ADEC ESG

U.S. Climate-Related Mandatory Reporting: Frameworks and Future Outlook

From California's climate disclosure bills to the SEC's climate rule, we explore the mandatory reporting landscape that U.S. companies are currently facing.

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Introduction

Voluntary disclosure of climate-related information has existed in some form for decades.

In the 1990s and early 2000s, organizations like CDP and GRI began standardizing reporting in an attempt to provide a cohesive way for companies to communicate information surrounding environmental, social, governance, and impact topics.

More recently, we have seen a marked shift towards mandated climate-related data reporting at multiple levels of government. From state-level mandates like California's Climate Accountability Package to broader regulations like the EU's Corporate Sustainability Reporting Directive (CSRD), regulatory bodies are stepping in to ensure that investors have the climate data they need to make informed decisions.

This white paper will review climate-related regulatory action in the U.S., focusing on those mandating the disclosure of climate-related information. These laws primarily focus on greenhouse gas emissions data and climate risk data, and we see considerable overlap with existing global frameworks such as the Task Force for Climate-Related Financial Disclosures (TCFD) recommendations and CDP.

The paper will also draw connections between current and upcoming U.S. policy and regulatory action in other parts of the world, such as the EU. We will explore both U.S. and global regulatory trends and discuss what the future may look like for ESG reporting.

Spotlighting Frameworks, Regulations, and Programs

While more than half of all states have released climate action plans and twenty-four have adopted greenhouse gas emissions targets at time of publishing, only a handful have seen bills that attempt to enact mandatory reporting requirements.

Below, we discuss these bills—both those that have passed and those that have not—as well as action by the federal government in recent years. What do these regulations call for, and how might they impact your organization? Where does the U.S. stand on the global stage of climate disclosure regulation?

California

At the beginning of 2023, California introduced two bills under its **Climate Accountability Package**: the Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261). In 2024, both bills passed into law.

The two bills are designed to complement each other, creating a regulatory framework that would require companies that do business in California to report on their emissions and climate risks. SB 253 provides the framework for reporting and disclosure of greenhouse gas (GHG) emissions data, while SB 261 outlines the guidelines for public disclosure of climate-related financial risk.

SB 253[1]	SB 261[2]
Starting in 2025, rolling out over 2026-27	Starting in 2026
Compels the California Air Resources Board to develop and adopt regulations requiring businesses to publicly disclose GHG emissions data (scopes 1, 2, and 3)	Requires in-scope companies to prepare a climate-related financial risk report once every two years
Aligned with the GHG Protocol and its Corporate Value Chain (Scope 3) Accounting and Reporting Standard	Aligned with the TCFD recommendations
Requires independent third-party verification and some level of assurance	Requires verification and assurance of any scope 1, 2, or 3 data that is referenced in the report

Washington

Signed into law in 2021, Washington's Senate Bill 5126 (**Climate Commitment Act**) established a market-based (cap-and-invest) program that was designed to help the state achieve its goal of net-zero GHG emissions by 2050. The Act set new standards by which emissions should be reported, ensuring accuracy, and made GHG emissions reporting mandatory for certain entities.

Mandatory reporters over a certain emissions threshold are also required to have their emissions and product data independently verified. The intensity of this verification changes over a three-year cycle, beginning with full verification and a reasonable level of assurance.[3]

