CALIFORNIA POSTS PRELIMINARY ROSTER FOR LANDMARK CLIMATE DISCLOSURE MANDATE

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US Corporate Alert

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On 24 September 2025, the California Air Resources Board (CARB) posted a preliminary list of companies that it believes may be reporting or covered entities under California's Climate Corporate Data Accountability Act (SB 253) and Climate-Related Financial Risk Act (SB 261). CARB indicated at its "SB 253/261/219 Public Workshop: Regulation Development and Additional Guidance" held on 21 August 2025 (August Workshop) that it would post such a list, and the list can be found on CARB's website, which is linked here.

In creating this list, CARB states that it used data from the California Secretary of State as a "master-list of entities doing business in California." CARB cautions that this data is only through March 2022 and that it used partial matching of company names in preparing the list. Moreover, the list does not reflect any potential exemptions from reporting obligations that may be enacted through regulations CARB anticipates adopting later this year, and the list is not determinative of coverage. As noted by CARB, "[e]ach potentially-regulated entity remains responsible for compliance with statutory requirements, regardless of whether it was included in staff's preliminary list or outreach." As a result, while this list can be helpful confirmation for those companies that have already determined they have reporting obligations under SB 261 or under SB 253 and SB 261, it leaves many open questions for other companies, including those that believe they have reporting obligations but are not on the list.

In addition to posting the list, CARB included a link to a survey to solicit voluntary feedback from those entities that "believe they may be subject to these requirements, or may qualify for an exemption." It is highly unusual for a regulator to solicit feedback from a company that it excludes from reporting requirements, and it also leaves open the question of whether companies would want to provide feedback on whether they are (or are not) in-scope given the current uncertainty regarding fundamental aspects of the regulations such as what it means "to do business" in California. As noted in our previous alert on this topic, this definition and the overall scope of regulated entities under SB 253 and SB 261 remain in a state of flux and subject to further clarification.

While there is still much uncertainty surrounding SB 253 and SB 261, it is nonetheless clear that initial reports pursuant to SB 261 are due on or before 1 January 2026. Companies that believe they are subject to the requirements under SB 261 or under SB 253 and SB 261 (regardless of whether they are on the list posted by CARB) should continue preparing to report pursuant to these regulations and watch for more information to be provided by CARB, including proposed rulemaking to be put forward by CARB later this year.

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