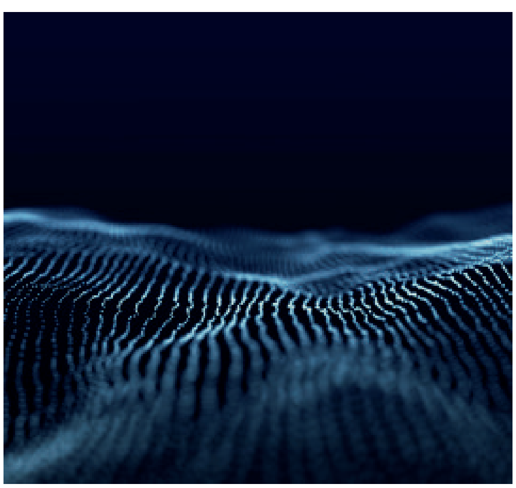
October 2024 Issue 19

Katten ESG Guidepost

Fly Carbon Neutral? Qantas Accused of Greenwashing in New Complaint

By Catherine O'Brien

Qantas Airways is facing a formal complaint lodged with the Australian Competition and Consumer Commission (ACCC) by the Environmental Defenders Office, an Australian non-governmental organization. The complaint claims that Qantas has misled consumers by marketing its flights as "sustainable" and offering the option to “Fly Carbon Neutral." *Read about challenges facing airline carbon emissions claims.*



Artificial Intelligence in Consumer Lending: Addressing AI-Related Risks

By Johnjerica Hodge, India Williams, Nicholas Gervasi, Gabriella Weick

Published by *The Banking Law Journal*, the article explores the growing use of artificial intelligence (AI) in consumer lending, focusing on the associated risks and regulatory responses. AI and machine learning (ML) have transformed lending by improving creditworthiness assessments, lending decisions, and customer service. AI-driven models are being implemented to streamline credit underwriting and fraud detection, making processes more efficient and accurate. The Consumer Finance Protection Bureau (CFPB) has been active in regulating AI in lending, issuing rules and guidance to ensure fairness and transparency. *Read Katten’s article.*

SB 219 Makes Important Updates to California Climate Disclosure Regime

By Farzad Damania, Ryan Lilley

On September 27, 2024, California Governor Gavin Newsom signed Senate Bill 219 (SB 219) into law, making important changes to California's historic Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261) enacted last year as part of California's Climate Accountability Package. SB 253 and SB 261 impose unprecedented climate-related disclosure requirements on US public and private companies that do business in California and meet certain annual revenue thresholds, as detailed in Katten's previous insight. However, the climate bills leave open key implementation questions, including, for example, what it means to "do business" in California and how to calculate annual revenues. *Read Katten's advisory.*

Recent Hurricanes Lend New Urgency to Carbon Emissions Reduction

By Chris Cole

The "news" about environmental, social and governance (ESG) has recently been overwhelmingly that it is dead – killed by some regulators and fatigued consumers. Although rumors of its demise are not borne out on the ground floor of corporate transactions, Hurricanes Helene and Milton may suddenly change consumer perception in dramatic fashion, injecting new vigor into advertising about carbon emissions reduction imperatives. There seems little doubt that warmer Gulf Waters are spurring storm intensification. The consensus among scientists is that global warming is driven by carbon emissions. *Read about carbon emissions reduction.*

A Greener Tomorrow: CFTC Issues Final Guidance for Listing Voluntary Carbon Credit Derivatives

By Carl Kennedy

After five years of consultations, public meetings and roundtable discussions, the Commodity Futures Trading Commission (CFTC or Commission) has issued final regulatory guidance for exchanges, which list financial contracts aimed at decarbonization efforts. The Commission approved the Final Guidance on September 20, which outlines factors that CFTC-registered designated contract markets (DCMs) must consider when listing derivatives contracts that reference voluntary carbon credits (VCCs). The Final Guidance is intended to ensure that DCMs comply with certain Core Principles set forth in the Commodity Exchange Act (CEA) and CFTC regulations when listing VCC derivatives contracts for trading. *Read about CFTC VCCs guidance.*

The European Commission Reports on the First Year of the EU-US Data Privacy Framework

By Trisha Sircar

In July 2023, the European Commission adopted an adequacy decision for the EU-US Data Privacy Framework (DPF), as we previously reported. This permitted the free flow of personal data from the EU to DPF-participating companies in the United States. There are a number of items that US companies must perform to become DPF certified, as outlined in our article here. On October 9, 2024, the European Commission issued a review of the adequacy decision of the EU-US DPF to the European Parliament and Council of Europe after its first year in force. *Read about the EU-US Data Privacy Framework.*

Employment Law Changes Are Coming!

By Brigitte Weaver, Christopher Hitchins

Labour is introducing its flagship "Plan to Make Work Pay" in the form of the new Employment Rights Bill into Parliament today. The Government is proposing a raft of nearly 30 employment law changes, including enhancing family leave protections and, controversially, introducing unfair dismissal protection from day one of employment. When and how many of these reforms will take effect and how they will actually work in practice is not clear. 2025/2026 is currently being touted but it's not been confirmed. *Read about the key proposals that affect professional services firms.*

Brigitte Weaver Shares Thoughts on Proposed UK Employment Rights Bill

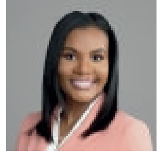
Employment Litigation and Counseling Senior Associate Brigitte Weaver recently spoke with *HR Magazine*, *Workplace Wellbeing Professional* and *Onrec* regarding the Labour Government's introduction to Parliament of a new Employment Rights Bill that includes nearly 30 changes from their "Plan to Make Work Pay" platform. The Bill includes changes related to unfair dismissal, family leave, enhanced rights for women in work, sick pay, flexible working and minimum wage, among others. *Read about Brigitte's comments.*

CONTACTS

For questions about developments in the ESG space, please contact any of the following Katten attorneys and *ESG Guidepost* editors.

Johnjerica Hodge

Partner and Co-Chair, ESG Risk and Investigations
vCard



India Williams

Partner and Co-Chair, ESG Risk and Investigations
vCard

Christopher Cole

Partner and Chair, Advertising, Marketing and Promotions
vCard