The Political Climate*

*The US Election's Impact on ESG.

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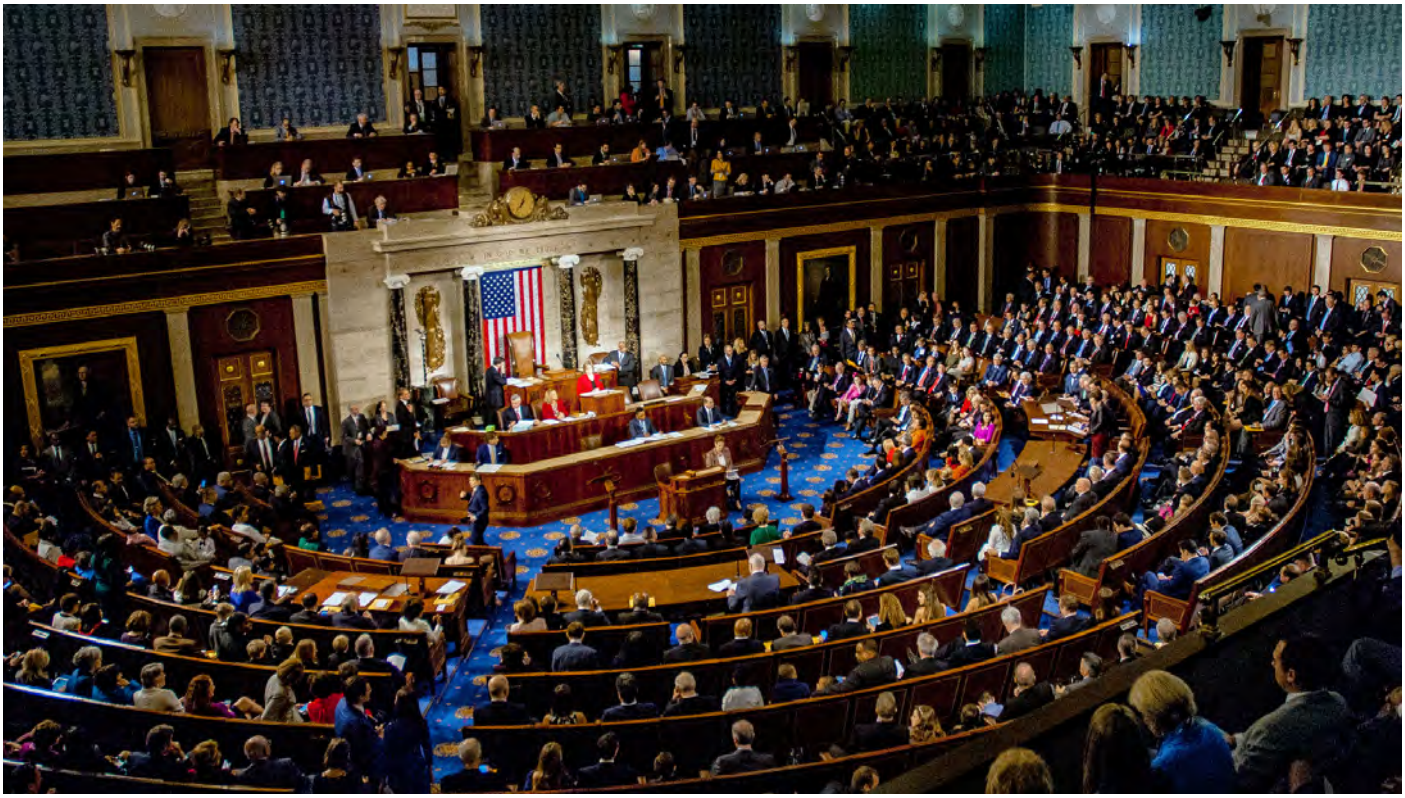

As the US gears up for a historic election this November, we reflect on the differing realities under each President and how the makeup of Congress could potentially shape climate and ESG legislation in a polarized political landscape.

