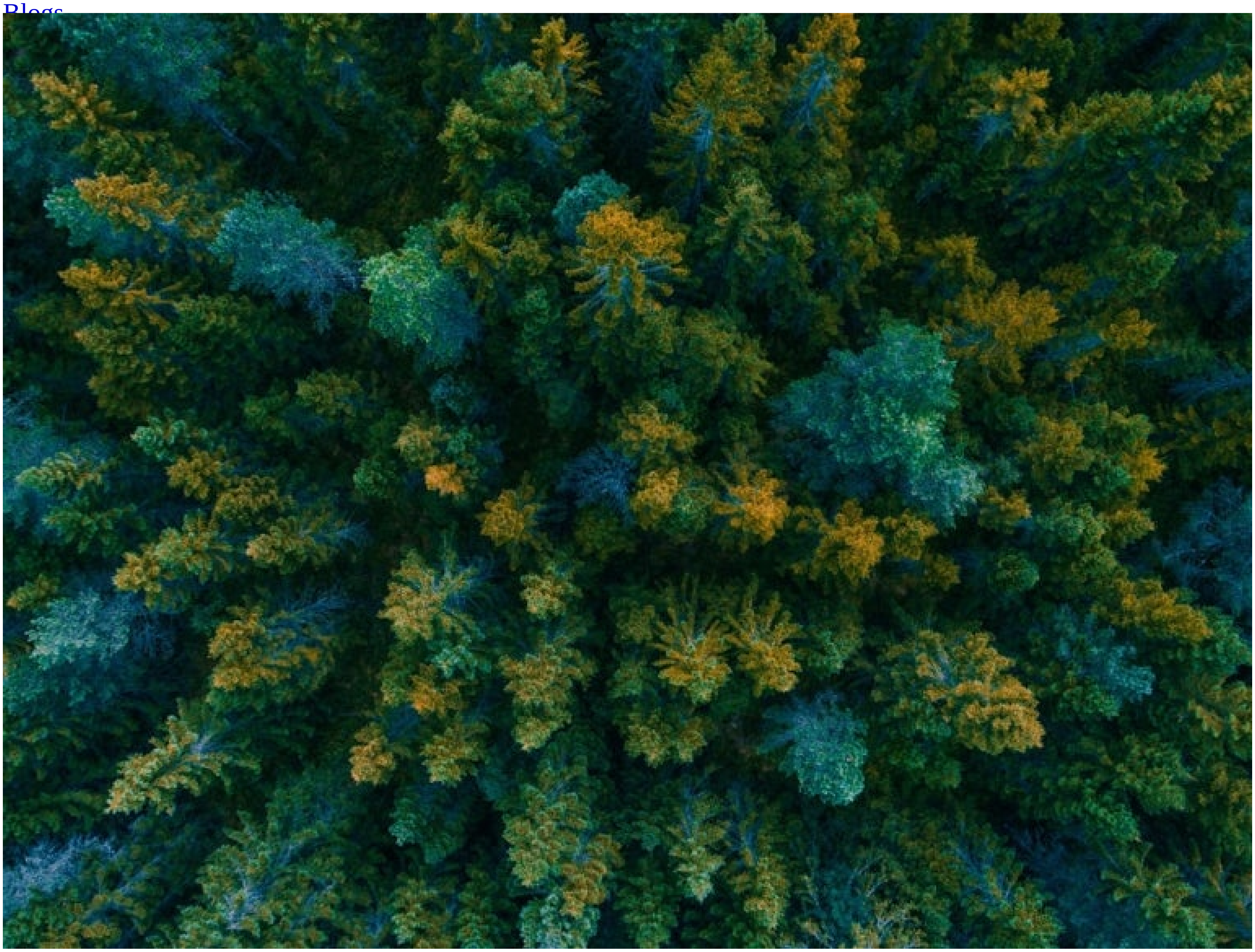
Blogs



We recently **blogged** about California's new broad climate disclosure laws - but now we have a lengthier **Client Update** on the topic, penned by Kevin Feldis, Marcy Hupp and Nancy Cruz. Here's an excerpt:

"Perhaps signaling that there are still many details to be ironed out and that further modifications are possible, Governor Newsom stated that the implementation deadlines in SB 253 are "likely infeasible, and the reporting protocol specified could result in inconsistent reporting across businesses subject to the measure." He **expressed** similar concerns regarding SB 261, noting that the implementation deadlines may not provide CARB with sufficient time to adequately carry out the requirements in SB 261. With that in mind, Newson directed his administration to work with the legislature next year to address these issues and instructed CARB to closely monitor businesses' compliance costs and make recommendations for ways to streamline the disclosure programs that are required under these laws.

Outside of rulemaking and future legislative changes, the laws are likely to face both challenges in court and continued opposition from some business interests. A main focus of attack is likely to be the unprecedented reach of the new requirements, particularly pertaining to Scope 3 disclosures and mandatory reporting of financial risks posed by climate change. If the SEC finalizes its proposed rule, which is anticipated to occur by the end of 2023, there may be claims that the federal rule preempts disclosure requirements under state law. However, provisions in the respective laws that allow companies to use disclosures prepared under federal authority may head off such challenges.

California's new climate legislation is poised to lead the way to greatly expanded climate disclosure requirements in the United States. Although the reporting requirements of SB 253 and SB 261 will not go into effect until 2026, and some aspects of the laws may change, the future is now when it comes to understanding corporate emissions and climate impacts throughout the value chain. Businesses should evaluate how they currently measure, monitor, and evaluate emissions data and climate risks and assess the resources that will be required to comply with these new disclosure requirements. In addition to financial penalties that may apply for noncompliance, the increased transparency and public scrutiny that will go along with this level of disclosure are strong motivators for immediate action."

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