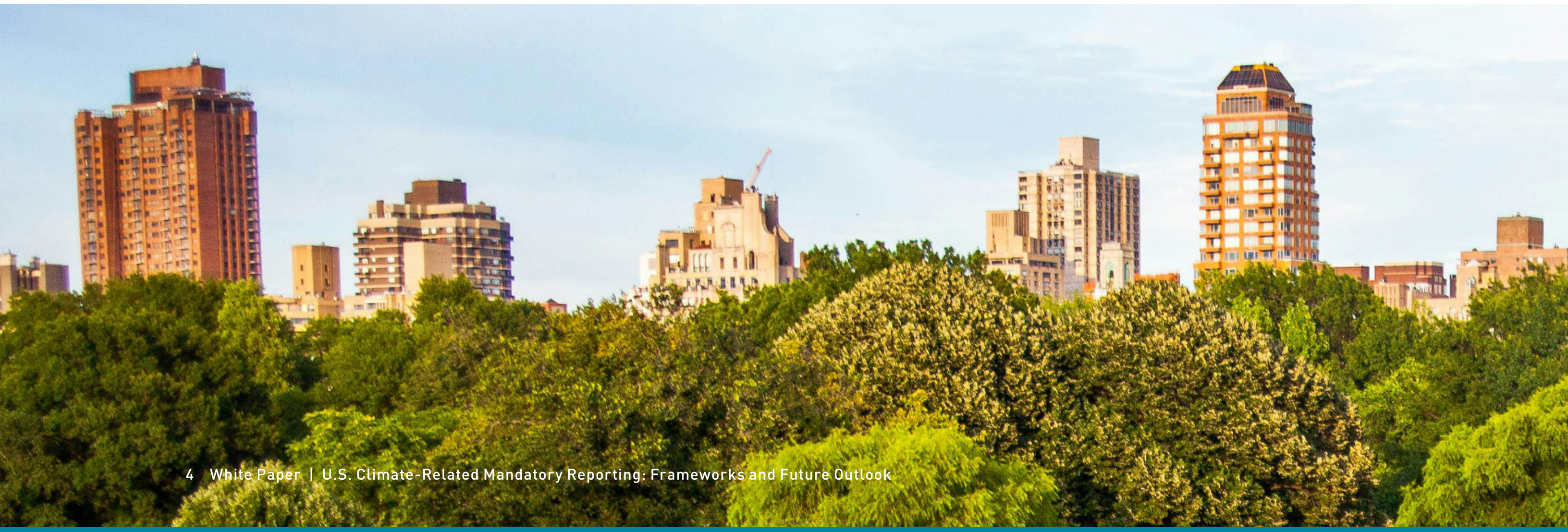
In early 2024, Senate Bill 6092 (**Climate Corporate Data Accountability Act**) was introduced in the state legislature. It followed California's SB 253 closely, requiring some companies to disclose scope 1 and 2 emissions by 2026 and scope 3 emissions by 2027.[4] The bill did not pass into law by the end of the legislative session but highlights a marked shift in focus on corporate climate data disclosure.

Oregon

Oregon has had GHG reporting rules in place since before 2010, after the Oregon Legislature first established GHG emissions reduction goals for the state with House Bill 3543.[5] These rules set requirements on GHG registering, reporting, and other actions for facilities that emit GHGs, including fuel and electricity suppliers. In 2020, the rules were updated, requiring third-party verification for data submitted by certain organizations, primarily large facilities and suppliers with emissions equal to or greater than 25,000 metric tons of carbon dioxide equivalent.[6]

In addition, the **Oregon Clean Fuels Program**, adopted in 2016, requires its participants—importers and in-state producers of fuels such as gasoline, diesel, and ethanol—to submit quarterly and annual reports, which are then reported to the **GHG Reporting Program**.[7]

From the building industry side, in 2023 Oregon passed House Bill 3409[8] and House Bill 3630[9], as part of a broad package of bills known as the **Climate Resilience Package**. This incentive-based approach focuses on community resiliency and adaptation, with the goals of addressing



climate change, reducing emissions in the building sector, and investing in renewable energy solutions.

The bills include policies that address the use of GHG emissions statewide, including those that:

- Support energy efficiency in new and retrofit commercial and residential buildings
- Broaden the use of electric vehicles
- Encourage solar and energy storage installation in homes across the state

Under new policies, agencies are required to comply with ASHRAE 100 energy performance standards, such as meeting energy efficiency targets and developing energy management plans. Agencies are also directed to establish energy efficiency loan funds to reinvest money from energy savings into future sustainability projects.