While climate and ESG issues aren't explicitly "on the ballot", we examine some of the key policies and initiatives that are at stake in the upcoming election and present predictions on how these will fare in the long-term based on the election outcome.

Democratic Nominee, Vice President Kamala Harris

Republican Nominee, Donald Trump

ESG Disclosure

Biden-Harris have a strong track record of advancing ESG disclosure laws. If re-elected, Trump's administration would likely weaken or repeal the SEC's climate disclosure law, citing high compliance costs and limited investor benefit. Republicans already are mounting political and legal challenges to ESG disclosure laws, questioning financial materiality, regulatory overreach by federal agencies and compliance burden.

Since 2021, the Biden-Harris administration has built a strong track record of advancing ESG disclosure laws, issuing the following Executive Orders:

- **Executive Order on Climate-Related Financial Risk:** An initiative to enhance climate related financial disclosures.
- **Protect Federal Supply Chain from Climate Risks:** A rule requiring federal contractors to disclose GHG emissions, including value chain emissions.
- **National Action Plan on Responsible Business Conduct:** A national strategy focusing on due diligence to prevent, mitigate, monitor, and address supply chain-related risks.
- **SEC Climate Rule:** In March 2024, the U.S. SEC adopted the climate disclosure rule, which mandates listed registrants to disclose Scope 1 and 2 emissions starting in 2025.

Republican-led states and conservative groups, including the U.S. Chamber of Commerce, have consolidated their lawsuits against the climate disclosure rule in the Supreme Court, with the rule's fate hanging in the balance until the end of the year. Opponents of the SEC climate rules cite concerns over undue regulatory burden and compliance costs, however, there has been a more fundamental backlash on the grounds that the SEC was overextending its regulatory reach in the first place: expanding beyond securities regulation into climate action. Republicans mounting challenges against the rule have additionally introduced legislation HR 4790 "Prioritizing Economic Growth over Woke Policies Act" which aims to limit the SEC's ability to enforce ESG rules, emphasizing financial materiality over broader climate risks.

Lawsuits against the SEC, allege contradiction to conservative legal principles like the "major questions doctrine," which argues that Congress should tackle big economic and political issues rather than agencies. A Supreme Court ruling on related matters later this year could delay the SEC's rules well into 2025 or beyond if appeals persist, putting compliance dates in limbo. But the Commission, after voluntarily staying the rule, is ready to proceed with implementation. In the first round of the legal battle, the SEC defended the climate risk disclosure rule in court, citing "substantial investor demand" for consistent and comparable climate-related information. The SEC has also stated that it is well within its congressionally granted authority to mandate material information for informed investing and voting decisions.

ESG Investing

Harris would reinforce ESG considerations for federally governed ERISA retirement plans. A second Trump term could see more state-specific rules constraining ESG investing within state-managed funds and retirement systems.

- **ERISA Act of 1974:** A federal rule clarifying that retirement plan managers may consider ESG factors that are relevant to an investment's expected risk return and other financial factors.

Despite the Biden administration's federal reversal allowing ESG considerations in ERISA-governed retirement plans, several states, including Texas, Florida, West Virginia, and Kentucky, have imposed their own restrictions on ESG investing for state-managed pension funds. These states mandate that pension funds prioritize financial returns and, in some cases, prohibit investments with firms perceived to "boycott" traditional energy sectors like fossil fuels. Such state-level policies require fund managers to certify non-engagement in ESG strategies that could detract from financial goals, effectively curtailing ESG integration regardless of federal policy changes.

A second Trump term could see more state-led and federal actions against asset managers like BlackRock that prioritize ESG considerations. This aligns with actions like the June 2024 House

Judiciary Republicans' letter criticizing ESG investing as "decarbonization collusion" and advocating for a free-market approach that prioritizes economic growth over climate considerations.

