

October 2026

Insights and perspectives on governance, disclosure & litigation

ESG Matters

In this October edition of ESG Matters, our Highlight discusses EU ETS reform. Our Spotlight section provides updates on recent developments in ESG governance, disclosure, financial regulation, and litigation.

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1 Highlight: EU ETS reform under the microscope

In a joint evaluation of the Commission's proposed EU Emissions Trading System (ETS) reform, published on 3 September 2026, the Dutch Bureau for Economic Policy Analysis (CPB) and the Netherlands Environmental Assessment Agency (PBL) reach a rather bleak conclusion: the proposed changes lead to substantially more emissions and a less stable emissions market, while the competitiveness benefit for industry is limited.

In last month's edition, we discussed the proposed review of the ETS. The Commission's proposed changes concern the loosening of the emissions cap and the reform of the Market Stability Reserve (MSR), including removal of the invalidation mechanism.

Effect on total Emissions

The CPB and PBL expect the proposed measures to lead to an additional 2.89

Gt of emissions by 2050. This is an increase of 33% of emissions compared to the reference scenario, of which 80% is a direct result of the loosening of the emissions cap.

- The CPB and PBL calculated that, if the rate at which the new emissions cap decreases between 2036 and 2040 continues after 2040, a total of 2.34 Gt in additional allowances will be issued by 2050.
- 0.96 Gt of those additional allowances are generated by purchasing international carbon credits and 0.25 Gt by domestic carbon removals.
- The remaining 0.55 Gt is a result of emissions that remain in circulation that would otherwise have been removed from the market through invalidation.
- Ultimately, this means that the proposed amendments to the ETS will lead to a global net increase of 1.68 Gt of emissions.

Effect on CO2 price

The greater future supply of allowances is projected to reduce the CO2 price by 14%. For gas-consuming businesses, this would translate into a gas price reduction of approximately EUR 2 per MWh, which is around 3% of the current gas prices, and therefore a negligible offset against the price increases of recent years.

Market stability

The proposed combination of a more rapid decline in MSR inflows, earlier allocation of allowances and faster depletion of the reserve will make the ETS more sensitive to price fluctuations.

- Under the current rules, the MSR entry threshold (the level above which surplus allowances are removed from the market) would be exceeded until 2034. Under the proposed amendments, this will only happen in 2027, after which the total number of allowances in circulation (the TNAC) will remain permanently below that threshold, meaning that no new allowances will flow into the MSR thereafter. This is because companies, in anticipation of the future increase in supply, are already reducing their emissions by less and are therefore accumulating fewer allowances.
- The low threshold governing the release of allowances from the MSR would be exceeded from 2034 under the proposed changes, six years earlier than in the baseline scenario. This means the MSR will return allowances to the market earlier than under current rules.
- As a result the analysis shows that the MSR stock will be completely depleted as early as 2041.

In addition, without the invalidation mechanism, the market loses an important stabilising feature: when demand for allowances falls unexpectedly (for example due to sharply rising energy prices), invalidation would normally shrink future supply and cushion downward price pressure.

What it means for you:

- Companies relying on ETS relief as part of a cost-competitiveness case should

temper expectations: the projected saving of around €2 per MWh (roughly 3% of current gas prices) offers negligible relief against recent energy cost increases.

- The MSR losing its stabilising function earlier, combined with its reserve being fully depleted by 2041, could lead to a less stable, more volatile CO2 market, increasing price volatility around future demand shocks. This makes the business case for decarbonisation investments more uncertain.
- For the EU to remain on the emission reduction trajectory enshrined in the EU Climate Act, additional emissions reduction measures are expected to be required in non-ETS sectors to compensate for the more limited reduction path under the ETS.
- As the proposal moves through the EU legislative process, both the cap trajectory and the MSR/invalidation provisions remain open to further negotiation. Given the CPB/PBL finding that the current package trades a limited competitiveness benefit for a substantial increase in cumulative emissions, this is a file worth monitoring closely in the coming months.

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2 Spotlight on ESG developments

Governance & transition

2026 State of the Union Address by President von der Leyen

On 16 September 2026, European Commission President Ursula von der Leyen delivered her 2026 State of the Union address, announcing several new climate initiatives. On climate, she announced: a new climate resilience framework identifying the 100 most vulnerable areas in Europe; a European Heatwave Plan covering early warning systems and health preparedness; and a European Water Initiative alongside measures to address the farming insurance gap. She noted that European pipes lose almost one in every four litres of water, mostly through leakage.