Illinois

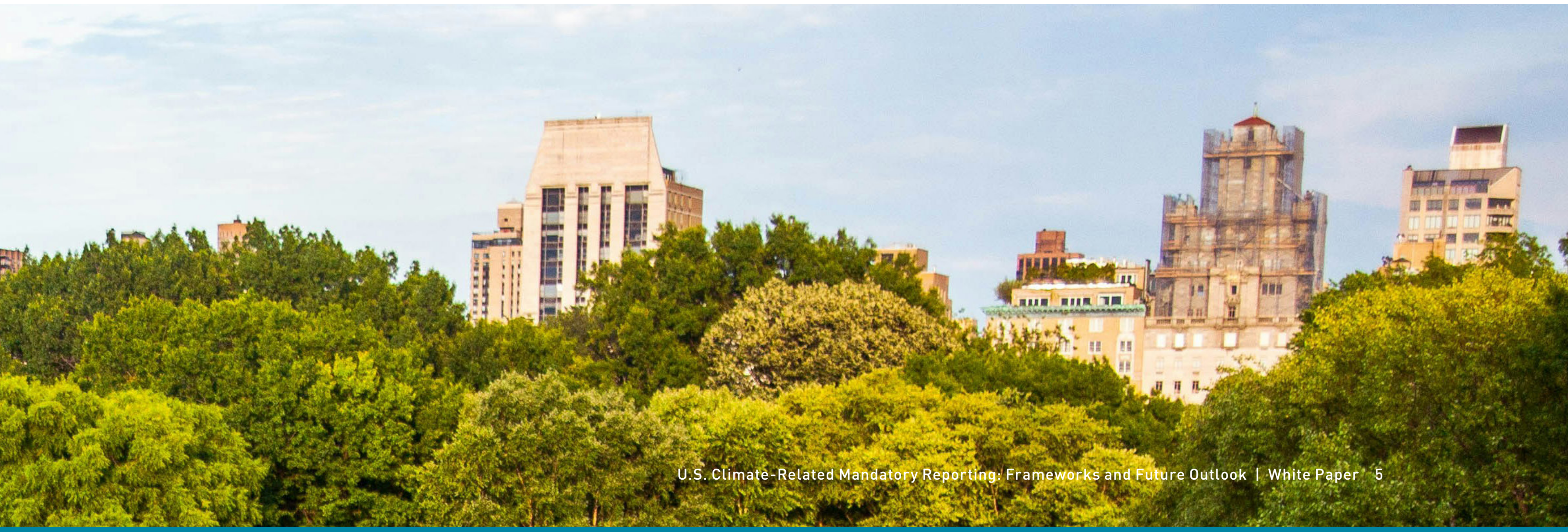
Introduced in January 2024,[10] Illinois' **Climate Corporate Accountability Act** (House Bill 4268) closely followed California's SB 253. The bill would mandate GHG emissions disclosure for companies that do business in Illinois above a certain threshold, with in-scope companies required to annually report on scope 1, 2, and 3 emissions. Disclosures would need to be independently verified and would be made publicly available by the state, with reporting starting January 2025.

The bill was not passed in 2024, and there are currently no updates on when the bill may be reintroduced.

New York

New York's **Climate Corporate Data Accountability Act**—including Senate Bill 897 (Assembly Bill 4123) and Senate Bill 5437—was also introduced earlier this year and closely follows California's Climate Accountability Package.[11] The Act would require in-scope U.S. companies that do business in New York to annually disclose and verify scope 1, 2, and 3 emissions. SB 5437 would also require in-scope companies to annually publicly disclose a climate-related financial risk report.[12]

Like the Illinois Climate Corporate Accountability Act, New York's Act has not yet been brought up for a vote and would need to be reintroduced in 2025 to be considered.



SEC Climate Rule

Finalized in early 2024, the U.S. Securities and Exchange Commission's (SEC's) climate disclosure rule imposes limited climate-related disclosure requirements on publicly traded companies.

The rule asks companies to disclose information in seven broad categories: climate risk impact, mitigation and adaptation, board oversight and risk management, climate goals, scope 1 and 2 emissions, severe weather events, and carbon offsets and renewable energy credits. Scope 1 and 2 reporting is only mandatory for certain groups of filers. Reporting on scope 3 emissions is not required.

The rule is set to be phased in over the next several years and will require certain filers to obtain limited assurance for GHG emissions disclosures by FY2029 and FY2031, with reasonable assurance required by FY2033.[13]

The SEC has recently defended its rule in federal court in response to petitions challenging the SEC's authority to require climate-related disclosures, the reliability of requested GHG data, and other elements of the rule. The Commission argued that requiring the disclosure of information pertinent to investors was well within its authority, citing increased demand from investors themselves and asserting that mandatory, consistent, and standardized climate-related disclosures provide useful information for decision-making.[14]

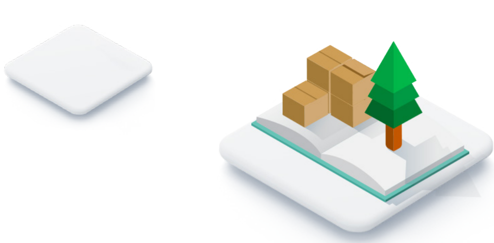
Inflation Reduction Act

The Inflation Reduction Act (IRA) of 2022 provides financial incentives for those who can contribute to the development of clean energy and reduction of emissions, laying additional groundwork for increased availability and access to clean energy.

