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SEC Reporting Skills Workshop

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Climate Reporting Expectations and Obligations in 2024

Global Regulatory Landscape

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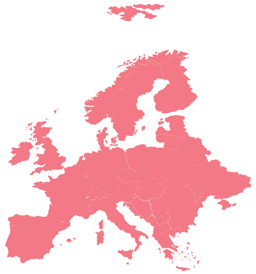
Existing & Upcoming Climate Reporting Laws

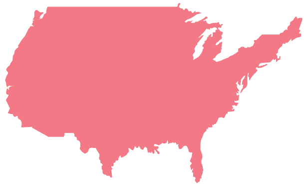
- **EU Corporate Sustainability Reporting Directive (CSRD)**
  - Disclosure (and audit) of material ESG matters for in-scope EU and non-EU companies



- **EU Sustainable Finance Disclosure Regulation (SFDR)**
  - Disclosure of sustainability KPIs for funds and asset managers

- **UK ESG reporting laws**
  - Various laws require disclosures based on the TCFD recommendations including Streamlined Energy and Carbon Regime (SECR), Non-Financial Sustainability Information Statement (NFSIS)

- **California Climate Reporting Package**
  - Disclosure (and audit) of scope 1-3 GHG emissions, publication of biennial climate-related financial risk report (SB 265 & 261)
  - Disclosure regarding claims related to climate goals and carbon neutrality (AB 1305)



- **Proposed SEC Rulemakings**
  - Requirements to report on climate, human capital, and board diversity (cybersecurity rules passed August 2023)

US Climate Rules Overview

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California Climate Accountability Package

	Applicability	Reporting Requirements	Timing
Climate Corporate Data Accountability Act (SB 253)	• Large US **private and public** companies “doing business in California” w/ **total annual revenues > $1B** • “Doing business” in California are not yet defined, but expected to be broad	• Annual disclosure of **Scopes 1, 2, and 3 GHG emissions** for the prior fiscal year • Companies below the $1B revenue threshold should expect **additional pressure from customers and vendors** to disclose GHG emissions data • **Must obtain third-party assurance** for emissions reporting, starting with limited assurance and moving to reasonable assurance in subsequent periods	• Beginning 2026 for Scopes 1 and 2 emissions • Beginning 2027 for Scope 3 emissions
Climate-Related Financial Risk Act (SB 261)	• Large US **public and private** companies “doing business” in California with **total annual revenues > $500M**	• Biennial climate-related financial risk report that discloses: **(i) climate-related financial risk built upon TCFD recommendations**, and **(ii) measures adopted to mitigate and adapt to the disclosed risks** • “Climate-related financial risk” includes **all material risk of harm to immediate and long-term financial outcomes** due to physical and transitional risks • If company cannot provide all required disclosures in report, must give detailed explanation of reporting gaps and steps taken towards compliance	• Initial report must be published before January 1, 2026 • Reports required every 2 years after initial report

California Voluntary Carbon Market Disclosures Act (AB 1305)

	Applicability	Reporting Requirements	Timing
Voluntary Carbon Market Disclosures Act (AB 1305)	• US public and private companies, **regardless of company size,** that (1) operate within California and (2) **make claims (or set goals)** within California regarding: (i) net zero emissions, (ii) that a company or **product is** “carbon neutral” or does not add net emissions, (iii) significant emissions-reduction achievements. • **No revenue thresholds** • “Operating in California” and “making claims within the state” are not yet defined but expected to be broad	• Annual disclosure of (1) how a “carbon neutral, “net zero” or similar claim was determined to be **accurate or accurately accomplished**; (2) how **interim progress** toward goals is being **measured**; and (3) whether the relevant data and claims have been subject to **third-party verification** • Cited examples of disclosure responsive to items 1 and 2 above include the use of third-party verification of all entity greenhouse gas (GHG) emissions, identification of an entity’s Science Based Targets initiative (SBTi) pathway and the relevant sector methodologies used for such targets • For many companies, the key focus area will be climate-related **claims included in product marketing**, such as claims that products are net zero or carbon neutral, or that the use of products is emission-free or involves a minimal carbon footprint.	• Beginning **January 1, 2024**, disclosure must be published on company websites and updated at least annually
	• Companies making the above claims that **purchase or use voluntary carbon offsets** sold within California	• Information regarding each offset purchase, including offset type (e.g. avoided emissions or carbon removal), project details, protocols used to estimate emissions reductions or removal benefits, and any third-party verification of company data and claims listed	
	• Entities that **market or sell offsets** within California	• Annual disclosure of information related to the characteristics of each offset project, including offset types, protocols, annual updates on emissions achievements, and data necessary for verifying claims.	

