

Climate Litigation: From Compliance to Strategic Imperative

Global Trends and Board-Level Implications

CENTRE FOR NATURE AND CLIMATE
APRIL 2026

Executive overview

Climate litigation¹ has matured into a systemic business risk with direct implications for corporate strategy, governance, capital allocation and market access. Across jurisdictions, courts and regulators are increasingly treating climate change as a legal risk that must be anticipated, managed and disclosed. While legal frameworks and doctrines differ by region, the trajectory is consistent: companies are increasingly expected to take responsibility for emissions, environmental impacts and climate risks across their value chains throughout the asset lifecycle and at the board level. Five themes are globally prevalent: value chain accountability; transition planning and project approval risk; duties and rights-based claims; greenwashing; and litigation-driven policy and market disruption. Together, these issues are reshaping the legal risk perimeter within which businesses operate.

1 Value chain accountability and supply chain liability

Climate litigation is undergoing a fundamental shift from a focus on a company's direct operational emissions to a broader examination of responsibility across entire value chains. This reflects a growing legal consensus that climate risk is rarely confined to a single corporate entity or geographic location, but is generated and amplified through networks of suppliers, subsidiaries, financiers, distributors and end users. As a result, companies are increasingly exposed to legal scrutiny not only for what they emit, but also for what they enable, finance, or fail to prevent.

This trend is most advanced in Europe, where some countries require large companies to implement due diligence to identify, prevent and address environmental harm across their value chains. European-wide legislation – including the Corporate Sustainability Due Diligence Directive (CSDDD), Corporate Sustainability Reporting Directive (CSRD), EU Taxonomy Regulation and Sustainable Financial Disclosure Regulation (SFDR) – will extend similar obligations in the coming years, embedding climate and environmental risk management into legally enforceable obligations. Although European in scope, these rules have global reach, capturing upstream suppliers and downstream activities across Africa, Asia and Latin America.

In North America, value-chain accountability has emerged through a different set of legal pathways. Rather than using comprehensive due diligence statutes, plaintiffs rely on tort law, disclosure obligations, securities laws and regulations, and consumer protection statutes to claim that climate risk management associated with a company's supply chains or financing activities violates such laws and regulations. Through the various legal claims, plaintiffs often seek to recover climate-related costs, increase value chain transparency, and ultimately limit activities that contribute to climate change.

South America presents a distinct but equally consequential risk profile. Many jurisdictions in the region recognize constitutional rights to a healthy environment, which courts have increasingly interpreted to include climate stability and protection from environmental degradation. Litigation in this context attempts to link corporate activity to deforestation, land-use changes, water stress and extractive supply chains. While the volume of litigation may be lower than in Europe or North America, the impact of litigation can be severe, with courts willing to suspend projects, mandate remediation, or impose structural obligations on companies and public authorities.