The largest financial benefits from the IRA are available for companies that have resources to invest in clean energy solutions. Solar, geothermal, wind, closed- and open-looped biomass, landfill gas, municipal solid waste, hydro, marine and hydrokinetic facilities, and offshore wind development are supported by tax credits and financial support from the IRA.[15]

While IRA grants, loans, and tax credits do not require scope 1, 2, and 3 emissions disclosure across the board, participation in some programs may require reporting of some energy- or emissions-related data.

For example, under the Federal Supplier Climate Risks and Resilience Proposed Rule, major federal contractors with annual contracts of more than $50 million would be required to publicly disclose scope 1, 2, and 3 emissions; assess and disclose climate-related financial risks in alignment with the TCFD; and set science-based targets validated by the Science Based Targets initiative. Contractors with annual contracts between $7.5 million and $50 million would be required to disclose only scope 1 and 2 emissions.[16]

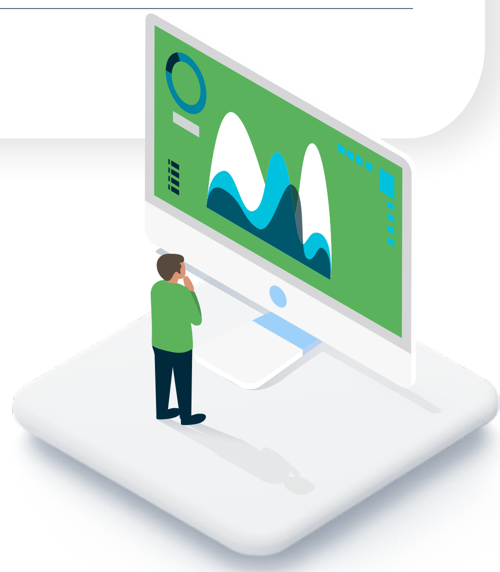


U.S. Disclosure Regulations Summarized

The table below lists the U.S. climate regulations previously discussed and marks which key topics are addressed in each.

	Scope 1 and 2 Emissions	Scope 3 Emissions	Climate Risk Data	Third-Party Assurance
California SB 253	X	X		X
California SB 261			X	
Washington SB 5126	X			
Washington SB 6092*	X	X		
Oregon GHG Reporting Program	X			X
Illinois HB 4268*	X	X		
New York SB 897 (AB 4123)*	X	X		
New York SB 5437*			X	
SEC Climate Rule	X			X
Inflation Reduction Act				

*Bills that we introduced but not passed.



EU Rules and U.S. Companies

A number of rules put in place by the European Union have implications for U.S. companies that fall within their scope.

CSRD

The Corporate Sustainability Reporting Directive (CSRD) will soon require all companies conducting business in or operating within the EU to disclose detailed environmental, social, and governance data—including projected impacts on society, the climate, and the organization's vulnerability to ESG risks. Its broad scope, depth and assurance of required data, and emphasis on double materiality* may present significant challenges to reporting companies.

The CSRD requires reporting in four key areas:

› Business model and strategy

› Due diligence

› Risks and risk management

› Key metrics and issues[17]

The directive also asks companies to consider impacts along the entire value chain, including both owned operations and supply chains. This encourages companies to consider and account for more widespread risks and impacts, and it may have implications for relationships between reporting companies and their supply chain partners.

The CSRD does not state what the penalties of non-compliance will be, nor enforce its reporting requirements directly, it does direct EU member states to apply requirements through local means. In early 2024, France introduced penalties of both fines and potential jail time for corporate directors who fail to comply with the CSRD.[18] Other potential penalties may include exclusion from public procurement contracts, civil or criminal liability, and reputational damage.

SFDR

Implemented in 2021 and amended in 2023, the Sustainable Finance Disclosures Regulation (SFDR) covers EU asset managers, banks, and other participants in financial markets—including non-EU firms that target the EU market. These companies are required to publicly disclose ESG data related to investment decisions and other financial products, in an effort to increase

*Double materiality is a perspective that considers how ESG topics impact disclosing entities *and* how those entities may impact the environment and wider society.

transparency and provide investors with important decision-making data.

At a minimum, all firms must disclose under Article 6, describing how sustainability risks are integrated into their investment decisions.

In addition, "sustainable" investment products are grouped into two categories: those disclosing under Article 8 and under Article 9.

- Article 8: The fund integrates ESG factors.
- Article 9: The fund exclusively makes sustainable investments, i.e. sustainable economic activities or impacts, GHG emission reduction, etc.

