

# Katten ESG Guidepost



## **Loper Bright Creates ESG Regulatory Speedbumps for Companies**

*By Johnjerica Hodge, India Williams, Nicholas Gervasi*

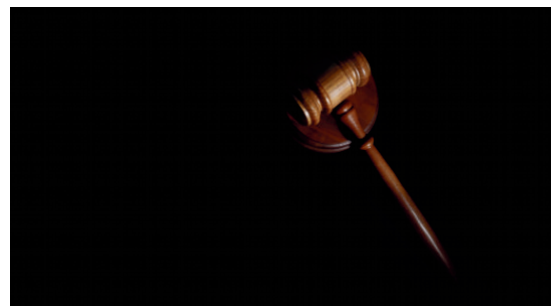
This article, which was recently published in *Bloomberg Law*, delves into the implications of the US Supreme Court's decision in *Loper Bright*

*Enterprises v. Raimondo*. This landmark ruling marks the end of the *Chevron* doctrine, a pivotal shift that could reshape how environmental, social and governance (ESG) regulations are interpreted and enforced. The article comprehensively analyzes how this decision may create regulatory speedbumps for companies striving to comply with ESG guidelines. From greenhouse gas emissions to sustainable investing, workplace diversity and anti-corruption measures, the ruling may implicate multiple facets of ESG compliance. [Read Katten's article.](#)

## **Obstacles to the FTC's Noncompetition Rule Greater Following Supreme Court Ruling**

*By Mark Ciani, Janella Ghollan, Sravya Vallapureddy*

Published by *Agenda*, the article discusses the challenges faced by the Federal Trade Commission (FTC) in enforcing its rule to ban noncompetition agreements. The Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* has overturned the *Chevron* doctrine, which allowed courts to defer to agency interpretations of statutes. This ruling means that the judiciary, rather than agencies, will now resolve legal ambiguities, leading to more challenges against agency regulations. The FTC's noncompetition rule, which prohibits most noncompete clauses, is claimed to be under the FTC's authority as per Sections 5 and 6(g) of the Federal Trade Commission Act (FTCA). However, following the Supreme Court's decision, the rule's validity is in question. [Read Katten's article.](#)



## **After Loper Bright, should the FTC's views on advertising interpretation still receive deference?**

*By Chris Cole*



In 2015, the FTC prevailed in litigation against POM Wonderful, makers of pomegranate juice. *POM Wonderful LLC, et al., v. Federal Trade Commission*. The case involved the FTC's assertions that POM had inadequate substantiation to support advertising claims the Commission alleged POM was making: such as that drinking the juice daily had been shown in *clinical* studies to treat, prevent or reduce the risk of heart disease, prostate cancer, and erectile

dysfunction. The DC Circuit noted that there had been a dispute between the FTC and POM regarding the precise meaning of the claims at issue, which had a significant impact on the decision below, but it ultimately deferred to the FTC's own expertise in advertising interpretation. [Read about how ending the Chevron doctrine could affect advertising interpretation.](#)

## **New York's Proposed 'Fashion Sustainability and Social Accountability Act': Where It Stands Now**

*By Alexandra Caleca*

In the inaugural *Katten Kattwalk/Kattison Avenue* joint issue, Katten reviewed the implications of New York's proposed "Fashion Sustainability and Social Accountability Act". If passed, the Fashion Act would make New York one of the world's leading fashion capitals and the first state to hold certain retailers accountable for their environmental and social sustainability practices. Since its introduction in 2022 (and reintroduction in 2023), the Fashion Act has received both strong support and harsh criticism from various trade groups and industry participants. The New York State Assembly did not vote on the Fashion Act prior to concluding its most recent legislative session, so its future is now unclear. [Read Katten's article.](#)

## **Will Texas Stock Exchange Provide Regulatory Haven?**

*By Elizabeth McNichol, Ryan Lilley*

Published by *Law360*, this article breaks down the details surrounding the Texas Stock Exchange's intention to apply to register with the SEC later this year as a national securities exchange. Headquartered in the economic powerhouse of Dallas, TXSE is poised to challenge the NYSE and Nasdaq's stronghold on corporate listings. The article provides an in-depth analysis of TXSE's strategy and the intricate regulatory landscape that it will have to navigate as a new exchange. Due to increasing investor demands for more corporate governance and disclosure requirements in areas such as ESG, TXSE will likely not see any change related to those regulations. [Read Katten's article.](#)

## **New Rules for Investment Advisers and Brokers Relating to Cybersecurity Breaches**

*By David Dickstein, Richard Marshall*

This advisory provides insights on staying compliant with the SEC's amended Regulation S-P, which introduces stringent cybersecurity protocols for protecting customer information. Key takeaways include new incident response and recovery requirements, expanded scope of protected information, and tighter notification deadlines post-breach. With compliance deadlines approaching — January 3, 2026, for larger entities and June 3, 2026, for smaller ones — Katten's advisory provides a roadmap for navigating these changes. [Read Katten's advisory.](#)

# Supervising FINfluencers' Social Media Spin: Don't Believe Everything You View on Your Phone

By Susan Light, Chris Cole, Michael Justus, Nicholas Gervasi



In the dynamic world of social media, the rise of FINfluencers has made financial advice more accessible to a broader audience. However, that expansive influence brings significant obligations, especially for broker-dealers in the financial sector. Katten's latest client advisory sheds light on the crucial balance between harnessing the power of social media and adhering to regulatory standards. They delve into the recent FINRA, SEC and FTC enforcement actions, highlighting the costly consequences of inadequate supervision, recordkeeping and transparency when it comes to FINfluencers' content. [Read Katten's advisory.](#)



## Christopher Hitchens Talks International Employment Law With the *Global Workforce Podcast*

London Managing Partner Christopher Hitchens appeared on the *Global Workforce* podcast, hosted by Omnipresent, to discuss the intricacies of international employment law for businesses

interested in crossing borders. He shared key insights into the legal challenges and cultural nuances that global businesses must navigate to thrive. He shared how a one-size-fits-all approach often does not work across borders, stating, "While you want to maintain the same culture, you also have to take account of local customs and laws and make adjustments accordingly." [Read about Chris's comments.](#)

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## CONTACTS

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