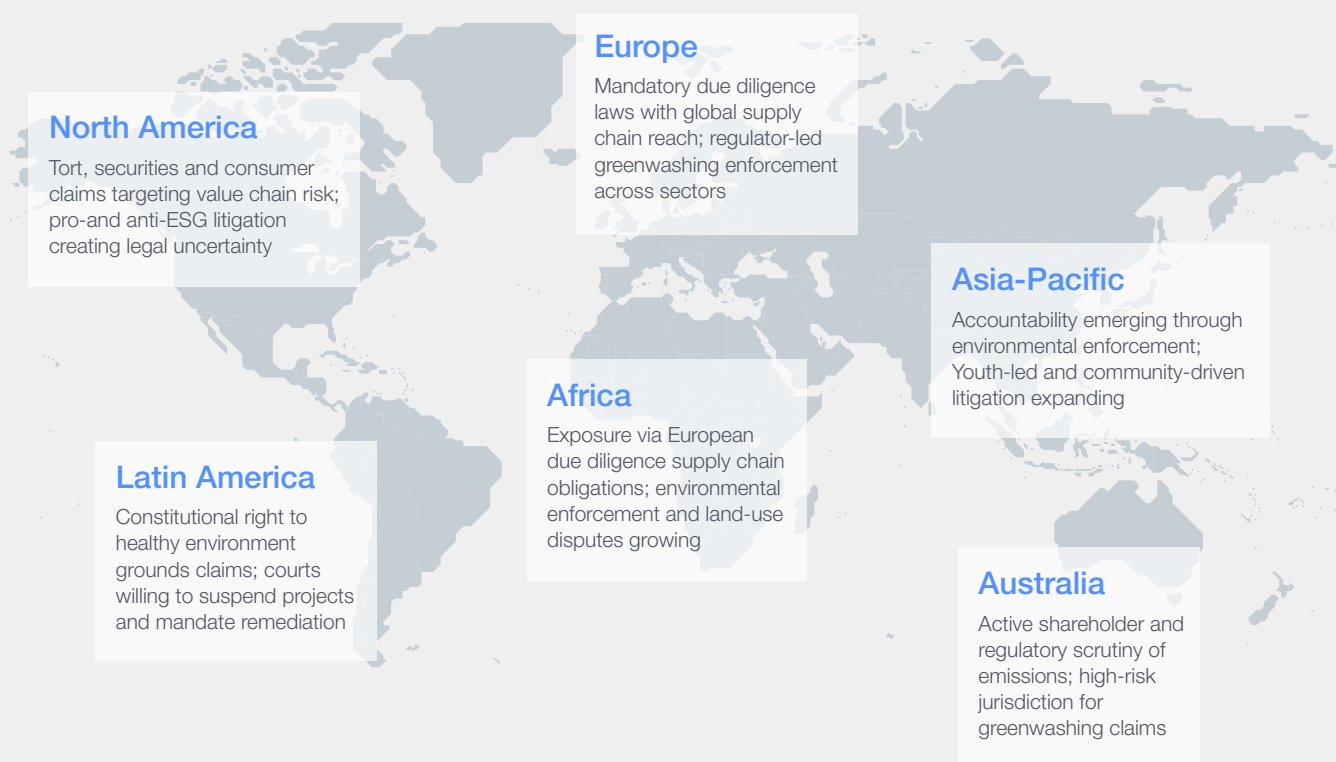
1. Climate change litigation refers to cases in which climate-related law, policy, or science is a material issue, and which seek to advance or enforce climate mitigation or adaptation measures.

Across the Asia-Pacific region, value-chain accountability is developing more unevenly. Australia is at the higher end of the risk spectrum, with active courts, regulators and shareholder actions increasingly scrutinizing supply chain emissions and climate-related disclosures. In other jurisdictions in the region, accountability is emerging through environmental enforcement, air pollution litigation and financial regulation rather than explicit climate frameworks. Nevertheless, the trajectory is clear: supply-chain climate risk is becoming a legitimate subject of legal scrutiny.

For businesses, the implications are significant. Procurement, sourcing and supplier oversight are no longer just operational

or reputational issues; they are potential sources of substantial legal liability. Companies face rising compliance costs associated with traceability, auditing, emissions measurement and remediation, alongside heightened reputational risk where climate harm intersects with human rights or biodiversity impacts. To date, remedies tend to emphasize structural change – mandatory due diligence processes, corrective action plans and enhanced disclosure – rather than punitive damages. From a governance perspective, the central question for boards is whether existing systems sufficiently demonstrate control, oversight and mitigation of value chain climate risk.

FIGURE 1 Key climate litigation trends by region



2 Transition planning and project approval risks

A second significant source of climate litigation risk lies in the growing judicial scrutiny of how climate transition risks are integrated into project approvals, permitting decisions and capital allocation. Various courts and regulators across regions are increasingly unwilling to treat climate change as an externality or future consideration. Instead, they are requiring that climate impacts, emissions trajectories and alignment with climate targets be addressed at the earliest stages of project development and investment planning.

This trend is particularly pronounced in South America and parts of the Asia-Pacific region, where environmental impact assessments are being interpreted to require explicit consideration of greenhouse gas emissions, cumulative climate impacts and long-term environmental sustainability. In these jurisdictions, some courts have shown a willingness to intervene where climate considerations are absent, superficial,

or inconsistent with national climate commitments. For capital-intensive sectors such as energy, mining, infrastructure and heavy industry, this creates significant front-end risk, as litigation can delay, suspend, or fundamentally reshape projects.

Europe exhibits a similar dynamic, as various courts there are increasingly assessing whether governments and regulators have properly applied climate laws, transition strategies and environmental principles when approving projects. This heightened judicial scrutiny can indirectly expose private actors to litigation risk, particularly where projects appear misaligned with broader national climate commitments.