On energy and raw materials, she announced plans to double the EU's share of electricity by 2040 and a new European Corporation on Critical Raw Materials:

- Electricity target: doubling the EU's share of electricity by 2040, potentially cutting the fossil-fuel import bill by EUR 260 billion a year.
- Grid connections: six times more renewable capacity awaits grid connection than was installed last year.
- Critical raw materials: a new European Corporation on Critical Raw Materials will help procure and stockpile materials for EVs, chips, batteries, clean tech and defence, citing over 80% EU dependency on China for many critical raw materials and 90% for certain rare earths.
- Simplification: the EU's 12 omnibus proposals are credited with cutting administrative burden by around EUR 17 billion a year; Member States are called on to agree a pact against gold-plating.

What climate and energy commitments are in the Dutch 2027 Budget Memorandum?

The Dutch cabinet's 2027 Budget Memorandum confirms further funding for CO2 storage and grid, hydrogen and heat infrastructure.

On 15 September 2026, the Dutch cabinet presented its 2027 Budget Memorandum (Miljoenennota), titled 'Re-earning prosperity' (Welvaart opnieuw verdienen). Our recent post already covered the Memorandum's climate and energy commitments, including the additional funding for the Aramis CO2 storage project and the over EUR 10 billion allocated for grid, hydrogen and heat infrastructure.

This is directly relevant for construction, infrastructure and agriculture companies awaiting nitrogen-linked permits:

- Permitting: EUR 500 million is being made available for seven priority areas to unblock permitting around Natura 2000 sites.
- PAS-melders: a cumulative EUR 350 million is allocated for a structural solution for "PAS-melders" awaiting a permit.
- Agri-environmental schemes: EUR 36.5 million is added in 2027, rising structurally to EUR 165 million, to support farmers contributing voluntarily to EU nature, water and climate targets, on top of a EUR 200 million increase already made by the previous cabinet.

Dutch cabinet presents 2026 National Energy System Plan

The Netherlands' updated National Energy System Plan (NPE) sets a roadmap towards 2040/2050 but does not fix a concrete fossil fuel phase-out date. On 15 September 2026, the Dutch government published the updated NPE. Key points:

- Direction: policy aims to reduce and ultimately phase out fossil fuels as sustainable alternatives become available.
- Priorities: further electrification, expansion of energy infrastructure, and domestic renewable energy production.
- Grid congestion: identified as a key priority, since current capacity constraints delay electrification and prolong reliance on fossil alternatives.
- No fixed targets: the NPE does not set a concrete phase-out date or specific reduction targets. Instead, it provides for a responsible phase-out, considering the availability of sustainable alternatives and the need to maintain security of supply.

Government announced that it intends to amend the Dutch Climate Act

The Dutch government will amend the Climate Act in response to a court ruling that current climate measures are insufficient. On 28 January 2026, the Hague District Court gave judgement in proceedings brought by Stichting Greenpeace Nederland against the Dutch State concerning climate change on Bonaire. The Court held that measures taken to date, both for climate mitigation in the European part of the Netherlands and for climate adaptation on Bonaire, are insufficient, and that further steps must be taken. The government intends to amend the Dutch Climate Act to comply with the Court's order and aims to publish draft legislation for consultation in Q4 2026.

Disclosure

What changes under the new Directive on Empowering Consumers for the Green Transition?

The EU's Directive on Empowering Consumers for the Green Transition (ECGT) entered into force on 27 September 2026, and the ACM is urging companies to review their sustainability claims now. We previously discussed the ECGT Directive's aim of protecting consumers against misleading sustainability claims in our July 2025 and June 2026 editions. The Dutch implementing act, and the Directive itself, apply from 27 September 2026. Key points:

- Supervisor: the Dutch Authority for Consumers and Markets (ACM) has been designated as supervisor.
- Generic claims: claims such as 'environmentally friendly' will now only be permitted if they meet strict European or national standards.
- Labels: unverified in-house sustainability labels will no longer be allowed.
- Transitional stock: the ACM and other European consumer authorities in the Consumer Protection Cooperation (CPC) Network have published a joint statement on existing stock that still carries non-compliant claims or labels. Enforcement authorities may take transitional situations into account, for example where a business can demonstrate it holds pre-existing stock and was already working to comply before the new rules took effect.

EC publishes revised ESRS and voluntary sustainability reporting standard in the Official Journal

The revised ESRS simplifies sustainability reporting by reducing datapoints and clarifying double materiality. On 21 September 2026, the European Commission published Commission Delegated Regulation (EU) 2026/1563 (revised ESRS) in the Official Journal, replacing the standards in Delegated Regulation (EU) 2023/2772. It enters into force on 10 November 2026 and applies to financial years beginning on or after 1 January 2027. For financial years running from 1 January to 31 December 2026, in-scope undertakings may choose:

- The existing standards as last amended by Delegated Regulation (EU) 2025/1416;
- The new simplified standards under Delegated Regulation (EU) 2026/1563; or
- The existing standards with specified reliefs. The sustainability statement must state which option was applied.

