



September Recap

Speaking Sustainability - Legal & Regulatory Updates

Akin's Speaking Sustainability newsletter provides a monthly digest of key news items and other relevant information on significant legal and regulatory developments in the continuum of sustainability issues, including environmental, social and governance (ESG) and climate-related considerations.

As a reminder, visit **Speaking Sustainability**, where we keep you up to date with alerts and blog posts, and where you can also find our earlier newsletters.

Sustainability Highlights

- **Federal Judge Blocks Texas Bill Targeting ESG and DEI Practices at Proxy Firms**
 - **EPA Proposes Rule to Scale Back Greenhouse Gas Reporting Program**
 - **U.S. Appeals Court Continues Pause on Litigation of SEC Climate-Related Disclosure Rule**
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The Details

1. The U.S. District Court for the Western District of Texas entered a preliminary injunction against Texas Senate Bill 2337 (SB 2337) one day before the bill's effective date. The bill would have regulated proxy advisory firms on their diversity, equity and inclusion (DEI)- and ESG-related investment recommendations and disclosures.

- The bill, meant to take effect September 1, was intended to limit the use of DEI- and ESG-related considerations at proxy advisory firms by requiring financial analysis

supporting its advice and to publicly disclose that such advice does not solely serve shareholders' financial interests.

- Institutional Shareholder Services (ISS) and Glass Lewis brought separate lawsuits, arguing the law unconstitutionally restricted their speech and interfered with the Employee Retirement Income Security Act (ERISA).
- The court agreed with the proxy firms' arguments that the bill "discriminates based on viewpoint" and compels firms to adopt the government's stance on contentious issues.
- Texas Attorney General Ken Paxton has announced that his office will be appealing the preliminary injunction orders. A trial on the merits is currently scheduled to begin in February 2026.

2. The Environmental Protection Agency (EPA) released a proposed rule that would significantly scale back the Greenhouse Gas Reporting Program (GHGRP) and eliminate reporting requirements for all source categories except Petroleum and Natural Gas Systems (Subpart W).

- The agency maintains that the Clean Air Act does not require collection of greenhouse gas data outside of Subpart W (excluding distribution). EPA will consider separate petitions for reconsideration of Subpart W in a different rulemaking.
- The proposal would relieve approximately 8,200 facilities across various sectors (e.g., cement, power generation, electronics, ferroalloy production and solid waste landfills) of current reporting obligations.
- Comments regarding the proposed rule are due by November 3, 2025.

3. The U.S. Court of Appeals for the 8th Circuit issued an order on September 12 continuing to hold in abeyance the litigation over the agency's Biden-era climate-related disclosure rule.

- The order emphasizes that the Securities and Exchange Commission (SEC) must either defend the disclosure rule in court or conduct a rulemaking process to rescind or revise it.
- SEC commissioners voted in March 2025 to cease defending the rule and had asked the court to proceed with clarifying the agency's rulemaking authority. Akin discussed that development [here](#).
- The court rejected SEC's approach, holding the case in abeyance "to promote judicial economy" until SEC chooses a path forward. Akin will continue monitoring developments.

Key Environmental Developments

Fall Has Sprung? EPA Signals PFAS Rollbacks in ‘Spring’ Unified Agenda *(Akin)*

On September 4, 2025, EPA released its Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions, which, among other things, expresses the agency’s intention to rescind per- and polyfluoroalkyl substances (PFAS)-related drinking water limitations set by the Biden administration.

Euro(re)vision: EU Revising its PFAS Restriction Proposal *(Akin)*

Several European nations submitted an update to the proposal to restrict PFAS under the European Union’s Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation. The revision expands exemptions from PFAS restrictions and proposes regulatory mechanisms beyond a full ban or phased-in ban of the chemicals.

CARB Publishes Draft Climate-Related Financial Risk Disclosure Checklist *(Akin)*

Following the California Air Resources Board’s (CARB) second virtual workshop discussing its two upcoming climate-disclosure regulations (written about [here](#)), the agency released a [Draft Checklist](#) to assist companies preparing for the climate-related financial risk reports under 261. The checklist draws heavily from the Task Force for Climate-Related Disclosure framework.