The United States is evolving towards a significantly more polarized environment. Litigation is often used both to challenge projects on climate grounds and to resist or roll back regulatory requirements that incorporate climate considerations. As a result of this tension and the lack of more comprehensive US federal environmental, social and governance (ESG) laws and regulations, plaintiffs have pursued both pro- and anti-ESG litigation, and outcomes are less predictable.

The resulting uncertainty, combined with the volume and cost of litigation – particularly the costs associated with the extensive fact discovery permitted in US litigation – and increasing reputational and investor pressure, creates a material risk for companies pursuing emissions-intensive or transition-sensitive projects. However, in February 2026, the US Supreme Court agreed to review whether climate change litigation should be pursued in US federal courts rather than US state courts, a development that could bring greater certainty to an increasingly complex area of litigation.

Geopolitics around climate are an increasing source of litigation risk for multinationals. Diverging political and regulatory attitudes regarding climate across different regions can increase litigation risk for companies, which may find themselves caught between irreconcilable regimes in jurisdictions in which they operate. Businesses may be pressured to reverse or stall on climate transition plans to avoid securities litigation in one jurisdiction, triggering risks of exposure to activist litigation in another. Balancing the business strategy with emerging legal risks in a fast-paced geopolitical environment is an increasingly critical skill for multinational leaders.

From a business perspective, the potentially most significant implication is that transition planning is no longer a downstream reporting exercise. Courts and regulators increasingly expect climate considerations to be embedded in core investment decisions, project design and governance structures. Projects that rely on optimistic assumptions, incomplete climate analysis, or weak alignment with stated transition strategies are particularly vulnerable. Remedies commonly include the annulment or suspension of permits, requirements to redo environmental assessments, or obligations to integrate climate considerations more robustly into project governance. For boards and executives, this underscores the need for credible, evidence-based transition planning that can withstand legal scrutiny.

3 Duties and rights-based litigation

One of the most transformative developments in climate litigation has been the rise of rights-based claims and duty-of-care arguments that seek to redefine the legal responsibilities of governments and corporations in the face of climate change. These claims are typically grounded in constitutional rights, human rights obligations and tort principles, and they reflect a growing judicial willingness to treat climate harm as a foreseeable and legally cognizable risk.

South America and Europe are at the forefront of this trend. Many South American jurisdictions now recognize some form of a constitutional right to a healthy environment, which has served as a powerful legal foundation for climate claims. Courts in the region are showing an increasing willingness to interpret these rights as encompassing a right to a stable climate, and as requiring government actors to protect present and future generations from actual or contemplated environmental harm. In Europe, longstanding human rights frameworks and constitutional principles are similarly being invoked in novel ways to argue that inadequate climate action at the national level infringes on an individual's fundamental rights, rights such as to life, health and family life.

In North America, rights-based climate litigation has gained limited momentum through state constitutions that explicitly protect environmental rights and through longstanding “public trust” doctrines under which states have a duty to manage natural resources for the benefit of future generations. While federal courts remain cautious, some climate arguments made in state-level litigation have achieved greater success when grounded in state constitutional language, leading to a large variance between states. Further, the recent revocation of the “endangerment finding” – a primary legal basis for the federal regulation of GHG emissions by the Environmental Protection Agency (EPA) – will likely trigger disputes at both the US federal and state levels.

The Asia-Pacific region shows more gradual acceptance of constitutional and rights-based arguments, but youth-led and community-driven litigation is expanding, particularly where air pollution, public health and land use are impacted.

For companies, the significance of these developments lies in the increasing scrutiny of corporate governance, decision-making and disclosure. Globally, courts are more willing to examine whether boards and senior executives have adequately considered foreseeable climate risks and whether corporate strategies align with publicly stated commitments. Climate pledges, transition plans and sustainability disclosures are no longer treated as purely aspirational; in some contexts, such communications are being treated as representations that create legal duties.

Remedies in rights-based cases have tended to seek declaratory relief and mandatory injunctions rather than monetary damages. Courts often seek to establish legal principles, require stronger policies or strategies, and impose monitoring or reporting obligations.

While financial liability may be limited for now, the governance, reputational and strategic consequences can be substantial, particularly where courts articulate clear expectations regarding corporate responsibility for climate risk.