In order for Articles 8 or 9 to apply, a fund must demonstrate that it meets certain criteria for each label, centering around good governance, credible and measurable ESG characteristics, contributions to environmental or social objectives, and adverse impacts on the environment and the circular economy.[19]

CSDDD

In May 2024, the EU approved the Corporate Sustainability Due Diligence Directive (CSDDD) to address sustainable corporate policy within company operations and across global value chains. The CSDDD is being rolled out over the next several years, with disclosures due as early as 2027.

The new due diligence requirements apply not only to the direct actions of a company but also to their subsidiaries and chain of activities. Thus, any large U.S. multi-national enterprise may be subject to these laws, if their European subsidiaries exceed revenue or employee thresholds.

Under the CSDDD, companies are responsible for identifying and addressing potential and actual adverse human rights and environmental impacts in the company's own operations, their subsidiaries, and—where related to their value chain—those of their business partners. The due diligence directive lays down rules on obligations for large companies regarding actual and potential adverse impacts on the environment and human rights for their business chain of activities. This includes upstream business partners of the company and partially includes downstream activities, such as distribution or recycling.[20]

Outlook

What does the future of U.S. climate regulation look like, both in the short and long term?

Looking to the future, a lack of clear policy direction on climate issues at a federal level may lead to a proliferation of local laws on a state or jurisdictional level, as different states choose to take on sustainability in different ways. Some states—such California, discussed previously—have already actively taken steps to introduce climate-related legislation, whereas others have taken legal action against companies that call out ESG accountability as a priority.

At this point in time, it may be more prudent to focus on state regulation that is relevant to your organization. Many state regulations focus on a wide variety of climate issues beyond just disclosure, such as green energy goals, sustainable building laws, packaging and waste management laws, and clean water and pollution regulations.

As a result of these diverse regulatory takes on reporting, companies operating or doing business in multiple jurisdictions may be required to submit separate disclosures. We are already starting to see separate disclosures for companies in Europe, as legislation such as the CSRD, SFDR, and CSDDD call for more detailed reporting on top of local disclosure laws such as those in Germany.[21]

In the short term, companies should be ready to closely review jurisdictional ESG disclosure requirements and ensure they are in compliance with applicable laws at every level, whether city, state, federal, or international.

In the long term, we are likely to see a greater coalescence of ESG regulations as more and more countries look to adopt more expansive laws surrounding sustainability. The IFRS S1 and S2, for example, are working to consolidate global frameworks into a single standard. The wider world outside of the U.S. is trending towards more—not less—ESG regulation. Regulators and listing exchanges around the world—including in Asia, South America, and Africa—have already added or are scheduled to add ESG disclosure requirements.

While federal regulations in the U.S. may not require companies within its borders to disclose on climate- or other ESG-related topics, global trends will likely affect U.S.-based companies, compelling them to adapt and align with these global standards. In the meantime, it is prudent for companies to prepare for separate reporting for separate jurisdictions.

Key Takeaways

- California's Climate Accountability Package is a comprehensive set of climate disclosure bills that has inspired a number of other states to take similar action—although no others have yet passed.
- While the future of U.S. climate regulation is uncertain, global regulation is likely to expand in scope and detail.
- Federal mandates on climate disclosure are unlikely in the near future, but companies operating across multiple states should be aware of current and upcoming state-level regulatory changes.

REFERENCES

1 Holle, Stephen. 2024. "California's Climate Corporate Data Accountability Act (SB 253) Explained." ADEC ESG Solutions. May 29, 2024. https://www.adecesg.com/resources/blog/californias-climate-corporate-data-accountability-act-sb-253-explained/.

2 Bhide, Alka. 2024. "California's SB 261: The Climate-Related Financial Risk Act." ADEC ESG Solutions. May 15, 2024. https://www.adecesg.com/resources/blog/californias-sb-261-the-climate-related-financial-risk-act/.

3 Andrews, Mallory. 2024. "Washington State Climate Commitment Act Greenhouse Gas Reporting and Verification." Cameron-Cole. February 20, 2024. https://www.cameron-cole.com/blog/washington-state-climate-commitment-act-greenhouse-gas-reporting-and-verification/.

4 Shewmake, Sharon, and Joe Nguyen. 2024. *Concerning Disclosure of Greenhouse Gas Emissions.* https://app.leg.wa.gov/billsummary?BillNumber=6092&Year=2023.

