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ECB Cautions Banks About Heightened Exposure to Climate Litigation

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At a September legal conference convened by the European Central Bank (ECB), Frank Elderson, a member of the ECB's executive board and vice-chair of its supervisory board, **observed the increasing risk** of climate lawsuits and stressed the need for banks and their clients to implement Paris-aligned transition plans to mitigate that risk.

Both the sheer volume of strategic climate litigation cases, as well as their development in terms of nature, scope and diversity of defendants, have dramatically increased since 2021. Between 2021 and 2022, the Network for Greening the Financial System (NGFS) **notes** that more than 70% of climate cases named governments and public actors, including central banks and supervisors. Elderson reflected that regulators also have work to do, **citing an additional NGFS report** published this September on the micro-prudential supervision of climate-related litigation risks (i.e., risks to individual financial institutions rather than industry-wide risk). 90% of cases filed from 2022 to 2023 were filed by NGOs. Over half of relevant cases resulting in judicial outcomes have secured decisions favorable to climate action claimants.

Elderson recommended risk mitigation measures such as detailed disclosures, reexamination of governance frameworks and regular compliance checks. He also suggested that when banks rate the probability of their clients' default, they should also assess diverse risks, including reputational risks suffered by exposure to greenwashing suits. Banks should carefully consider the financing of polluting industries by mapping affected stakeholders and areas for financial loss and opportunity.

Elderson stressed that financial institutions must make their Paris-aligned transition plans realistic and should avoid "slick advertising campaign[s] with glossy photos of rainforests,"

noting that “that is just a recipe for greenwashing accusations.” Rather, he urged banks and their clients to develop transparent and credible transition plans, and speedy implementation of such plans.

Taking the Temperature: As we have reported, strategic climate litigation is a rising global trend. We cover this with respect to potential consequences of [the EU’s “Fit for 55” legislative package](#), with respect to particular climate-related lawsuits [here](#) and [here](#), and corporate pushback against such climate litigation [here](#). We discuss the overall global rise in litigation trends in [our coverage](#) of the 2023 Grantham Institute’s Climate Litigation Report.

The ECB’s climate action plan for its own €385 billion portfolio is the [target of criticism](#) from Greenpeace after a research report from three UK universities claimed that the ECB “can and should return to a more ambitious approach that actively reshuffles its corporate bond holdings towards greener issuers.”