4 Greenwashing and misleading claims

Greenwashing continues to be one of the most prevalent and ever-expanding categories of climate litigation globally. As greenwashing rules tend to be generally applicable and not sector-specific, greenwashing claims cut across industries and invariably affect a wider array of companies, irrespective of their emissions intensity or role in the energy transition. The increase in greenwashing claims reflects a growing intolerance among regulators, investors and consumers for environmental claims that are not supported by credible evidence.

In Europe, active enforcement of rules against misleading environmental claims has been led by regulators across sectors, such as consumer protection authorities and financial regulators. Civil litigation complements this enforcement, particularly where sustainability marketing or disclosures are perceived to mislead consumers or investors. North America has seen a surge in consumer class actions and securities litigation targeting climate-related claims, including net-zero targets, carbon neutrality assertions, recyclability and reliance on offsets.

In the Asia-Pacific region, greenwashing scrutiny results from regulatory action rather than private litigation, particularly in financial hubs and consumer-facing sectors. Australia stands out as an example of a high-risk jurisdiction due to active regulators and courts. Greenwashing litigation in South America is at a more nascent stage, but such claims are emerging as disclosure requirements and advertising regulations expand in the region.

For businesses, the risk is not limited to obvious and overtly false statements. Increasingly, courts and regulators are scrutinizing the assumptions underlying climate claims, the credibility of offsetting strategies, and the use of environmental labels or certifications. Financial institutions and asset managers are particularly at risk where sustainability claims overstate the climate impact of investment strategies or fail to align with underlying portfolios.

Depending on the jurisdiction, remedies in greenwashing cases commonly include injunctions prohibiting misleading claims, financial penalties, disgorgement and mandatory corrective disclosures. The goal of many plaintiffs is for a company to publicly admit its activities and renounce misleading sustainability claims with an aim to ultimately change allegedly unsustainable activities.

Practically, sustainability communications should be treated with the same rigor as financial reporting, and any claims made in communications should be documented and based in fact.

5 Policy influence and market disruption

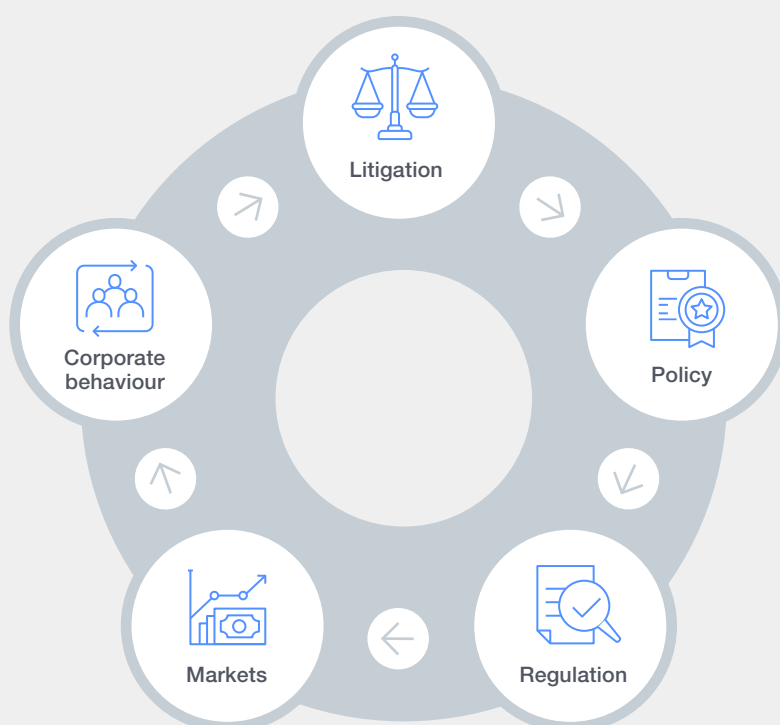
Beyond individual disputes, climate litigation increasingly functions as a mechanism of policy influence and market disruption. Courts in various jurisdictions are shaping how climate laws are interpreted, enforced and operationalized, often prompting governments to revise policies, strengthen regulatory frameworks, or activate previously dormant mechanisms like climate funds or carbon markets.

This phenomenon is often visible across regions. In Europe and South America, judicial decisions have directly influenced climate governance by compelling governments to act or clarifying the legal status of international climate commitments. In North America, litigation can both advance and constrain climate policy, reflecting deep political polarization. In Asia-Pacific jurisdictions, court decisions increasingly interact with regulatory reform, particularly in environmental permitting and financial disclosure.