5 Dingfelder, Jackie, and Brad Avakian. 2007. *Relating to Climate Change; Appropriating Money; and Declaring an Emergency.* https://olis.oregonlegislature.gov/liz/2007R1/Measures/Overview/HB3543.

6 Oregon Department of Environmental Quality. 2024. "GHG Reporting Program Information for Responsible Entities." Oregon.gov. December 13, 2024. https://www.oregon.gov/deq/ghgp/3pv/Pages/GHG3PartyEntities.aspx.

7 Oregon Department of Environmental Quality. 2024a. "Clean Fuels Program Overview." Oregon.gov. December 13, 2024. https://www.oregon.gov/deq/ghgp/cfp/Pages/CFP-Overview.aspx.

8 Rayfield, Dan, Pam Marsh, Khanh Pham, Michael Dembrow, and Kate Lieber. 2023. *Relating to Climate; and Declaring an Emergency.* https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB3409.

9 Rayfield, Dan, Khanh Pham, Jeff Golden, and Pam Marsh. 2023. *Relating to Energy; and Declaring an Emergency.* https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB3630.

10 Du Buclet, Kimberly. 2024. *Corporate Emissions Reporting.* https://www.ilga.gov/legislation/BillStatus.

11 Hoylman-Sigal, Brad. 2023. *An Act to Amend the Environmental Conservation Law, in Relation to Climate Corporate Accountability.* https://www.nysenate.gov/legislation/bills/2023/S897/amendment/A

12 Harckham, Pete. 2023. *An Act to Amend the Financial Services Law, in Relation to Requiring Certain Corporations to Annually Prepare a Climate-Related Financial Risk Report for Submission to the Secretary of State and to Make Such Report Available to the Public.* https://www.nysenate.gov/legislation/bills/2023/S5437.

13 Bhide, Alka. 2024. "The SEC's Climate Disclosure Rule: What You Should Know." ADEC ESG Solutions. March 22, 2024. https://www.adecesg.com/resources/blog/the-secs-climate-disclosure-rule-what-you-should-know/.

14 Michelson, Joan. 2024. "New SEC Court Filing on Climate Rules - They Protect Investors." Forbes, August 19, 2024. https://www.forbes.com/sites/joanmichelson2/2024/08/18/new-sec-court-filing-on-climate-rulesthey-protect-investors/.

15 Lowry, Meghan. 2022. "Inflation Reduction Act of 2022: What It Means for Your Climate Strategy." ADEC ESG Solutions. November 1, 2022. https://www.adecesg.com/resources/blog/inflation-reduction-act-of-2022-what-it-means-for-your-climate-strategy/.

16 Office of the Federal Chief Sustainability Officer. 2024. "Federal Supplier Climate Risks and Resilience Proposed Rule." Sustainability.gov. December 13, 2024. https://www.sustainability.gov/federalsustainabilityplan/fed-supplier-rule.html.

17 Bhide, Alka. 2024. "The EU Corporate Sustainability Reporting Directive (CSRD) Explained." ADEC ESG Solutions. January 4, 2024. https://www.adecesg.com/resources/blog/the-eu-corporate-sustainability-reporting-directive-(csrd)-explained/.

18 Garden, Leah. 2024. "France Will Jail Corporate Directors Who Fail to Adhere to New CSRD Requirements." Trellis. January 24, 2024. https://trellis.net/article/france-will-jail-corporate-directors-who-fail-adhere-new-csrd-requirements/.

19 Snyder, Kristin A., Patricia Volhard, Jin-Hyuk Jang, and John Young. 2024. "Impact of SFDR on U.S. Fund Managers." Debevoise & Plimpton. May 8, 2024. https://www.debevoise.com/insights/publications/2024/05/impact-of-sfdr-on-us-fund-managers.

20 Bhide, Alka. 2024. "What Is the Corporate Sustainability Due Diligence Directive (CSDDD)?" ADEC ESG Solutions. August 26, 2024. https://www.adecesg.com/resources/blog/what-is-the-corporate-sustainability-due-diligence-directive-csddd/.

21 Nachhaltigkeitsberichterstattung von Unternehmen: Europäische Vorgaben Sollen Möglichst Bürokratiearm Ins Deutsche Recht Umgesetzt Werden." 2024. Bundesministerium Der Justiz. July 24, 2024. https://www.bmj.de/SharedDocs/Pressemitteilungen/DE/2024/0724_CSRD.html.