Energy Policy

Harris is expected to boost federal subsidies for clean energy projects like wind, solar, and EV infrastructure—likely with minimal Republican opposition, as their states benefit from clean energy jobs and investments. Trump plans to roll back the Clean Power Plan, eliminating methane fees and reinforcing US "energy dominance".

- **Inflation Reduction Act (IRA):** An Act providing tax credits for renewable energy projects, such as wind, solar and electric vehicle (EV) grid modernization, and supporting the development of a clean energy workforce.

Kamala Harris cast the tiebreaking vote to pass this landmark legislation and will likely continue to support its implementation and back other legislative initiatives for the transmission of wind and solar energy to remote population centres. The White House, as recently as October 29th, announced expanded federal funding for energy-efficient technologies to advance net-zero projects at federal facilities. Harris would likely advocate for similar initiatives to appropriate and allocate funds for supporting clean energy projects.

If Trump is re-elected with Republican control in both the House and Senate, a full repeal of the IRA and the Bipartisan Infrastructure Law (BIL) is unlikely, given popularity and economic benefits in conservative states. These regions have seen the largest windfall in clean energy investment and job creation, making a repeal politically challenging even within the GOP.

- **Methane Regulations:** EPA regulations imposing limits on methane emissions from power plants and vehicles.

In her home state of California and in Congress, Harris has a strong track record of championing progressive climate and environmental policies including the Green New Deal, however, during her campaign she has maintained a moderate stance on energy policy-related issues such as hydraulic fracturing, which she no longer opposes. In fact, Harris has tabled releasing details of her climate and environmental policy plans. Earlier, Harris had indicated that her administration could push to strengthen EPA's rules imposing methane fees and even prosecute fossil fuel companies in violation.

By contrast, Trump has pledged to repeal the Clean Power Plan that enforces methane emissions reductions. Agenda 47 outlines the key components of the Trump administration's plan to achieve energy independence and lower energy costs. The former President would bring his vision to fruition through a wide range of actions, including coal leasing and offshore drilling on federal lands, as well as lifting the temporary pause on new LNG export permits. This approach would echo his first term's emphasis on opening up federal lands for energy exploration. Trump is anticipated to roll back the Clean Power Plan by relying on appointees in federal courts. Under Agenda 47, domestic production of all cars, including electric vehicles, must be accessible. Trump's near-shoring policies could help in shortening the supply chain, reducing costs while improving resilience and sustainability. Trump's America First approach to trade policy, aimed at bolstering domestic production, would likely introduce tariffs on the import of clean energy components (like solar panels and wind turbines). During his Presidency, the U.S. became a net energy exporter for the first time in 75 years.

Climate Diplomacy & Pollution

If we study their political posturing, Harris has framed climate change as an "existential threat" while Trump calls climate change "one of the biggest scams of all time". Kamala has not released details of her plan to address climate change but is likely to continue emphasizing multilateralism and maintaining the status quo with global agreements like the Paris Agreement and the UNFCCC. Trump is expected to withdraw from the Paris Agreement once again, likely within his first 90 days in office.

Climate Diplomacy & Pollution

Soon after winning the election in 2020, President Biden renewed the United States' 2015 commitment to implementing the terms of the Paris Climate Agreement, affirming a commitment to multilateralism. Harris would likely maintain the U.S. role in the Paris Agreement and reinforce international commitments to achieve net zero by 2050. Harris has been quoted advocating for a "climate pollution fee" as a key policy instrument for emissions reduction, but she emphasizes that "reliance on market mechanisms alone can often leave communities behind," signalling that she aims to strike a balance between climate and social considerations.

Trump has already promised a faster exit from the Paris Agreement if re-elected.

Conclusion

Overall, we predict that US policy on climate, ESG and the environment will range from moderate under a Harris administration to conservative under a Trump administration.