California Climate Rules Timeline

Jan. 1, 2024

Disclosure under AB 1305 must be published on company websites and updated at least annually

Jan. 1, 2025

Deadline for California Air Resources Board to adopt regulations concerning the annual reporting process, which may provide more detailed application guidance*

Jan. 1, 2026 (SB 261)

Deadline for companies to publish an initial climate-related financial risk report, built upon recommendations of the **TCFD** or a comparable disclosure regime

Reports will be required every two years after the initial report

2026 (SB 253)

Annual reporting of Scopes 1 and 2 emissions beginning in 2026 (on prior fiscal year information)**

Third-party assurance for Scopes 1+2 emissions reporting, at a **limited** assurance level

California Air Resource Board to review and extend an assurance requirement for Scope 3 emissions

2027 (SB 253)

Annual emissions reporting for **Scope 3** emissions (on prior fiscal year information)

2030 (SB 253)

Third-party assurance for Scopes 1+2 emissions reporting, at a **reasonable** assurance level

Assurance engagement for Scope 3 emissions reporting at a **limited** assurance level

** Although SB 253 and 261 provide the broad sweeps of reporting requirements, significant ambiguities remain regarding the scope and substance of reporting obligations and will be clarified in future regulations.*

*** The exact due date in 2026 and the logistics of how and when the information is to be published will be determined by the California Air Resources Board by Jan. 1, 2025.*

Other State and Federal Climate Reporting Developments

New York Climate Corporate Accountability Act (pending)	• Largely analogous to California Climate Corporate Data Accountability Act • Would apply to businesses based in U.S. with annual revenues over $1B, requiring them to annually disclose greenhouse gas emissions (scope 1, 2 and 3)
Federal Supplier Climate Risks & Resilience Rule (pending)	• Would require “major” federal contractors (receiving more than $50M in annual contracts) to disclose scope 1, 2 and 3 greenhouse gas emissions and climate-related financial risks, and to set science-based emissions reduction targets • “Significant” contractors receiving more than $7.5M per year must publish scope 1 and 2 only • Comment period recently closed with over 38,000 public comments submitted

Overview of Proposed SEC Climate Rules

Annual report or registration statement

Regulation S-X
Financial Statement

Specified metrics and disclosures
Impacts of
- Severe weather events
- Efforts to reduce emissions
- Efforts to mitigate transition risks

Regulation S-K
Separate section ('climate-related disclosure')

Greenhouse gas (GHG) emissions
- Scope 1, 2 and 3 GHG emissions

Other disclosures
- Climate governance, strategy & risk management
- Targets/goals & baseline

SEC Climate Proposal Overview

Financial Statement Note (Reg S-X)	Broader 10-K (Reg S-K)	
Qualitative & Quantitative	Qualitative	Quantitative
Financial impact metrics • Impact of severe weather events • Impact of any efforts to reduce GHG emissions or otherwise mitigate exposure to transition risks **Expenditure metrics** • Aggregate expenses & costs to mitigate the risks • Expenditures & costs related to meeting its targets, commitments, and goals **Financial estimates & assumptions** • Whether the estimates and assumptions used to produce the financial statements were impacted by exposures to risks	**Governance** • Board & management oversight • Process for setting& monitoring targets **Strategy, business model & outlook** • Any climate-related risks likely to have a material impact on the company over the short, medium and long-term • Actual and potential impacts on strategy, business model & outlook • Resilience of business strategy and discussion of any scenario analysis completed **Risk management** • Process for identifying, assessing and managing climate-related risks and how materiality is determined • Integration into overall ERM process	**GHG impact metrics** • Assurance on scope 1 & 2 GHG emissions • Disclosure of scope 3 GHG emissions (safe harbor) • Breakout by gas type • GHG intensity by revenue, and unit of production **Climate-related targets or goals & XBRL** • Any climate-related target or goal & baseline — Example: GHG emissions reduction, energy usage, water usage, conservation/ecosystem restoration • Interim targets (if any) and plan for meeting goals • Evidence of progress & actions taken • Details on methodology, transition plans, and approach to commitments, incl. net zero, interim, and sustainable finance targets. Disclosure of internal carbon price, if applicable Notes: — Proposed rule applies to comparative periods (i.e., FY23 financials will require data for FY21 & FY22) — 1% threshold by financial statement line item — Context for how metrics are derived, significant inputs & assumptions, policy decisions — Annual requirement with quarterly update for material changes