DOE Secretary Uses Rarely Invoked Statutory Authority to Seek Rescission of FERC’s Draft Pipeline Certificate Policy *(Akin)*

Akin discusses a recent Department of Energy (DOE) proposal to the Federal Energy Regulatory Commission (FERC) asking the agency to terminate its long-running proceeding relating to the certification of interstate natural gas facilities.

BRB Finance Coalition Secures \$4.5B for Brazil’s Forests, Bioeconomy Ahead of COP30 *(ESG Dive)*

The Brazil Restoration and Bioeconomy Finance Coalition secured approximately \$4.5 billion in commitments to forest and bioeconomy projects. This funding places the country nearly halfway to its \$10 billion funding target intended by 2030.

Key Social Developments

Major Companies Reframing, Not Abandoning, DEI: Report *(ESG Dive)*

The Conference Board reports more than half of S&P 500 companies adjusted their framing of DEI initiatives and messaging in major filings in 2025.

Congressional Dems Press DOL on Women Leaving the Workforce *(ESG Dive)*

The Democratic Women’s Caucus expressed concern in a letter issued to the Department of Labor (DOL) on the rising rate of women leaving the workforce since January 2025.

Protecting Nature Could Unlock Growth and Jobs, Says World Bank Report *(ESG News)*

The World Bank reports on the detrimental economic and cognitive effects resulting from climate

change and presents action pathways to yield more efficient resource use that, in addition to benefiting nature, creates more jobs per dollar invested.

Key Governance Developments

SEC Forms Cross-Border Task Force with Implications for Foreign Issuers, Auditors and Other Gatekeepers *(Akin)*

The SEC created the Cross-Border Task Force to combat fraud involving foreign companies. Auditors and underwriters are especially at-risk of increased scrutiny, consistent with the agency's announcement of the Task Force.

Non-Financial Misconduct in Financial Services: Nothing is 'Plain and Simple' *(Akin)*

The U.K.'s Financial Conduct Authority is extending the application of its non-financial misconduct rules to a broader scope of conduct, aligning the scope for employees of banks and non-banks beginning September 1, 2026.

Proxy Season Global Briefing Part 3: Trends on Boards of Directors *(Glass Lewis)*

Glass Lewis issued a memorandum discussing shareholder voting trends relevant to board directors following the results of the 2025 proxy season.

ESG Raters That Also Provide Index Funds May Skew Ratings *(ProMarket)*

ESG rating agencies that operate a dual business model by way of rating a company's ESG performance and then profiting from indexes based on those ratings may experience higher exposure to conflicts of interest.

The Use of ESG Ratings in Corporate Compensation Plans: Promises and Pitfalls *(Sage)*

A recent paper discusses the use of third-party ESG ratings as key performance indicators within executive and management compensation plans, arguing rating agencies' opaque methodologies result in inadequate evaluations of company performance and serve as a pathway towards potential data manipulation.

Additional Resources

Akin maintains three trackers to help keep you up to date in between our newsletters:

- **Sustainability Legislation & Regulation Monitor** covers the latest sustainability-related legal and regulatory developments across the United States, which can be searched by state or topic.

- [EPA Deregulation Tracker](#) logs the environmental regulations the Environmental Protection Agency (EPA) plans to reconsider and provides a current status of the changes underway.
 - [Trump Executive Order Tracker](#) keeps up with the fast pace of executive orders issued by the Trump administration.
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Upcoming Sustainability Events

[The Future of ESG Data EMEA](#)

Environmental Finance

London, UK

October 13, 2025

[Beyond ESG: Shaping the Next Era of Sustainable Finance](#)

Environmental Finance

Webinar

October 15, 2025

[GreenFin Impact 25](#)

Trellis

San Jose, CA

October 28-30, 2025

[COP30](#)

United Nations Climate Change Conference

Belém, Brazil

November 10-21, 2025

[Akin's Sustainability Practice](#)

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