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Top 5 ESG considerations for US investors under the Trump-Vance administration

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The 2024 US presidential election has ushered in significant shifts in the regulatory environment surrounding environmental, social, and governance (ESG) issues. With the Trump-Vance administration now in office, the administration has made clear its anti-ESG agenda, signaling a rapidly evolving landscape that could profoundly impact ESG strategies, disclosure requirements, and compliance efforts.

At the same time, ESG-related legislative and regulatory initiatives from individual US states and the EU are also on track to bring further changes to this space in the coming months and years. As federal, state, and international ESG regulatory frameworks evolve, careful monitoring of these developments will be key to adapting to new risks and opportunities.

The polarization of ESG investment policies at the state and federal levels presents unique challenges for asset managers and retirement funds.

Here, we outline the top five ESG considerations for US investors in 2025, including those that will be affected by the new administration.

1. The SEC's climate disclosure rules and leadership changes

The US Securities and Exchange Commission (SEC) plays a pivotal role in shaping ESG regulations, and the incoming administration's influence is expected to shift its priorities. Under the Biden administration, the SEC adopted climate-related disclosure rules in March 2024, requiring public companies to report certain climate-related risks in registration statements and annual reports.

However, implementation of these rules was voluntarily stayed following legal challenges, now consolidated in the US Court of Appeals for the 8th Circuit. These challenges invoke the major questions doctrine, First Amendment issues, and administrative law.

Paul Atkins, President Trump's nominee for SEC Chair, has been a vocal critic of the climate disclosure rules. His appointment signals the possibility of regulatory rollbacks or a less aggressive defense of the rules' legality. Regardless, companies must adhere to existing guidance, including the SEC's 2010 interpretative guidance on climate disclosures, and continue to assess whether disclosure, if any, would be necessary regarding material risks related to climate.

2. State-level ESG regulations: spotlight on California

California remains a trailblazer in climate legislation, with three pieces of legislation that demand robust corporate compliance. Passed in October 2023, this trio of laws will impact a wide range of companies with operations in the Golden State. In brief, they are:

- SB 253, the Climate Corporate Data Accountability Act, which requires companies with over $1 billion in revenue to report Scope 1 and Scope 2 greenhouse gas emissions starting in 2026, with Scope 3 disclosures mandated by 2027;
- SB 261, the Climate-Related Financial Risk Act, which obligates companies with revenue exceeding $500 million to disclose climate-related financial risks by 2026; and
- AB 1305, the Voluntary Carbon Market Disclosures Act, which mandates reporting on net-zero claims and carbon offset transactions beginning in 2025.

These laws — applicable to businesses operating in California regardless of their headquarters — are already facing legal challenges on First Amendment grounds. Early rulings have favored the state, but ongoing litigation creates uncertainty. Noncompliance carries steep financial penalties, ranging from $50,000 to $500,000 annually, alongside reputational risks. Companies must act swiftly to enhance data collection and reporting systems to meet these ambitious requirements.

3. Voluntary carbon markets under scrutiny

Voluntary carbon markets, a cornerstone of corporate greenhouse gas reduction strategies, are under increasing regulatory scrutiny. Concerns about additionality, permanence, and verification have raised alarms about potential fraud, including double counting offsets and conflicts of interest in price setting.

The Commodity Futures Trading Commission (CFTC) has flagged risks of manipulation and fraud in these markets. Recent adoption of UN-backed standards for global voluntary carbon markets offers US companies an opportunity to align with international frameworks. Nevertheless, businesses must navigate these markets cautiously, addressing legal risks such as fraud allegations and potential antitrust scrutiny.

4. The EU's ESG framework and implications for U.S. investors

The European Union's ESG regulations, particularly the Corporate Sustainability Reporting Directive (CSRD) and Corporate Sustainability Due Diligence Directive (CSDDD), extend compliance obligations to US-based multinational corporations with significant EU operations.

Robust data collection and reporting systems should be developed to meet both US and international disclosure requirements.

CSRD's phased implementation, starting in 2028, will require non-EU companies with substantial EU activities to adhere to European sustainability standards. Meanwhile, CSDDD, effective in 2027, imposes due diligence obligations for human rights and environmental impacts on companies operating in the EU.

While some US legislators have criticized the extraterritorial nature of these directives, private ordering and investor demands may outweigh regulatory pushback and compel compliance. Noncompliance risks reputational damage and enforcement actions, emphasizing the importance of proactive preparation for these requirements.

5. State and federal divergence on ESG investing

The polarization of ESG investment policies at the state and federal levels presents unique challenges for asset managers and retirement funds.

A number of Republican-led states such as Texas and Florida have enacted legislation prohibiting certain social and political ESG considerations in state-managed funds, while some Democratic-leaning states have rules that favor ESG integration in state assets. This fragmented landscape creates compliance complexities for asset managers and public retirement funds operating across jurisdictions.

At the federal level, the Department of Labor (DOL) is likely to revisit ESG investment rules under ERISA. Stricter regulations could limit the integration of ESG factors in private retirement plans unless they are demonstrably pecuniary. Litigation challenging ESG considerations under fiduciary duty standards is also expected to rise, potentially creating a chilling effect on ESG-driven investment strategies in retirement plans.

Preparing for the new ESG landscape

Investors must remain agile as the regulatory environment evolves under the new administration. Monitoring regulatory developments will be essential, as changes to SEC policies, state-level laws, and federal ESG investment rules unfold. Robust data collection and reporting systems should be developed to meet both US and international disclosure requirements. Evaluating legal risks, including exposure to litigation tied to voluntary carbon market practices and fiduciary duty claims under ERISA, will also be critical.

In addition, aligning strategies with global standards is imperative. Companies must prepare for the extraterritorial application of EU ESG frameworks while balancing compliance with restrictive US policies. Proactive advocacy — collaborating with policymakers and industry groups to shape balanced ESG regulatory frameworks — can further mitigate risks.

As the Trump-Vance administration's approach to ESG regulation takes shape, investors must navigate a dynamic landscape of opportunities and challenges. Proactive engagement with these evolving legal standards will be critical to managing risks and capitalizing on new opportunities in the years ahead.

About the authors



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