EU CSRD Overview

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Corporate Sustainability Reporting Directive Overview

Overview

- All companies must make the **mandatory disclosures**, including on their diligence process
- Companies also need to disclose "material sustainability matters" in their **own operations** + upstream and downstream **value chain**
- **Double materiality** standard
  - Financial materiality
  - Impact materiality
- Mandatory **third-party audit**
- Risks of regulatory action + litigation (including EU class actions) for failure to report or misrepresentations in the report

Topic	Key Reporting Metrics
Climate Change	Scopes 1, 2, and 3 greenhouse gas emissions, energy consumption
Pollution	Impacts on pollution of the air, water, soil, living organisms, and food resources, use of substances of concern and microplastics
Water & Marine Resources	Consumption, withdrawal, and discharge from and into water (incl. ground and surface water), consideration of the extraction and use of marine resources
Resource & Circular Economy	Resource inflows, outflows, waste, resource optimization, risks of the transition to a circular economy
Biodiversity & Ecosystems	Drivers of biodiversity loss, impact on species, dependencies on ecosystems
Own Workforce	Gender pay gap, pay ratio between top paid executive and median employee, privacy
Workers in the Value Chain	Similar to "own workforce," but on workers in the value chain(s)
Affected Communities	Impact of operations and value chains (incl. products and services) on indigenous rights, civil rights, social and economic rights, water and sanitation
Consumers & End Users	Access to quality information, privacy, protection of children, product recalls
Business Conduct	Anti-corruption and anti-bribery practices, whistleblower protection, political lobbying, payment practices and relationships with suppliers

CSRD Scope & Timing

FY 2024

(reporting in 2025)

EU undertakings already subject to current EU non-financial reporting rules

Includes large companies listed on an EU regulated market or large companies with debt listed on an EU regulated market

FY 2025

(reporting in 2026)

Large EU undertakings (including subsidiaries of US parents) and EU parents

If they satisfy at least two of the following (on the individual or EU group basis):

1. Balance sheet total of over EUR 25 million
2. Net turnover of over EUR 50 million
3. Average of more than 250 employees over the financial year

FY 2026

(reporting in 2027), with an option to opt out for two further years

Small and non-complex credit institutions and captive insurance and reinsurance undertakings

(reporting in 2027)

Small and medium-size undertakings listed on the EU regulated markets (except “micro-undertakings”)

FY 2028

(reporting in 2029)

Non-EU parents

If they satisfy both of these criteria:

1. Generate a net turnover of more than EUR 150 million in the EU for each of the last two consecutive financial years at the consolidated level
2. Have at least one subsidiary that is itself within the scope of the CSRD or an EU branch that generates a net turnover of over EUR 40 million

Climate Reporting & Scope 3 Considerations

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GHG Protocol: Steps to Calculating Emissions

Define Reporting Boundaries → Identify GHG emissions sources → Define base year → Identify and calculate emissions → Report

GREENHOUSE GAS PROTOCOL

Identify GHG Emissions Sources

- **Scope 1: Direct Emissions of Reporting Entity**
  - Emissions from activities owned or controlled by the organization
  - Ex: Gas/oil usage for office heating; non-electric company vehicles; in-house manufacture; fugitive emissions; transportation of materials, waste, or products
  - Electrification sees scope 1 emissions shift to scope 2
- **Scope 2: Purchased Electricity for Own Use**
  - Emissions (physically occurring at the facility of the energy provider) associated with the generation of purchased electricity which is consumed by the organization
  - Ex: electricity use in office space; electric machinery
- **Scope 3: Value Chain Emissions**
  - Emissions that are the consequences of the organization's activities but that occur at sources the organization does not own or control (excluding scope 2).
  - Ex: purchased materials; product consumption; waste disposal

Identify & Calculate Emissions

Business Activity Data ✖ **Emission Factor** = **Tonnes of GHG**

GHG emissions are all calculated in **carbon dioxide *equivalents*** **("CO_2e")**.