A new voluntary sustainability reporting standard and value chain cap take effect from 24 September 2026. On the same date, the Commission published Commission Delegated Regulation (EU) 2026/1560, establishing a voluntary sustainability reporting standard for undertakings outside the mandatory CSRD scope and a value chain cap limiting how much information CSRD-reporting undertakings may request from smaller value chain partners. It enters into force on 24 September 2026, with the value chain cap applying from financial years beginning on or after 1 January 2027.

What is the new XBRL Taxonomy for the revised ESRS?

EFRAG has launched a public consultation on a draft XBRL Taxonomy for the revised ESRS, open until 11 November 2026. On 17 September 2026, the European Financial Reporting Advisory Group (EFRAG) published the draft taxonomy, replacing the one EFRAG released in August 2024. It reflects the 2026 Revised ESRS Delegated Act published by the European Commission on 3 July 2026, and is aligned with EFRAG's Draft List of Datapoints for the Revised ESRS, released in August 2026. The Draft List of Datapoints is for human use, while the XBRL taxonomy is designed mainly for producing machine-readable digital reports. Digital tagging of ESRS disclosures under the European Single Electronic Format (ESEF) is not yet mandatory, as the underlying regulatory framework still must be established by the European Securities and Markets Authority (ESMA) and the European Commission. EFRAG intends to submit the final XBRL Taxonomy to ESMA and the Commission by the end of 2026.

UK proposes major overhaul of corporate sustainability reporting requirements

The UK has launched a 12-week consultation on plans to replace most existing non-financial reporting requirements with baseline narrative disclosures. On 7 September 2026, the UK government launched the consultation, which runs until 30 November 2026, as part of its plan to modernise corporate reporting and strengthen UK competitiveness. Key points:

- Strategic report reform: most existing non-financial reporting requirements, including on environmental impact, employee diversity, social responsibility, community engagement, human rights and anti-bribery, would be removed and replaced with a core set of baseline narrative disclosures. Companies would still be required to report on these topics where they are financially material.

- Company thresholds: the government is testing a new “very large” company threshold to simplify which companies are subject to certain non-financial reporting obligations, and separately asking whether non-financial reporting should apply to private companies at all.
- Climate disclosures unaffected for now: existing climate-related financial disclosure requirements are not affected by this consultation, although the government is conducting a separate review expected to conclude by spring 2027.
- Wider context: the reforms sit alongside the recent UK Sustainability Reporting Standards (UK SRS), based on the IFRS Foundation’s sustainability and climate standards, and an ongoing FCA consultation on mandatory UK SRS reporting for listed companies.

EC specifies authorisation requirements for ESG rating providers under new Delegated Regulation

ESG rating providers operating in the EU must now be authorised, or recognised if established outside the EU, under a new Delegated Regulation. On 1 September 2026, Commission Delegated Regulation (EU) 2026/1119, supplementing the EU’s ESG Ratings Regulation (Regulation (EU) 2024/3005), was published. It applies retroactively from 2 July 2026, in line with the ESG Ratings Regulation, and specifies the information required in authorisation and recognition applications, such as details on ownership, governance, conflicts of interest, methodologies and organisational structure. Existing medium and large ESG rating providers must submit their applications by 2 November 2026. ESMA has published a master application template to support providers in preparing their submissions.



Financial institutions & regulation

Why is extreme heat a growing financial risk for insurers and pension providers?

Heatwaves cause around 97% of fatalities from weather- and climate-related extremes since 1980, and EIOPA says this is now a financial risk, not just an ESG concern. On 30 September 2026, EIOPA published a report on the impact of climate change on life and health insurers and occupational pension providers.

Key points:

- Mortality impact: heatwaves exceed the impact of floods and storms in causing weather-related deaths.
- Emerging risks: heat-related mortality, more frequent wildfires and the potential spread of vector-borne diseases have direct implications for the mortality, morbidity and longevity assumptions underpinning insurers' and institutions for occupational retirement provision's (IORPs') business models.
- EIOPA's expectation: since climate change challenges traditional longevity assumptions, these risks must be integrated into longevity assumptions, scenario analysis and risk management frameworks.
- Methodology: the report includes a methodology, comprising a heatwave scenario, vulnerability indicators and technical provisions for exposure, to estimate the impact of climate change on types of undertakings, lines of business and countries.

EIB Group adopts PATH 2 framework to simplify green financing

PATH 2 simplifies how the EIB Group assesses counterparties' alignment with the Paris Agreement and removes separate EIB reporting demands. On 23 September 2026, the European Investment Bank (EIB) Group adopted PATH 2, replacing the 2021 version. Key points:

- No separate reporting: clients no longer face separate EIB reporting demands; the EIB instead relies on climate information clients already disclose.
- Risk-based scrutiny: counterparties with the highest climate risk still face closer scrutiny.
- Transition plans: counterparties without a transition plan must publish one, and technical assistance to prepare transition plans remains free of charge.
- Timing: PATH 2 forms part of the EIB Group's Climate Bank Roadmap Phase 2 and takes effect in January 2027.

