

For What It's Earth

Global ESG Headlines from Step toe

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Regulation

The US Securities and Exchange Commission (SEC) did not list ESG as an examination focus for 2024, after including it in 2023, 2022, and 2021. The removal of ESG as a priority comes amidst continued delay in the release of the SEC's final climate related disclosure rule.



Antitrust

The US House of Representative has subpoenaed two non-profit organizations that promote ESG policies to determine whether they are helping to facilitate antitrust violations. Critics of ESG policies have turned to antitrust law to push back on the adoption of ESG policies, arguing that ESG policies facilitate anticompetitive collusion. The subpoenas, though, are an escalation and reinforce the need for companies to undertake a thorough antitrust analysis before adopting any ESG policies.



Standards

Last month, a three-judge panel of the US Court of Appeals for the Fifth Circuit rejected constitutional and statutory challenges to the SEC's approval of a Nasdaq rule requiring disclosure of the diversity of board members of listed companies. While the plaintiffs have filed a motion for en banc review by the Fifth Circuit, many commentators believe that the SEC's victory will encourage it to propose its own rules to enhance board diversity disclosures for all public companies. The SEC intends to propose such rules by April 2024.



Companies & Investors

Amazon announced a new brownfield project, Amazon Solar Farm Maryland-CPV Backbone, which is being built on the site of a closed coal mine in the state of Maryland in the United States. The project is one of 78 new solar and wind projects that Amazon has invested in this year. Investors and developers are seeking new uses for brownfield sites, which is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.



Statement

Speaking at the Practising Law Institute's 55th Annual Institute on Securities Regulation in New York, SEC Commissioner Mark Uyeda suggested that the agency should consider revising draft regulation on disclosing climate-related risks.

“Before the Commission adopts any final rule that significantly deviates from the proposal, it should seriously consider re-proposing the rule with revised rule text and an updated economic analysis.”