Tonnes of GHG ✖ **Global Warming Potential** = **CO_2e**

3. Estimation

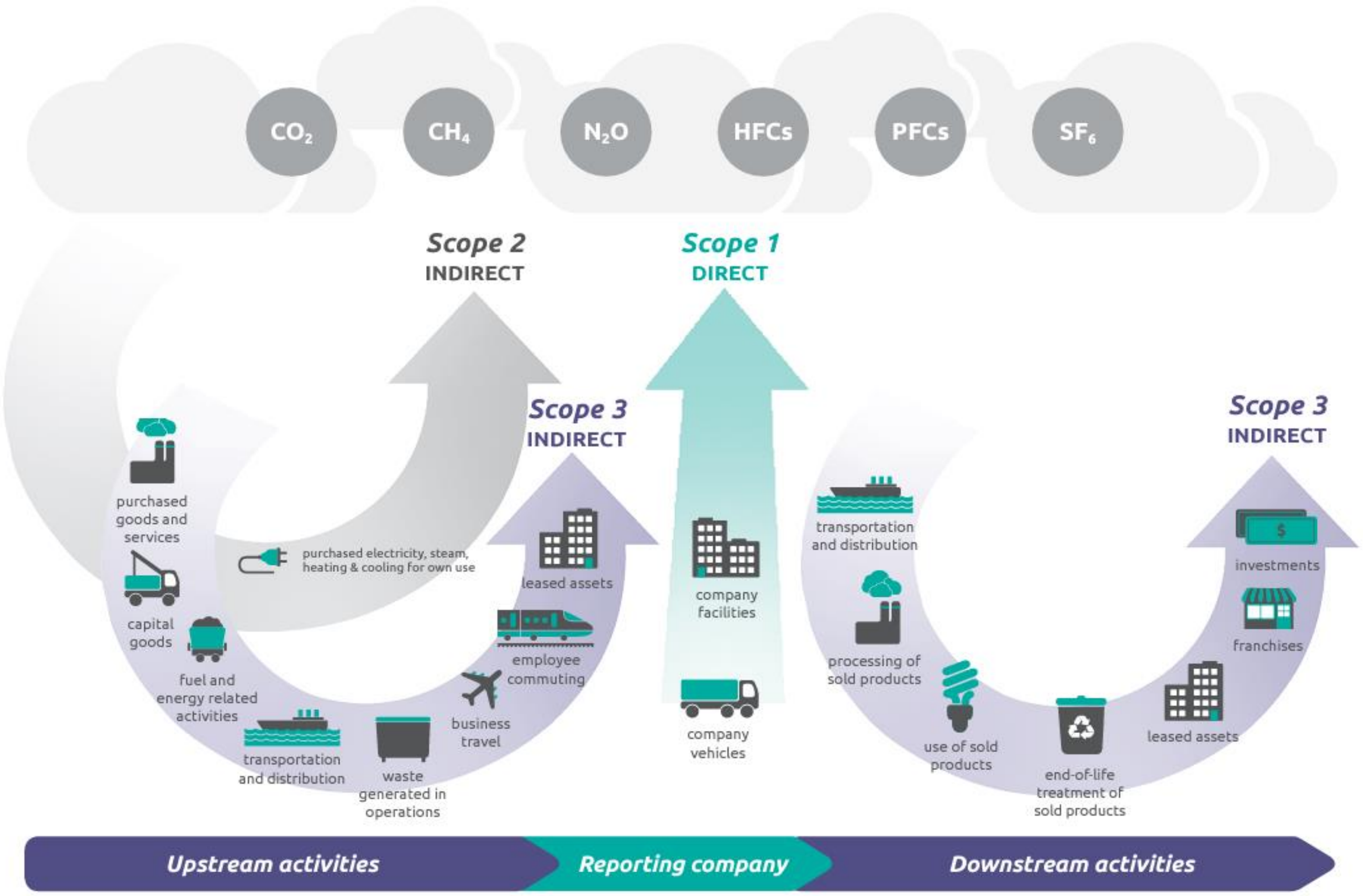
MOST COMMON APPROACH

- Multiply activity data by appropriate emission factor

Examples of "Business Activity Date":

- KG of cotton bought
- KWh electricity used in office
- $ spend on marketing agency

Scope 3 Emissions



Scope 3: Value Chain Emissions

- Emissions that are the consequences of the organization's activities but that occur at sources the organization does not own or control (excluding scope 2)
- Ex: purchased materials; product consumption; waste disposal

Scope 3 Categories

- **Voluntary reporting and targets are often limited to a subset of categories, depending on significance, data, and optics.**
- The greater an entity's scope 3 emissions in proportion to its total emissions, the stronger the expectation that scope 3 is reported.
- ***"If a company's relevant scope 3 emissions are 40% or more of its total emissions the company must set near-term science-based targets."****