What is the new EU rating scheme for data centres?

A new EU rating scheme will increase transparency on data centres' use of natural resources and carbon emissions. On 21 September 2026, the Commission published a Regulation establishing a common Union rating scheme for data centres. Data are becoming more essential to Europe's digital development and resilience, but data centres also consume significant natural resources, such as water, and contribute to increased carbon emissions. The first sustainability labels for data centres are expected to be published in August 2027.

The EU's New Climate Resilience Framework

The European Commission aims to give Member States a more integrated framework to prevent and prepare for the growing impact of climate change. On 15 September 2026, the European Commission scheduled its Climate Resilience Framework for the end of October 2026. Until now, it has remained unclear who bears the risk of climate risks; the Framework aims to remove this uncertainty. It will include legislative and non-legislative measures which, according to the Commission, range from legally binding rules to economic instruments and information tools.

European Parliament committee proposes stricter fossil fuel criteria for new SFDR "Transition" category

The European Parliament's ECON committee has adopted a stricter investment test for fossil fuel companies seeking the new SFDR "Transition" label. On 10 September 2026, ECON adopted its report on the revision of the Sustainable Finance Disclosure Regulation (SFDR) and approved opening negotiations with EU member states. Key points:

- New structure: the reform recasts the current Article 6, 8 and 9 disclosure regime around three voluntary product categories: Transition, ESG Basics and Sustainable.
- Member states' proposal: fossil fuel companies could qualify for the Transition category if they direct at least 20% of capital expenditure to EU Taxonomy-aligned activities, combined with a time-bound emissions-reduction strategy.
- ECON's added condition: over a rolling three-year period, these companies must invest more in green activities than in new fossil fuel projects.
- Disclosure requirements: all three categories must disclose emissions and fossil fuel exposure, with Transition and Sustainable products reporting an additional indicator relevant to their claims.
- Next step: Parliament will vote on this position in October 2026.

Litigation

Greenpeace and ÖKOBÜRO file EU complaint against Austria over anti-greenwashing rules

Greenpeace and ÖKOBÜRO allege that Austria's implementation of the ECGT Directive unlawfully delays enforcement for existing products. On 25 September 2026, they filed a complaint with the European Commission against Austria.

The complaint targets a transitional provision in Austria's implementing legislation under which civil claims for non-compliant environmental claims can only be brought for goods placed on the market after 27 September 2026; goods already on the market remain unenforceable under the new regime for three years, until 27 September 2029. Greenpeace argues this breaches EU law on three grounds:

- Settled case law requires directives to be transposed fully and effectively;
- The ECGT Directive itself contains no authorisation for transitional periods and must be fully applied from 27 September 2026; and
- The Unfair Commercial Practices Directive requires effective enforcement covering all goods.

Amsterdam District Court declares Milieudefensie admissible in collective action against Dutch Bank

The Amsterdam District Court has ruled Milieudefensie admissible in its collective action against Dutch Bank. On 9 September 2026, the District Court of Amsterdam gave an interim ruling in the collective action brought by Milieudefensie, which claims that the Dutch Bank, should be ordered to take measures to limit global warming. The ruling addresses only whether Milieudefensie meets the admissibility requirements in the Dutch Act on the Settlement of Mass Damages in Collective Actions (WAMCA).

The ruling only deals with admissibility. Whether Milieudefensie's substantive claims can actually achieve their stated aim is a question for the merits.

General Court rejects NGO challenge to the EU's 2023-2030 emissions allocation

The General Court dismissed the NGOs' challenge, finding the Commission had no power to alter the underlying targets. On 2 September 2026, the General Court of the EU dismissed an action brought by Global Legal Action Network (GLAN) and Climate Action Network Europe (CAN Europe) against the European Commission's refusal to internally review Implementing Decision 2023/1319 under the Aarhus Regulation, which sets annual emissions allocations for Member States for 2023-2030 under the Effort Sharing Regulation. The NGOs argued that the underlying 2030 climate targets and impact assessment were insufficient under the Paris Agreement and EU environmental law. The Court found that this in substance challenged targets set by the European Parliament and the Council, which the Commission had no power to alter, and that the Aarhus internal-review procedure does not extend to legislative acts. The Court did not rule on whether the EU's 2030 targets are themselves adequate. The NGOs may appeal to the Court of Justice.

Questions?

Do you have any questions or comments on a specific ESG topic? Please do not hesitate to contact our Sustainable Business & Climate Change team. If you or members of your team would also like to receive updates, please sign up.

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