For companies, the strategic risk typically lies in the indirect effects of litigation. Court-driven policy shifts can alter carbon pricing mechanisms, emissions trading systems and market access conditions with little warning. Litigation outcomes increasingly inform investor stewardship, ESG strategies and capital allocation decisions, creating feedback loops between courts, regulators and markets.

Remedies in this space are often declaratory or structural, shaping future policy rather than imposing monetary damages or immediate liability. However, such remedies' downstream impact on business models, investment planning and competitive positioning can be significant. For boards and general counsel, climate litigation should therefore be viewed as both a legal risk and an early indicator of regulatory and market change.

FIGURE 2 Litigation-driving system change



Conclusion

Across various regions, climate litigation is converging around a single, increasingly clear expectation: climate risk must be governed with the same rigor as any other material legal or financial risk. Courts, regulators and investors are no longer focused on whether companies acknowledge climate change, but on whether climate-related risks are embedded in governance, strategy and decision-making. This marks a shift from symbolic accountability towards substantive scrutiny of how companies manage foreseeable, systemic risk.

For boards, this evolution means that climate oversight can no longer be treated as a peripheral sustainability issue or a voluntary byproduct of good corporate citizenship. Litigation risk is most acute where climate considerations are separated from enterprise risk management, capital allocation, or disclosure controls. Court decisions consistently show that exposure arises not from the absence of ambition, but from incoherence: gaps between public commitments and operational reality, between transition plans and investment decisions, or between value chain expectations and actual oversight mechanisms.

Value chain accountability has become a critical test of governance credibility. Companies are increasingly judged on whether they can demonstrate meaningful oversight of climate risk beyond their direct operations, particularly in high-risk jurisdictions or emissions-intensive supply chains. For boards, this raises strategic questions about sourcing models, contractual leverage and risk tolerance. For general counsel, it requires aligning legal risk assessments with commercial and operational practices, rather than relying on formal separation between entities.

Transition planning is a second focal point. Courts and regulators are scrutinizing whether transition strategies are reflected in project approvals, asset lifecycles and capital expenditure, rather than existing as high-level narratives. As a result, boards are expected to rigorously assess the viability, accuracy and internal consistency of transition plans, while general counsel must ensure that underlying legal assumptions – around permitting, regulatory change and liability – are identified, clearly understood and stress-tested.

Disclosure and public commitments are another area of convergence. Climate-related statements are increasingly treated as legally significant and binding representations. Greenwashing risk emerges where claims outpace evidence, rely on weak assumptions, or lack data and governance controls. Boards must ensure that climate disclosures are supportable and subject to robust assessment, internal controls, and escalation processes comparable to financial reporting.

Importantly, climate litigation is no longer only an external activist tool; it is increasingly a driver of regulatory change, investor behaviour and market structure, influencing policy interpretation, stewardship expectations and capital allocation. Companies that treat litigation as a forward-looking risk signal – rather than a backward-looking compliance issue – are better positioned to anticipate change and protect long-term value.

In this environment, strategic focus and governance quality are the key differentiators. While climate litigation risk is becoming unavoidable, boards and general counsel that integrate climate risk into core governance frameworks are best placed to respond with credibility, consistency and resilience, thereby mitigating that risk.

TABLE 1 Climate litigation: Board oversight checklist

Risk dimension	Board assurance question
Board oversight	Has the board explicitly recognized climate risk as a material legal and strategic risk, with clear ownership and regular reporting?
Value chain exposure	Can the company demonstrate credible oversight of climate risk across its value chain, including suppliers, subsidiaries and financed activities?
Transition strategy	Is there clear alignment between public climate commitments and capital allocation, project approvals and asset lifecycles?
Director and executive duties	How can directors evidence good-faith consideration of foreseeable climate risks in a manner consistent with their duty of care and fiduciary standards?
Disclosures and greenwashing	Are all climate-related statements (net-zero, carbon neutral, sustainability claims) accurate, substantiated and governed like financial disclosures?
Litigation and regulatory horizon	Does management actively use climate litigation trends as early warning signals for regulatory, policy and market change?
Crisis readiness	Is the company prepared to respond swiftly and coherently to climate litigation or regulatory investigation, including reputational and investor impacts?