#	Scope 3 Categories (Upstream)	#	Scope 3 Categories (Downstream)
1	**Purchased goods and services**	9	**Downstream transportation and distribution**
2	**Capital goods**	10	**Processing of sold products**
3	**Fuel and energy-related activities** (not included in Scopes 1 or 2)	11	**Use of sold products**
4	**Upstream transportation and distribution**	12	**End-of-life treatment of sold products**
5	**Waste generated in operations**	13	**Downstream leased assets**
6	**Business travel**	14	**Franchises**
7	**Employee commuting**	15	**Investments**
8	**Upstream leased assets**		

*SBTi, Criteria and Recommendations, April 2023

Scope 3 Concerns

Inclusion of Scope 3 emissions is often the most difficult question. Key considerations:

- **Disclosure regulations** (CSRD requirement, continued uncertainty regarding SEC approach)
- **Investor and customer expectations**, as well as ratings and proxy advisor impacts
- **Relative significance** to overall footprint (often over 90% for technology companies)
- **Calculation difficulties:** data accuracy/availability and complexity of supply chains
- **Optics**: supply chain emissions intensity is often significantly worse, which may obscure company achievements
- **Lack of control** and predictability: reliance on third-parties for data, but also performance

Understand Your Reporting Requirements

- Applicable reporting regime(s) will inform an entity's entire GHG accounting process dictating the level of granularity required
- Next Steps:
  - **Conduct gap analysis** of current reporting requirements and those on the horizon
  - **Develop roadmap** for voluntary or mandatory compliance with applicable reporting framework(s)
  - **Establish internal climate governance** strategy
  - **Consider setting reduction targets,** incorporating GHG reduction into business strategy, and monitoring progress against targets

Liability & Disclosure Controls

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SEC Comment Letter Trends

SEC staff has a renewed focus on climate-related disclosures in recent comment letters*

- *More expansive disclosure in Corporate Social Responsibility (CSR) report than provided in SEC filings* ("Please advise us what consideration you gave to providing the same type of climate-related disclosure in your SEC filings as you provided in your CSR report")

- *Lack of disclosure in SEC filings of the risks/trends/impacts of climate change that may affect your business operations or financial condition* (i.e., policy & regulatory changes that could impose operational and compliance burdens; market trends that could alter business opportunities, credit risks, or technological changes)

- *Lack of disclosure re indirect consequences of climate-related regulation or business trends* (i.e., decreased demand for goods/services that produce significant GHG; increased demand for goods that result in lower emissions; increased demand for alternative energy sources; anticipated reputational risks resulting from operations/products that produce material GHG)

- *Lack of disclosure re physical effects of climate change on your operations* (severe weather and related damage; indirect weather-related impacts that affect major customers or suppliers; weather-related impacts on the cost or availability of insurance)

*Source: Risk-Factors-Climate Change Matters, PwC (Dec. 31, 2022)

Climate Reporting Risks

Reputational Risk

- ESG as a proxy for good governance and internal controls
- "Greenwashing" (i.e., intentionally misleading or incomplete, cherry-picked or otherwise overly optimistic presentation of company ESG activities & initiatives) accusations

Greenwashing Pitfalls

- Poor data controls
- Inappropriate uses of estimates and assumptions
- Misleading activity exclusions/selective reporting (particularly Scope 3)
- Overly aspirational targets or continued goal setting absent meaning progress

