen | **partner Corporate Governance**. Focus on sustainable corporate governance, ESG disclosures and strategy



Jens Mosselmans | **partner Public Law & Regulatory**. Focus on energy transition and public regulatory



Geert Raaijmakers | **partner Corporate Governance**. Focus on sustainable corporate governance



Freerk Vermeulen | **partner Dispute Resolution and head of the Supreme Court Litigation Team**. Focus on climate litigation and sustainability strategy



David Wumkes | **partner Real Estate**. Focus on real estate, sustainability and energy projects

Meet the [whole team](#)

Editors: [Kim Heesterbeek](#) & [Erik van Engelenburg](#)