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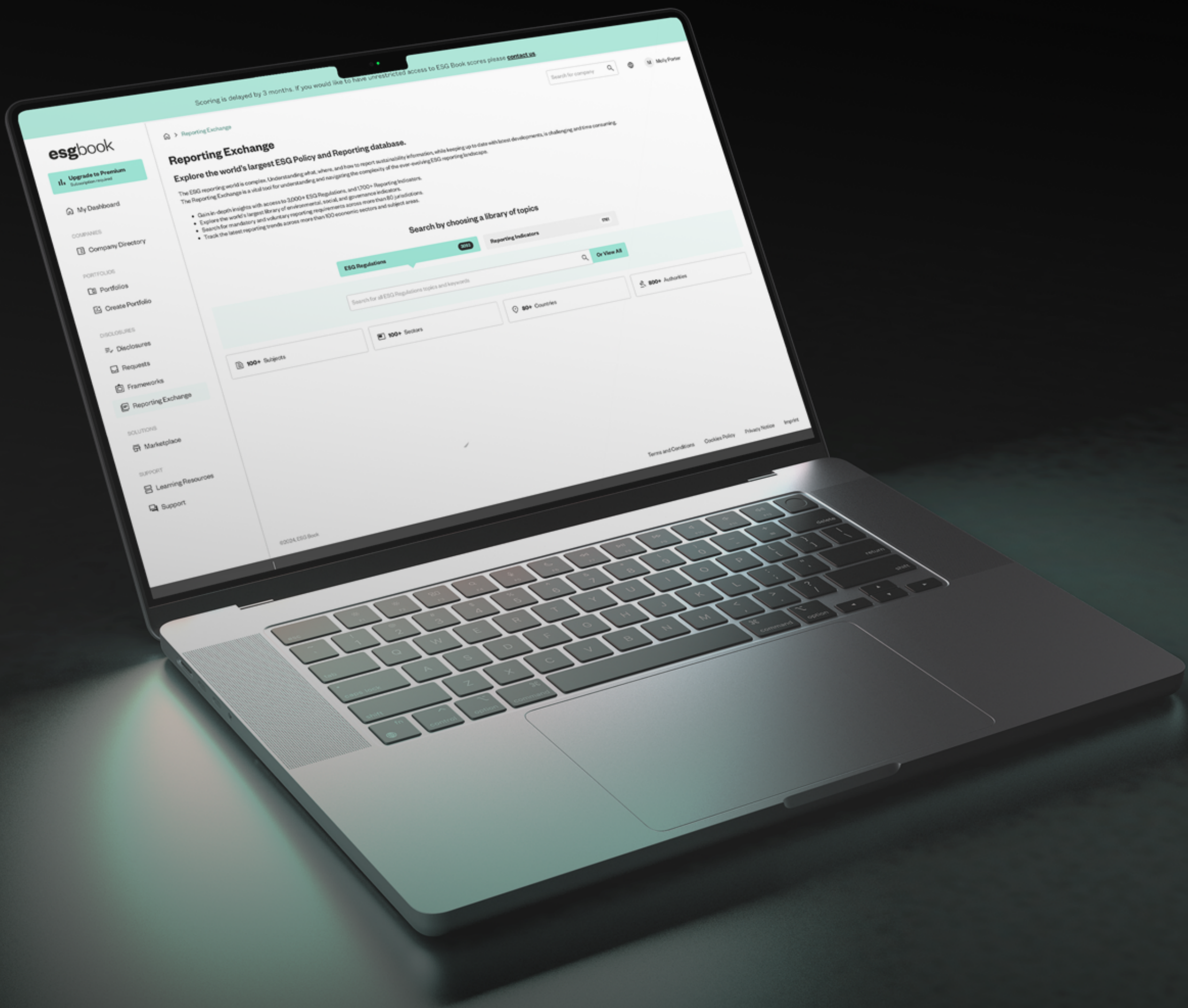

Reporting Exchange resources

- Employee Retirement Income Security Act (ERISA)
- Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review
- SEC Climate Rule
- SEC Fund Labelling Rule
- SEC Proxy Voting Advice
- Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review
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- Bipartisan Infrastructure Law
- Inflation Reduction Act