Liability Risks

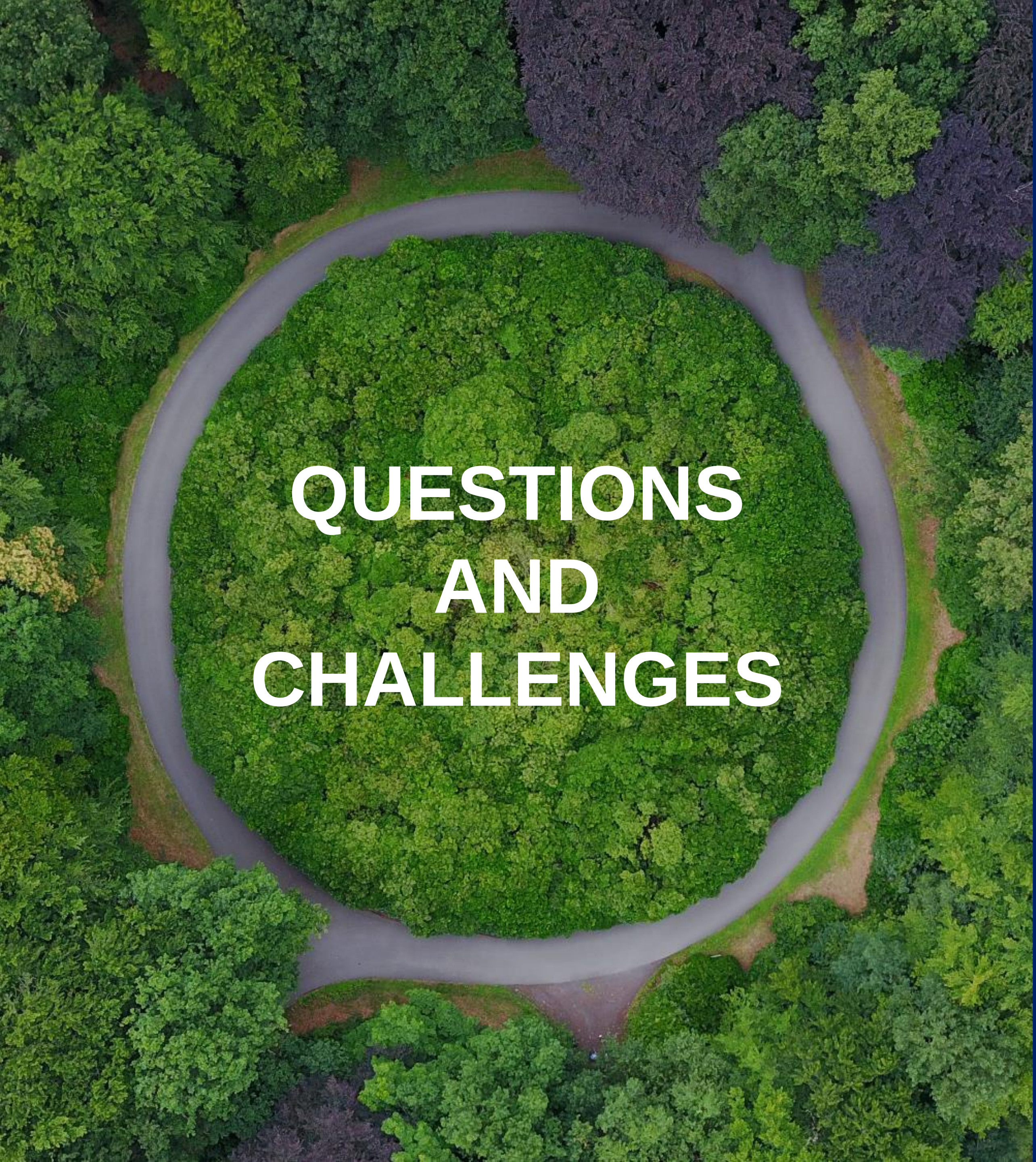
- Exchange Act Section 18 liability for disclosure included in SEC filings
- Exchange Act Section 11 and 12 liability for disclosure incorporated into registration statements – proof of scienter or negligence not required
- General anti-fraud liability under Exchange Act Rule 10b5 – extends to statements outside of SEC filings

Applies to any and all statements
(SEC filings, company website, marketing materials, product labels, social media statements, voluntary reporting)

Climate Governance & Disclosure Controls

- **Focus on Effective Climate Governance:**
  - Increased investor and regulator scrutiny of the quality of climate disclosures
  - Disclosure regulations, reporting frameworks, proxy advisors, and investors focused on board and management oversight of climate matters

- **Climate Reporting Governance - Key Actions:**
  - Organize board and senior management oversight.
  - Process ownership and cross-departmental working team: coordinate with advisors, establish strategy, identification of emissions and data sources, methodological decisions.
  - Strike right balance with external service-providers: data supply, calculation verification, disclosure review.
  - Establish disclosure controls framework, involving audit/finance, legal, and data owners.



- Do you have **robust processes** for collecting data across your organization / operations?
- Do you have **appropriate internal controls** (internal audit, legal) ?
- **Greenwashing** – do you have measures to mitigate risk of misreporting?
- **Benchmarking** - what are your peer group doing?
- **Regulatory compliance** – are you aware of horizon sustainability legislation (EU CSRD; SEC rules)?

Next Steps

- Consider **who needs to be involved and at what level** in the organization.
- Consider **how the company's existing data collection processes can be applied** to GHG emissions data collection.
- Conduct **benchmarking exercise** to understand peer group disclosures.
- Review **internal controls** to mitigate risk of greenwashing.
- Consider **governance, monitoring and target setting** in respect of Scopes 1, 2 and/or 3.
- Understand **compliance timetables (if any)** and **identify incoming rules** which may apply to the company.