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CONTEMPORARY STUDIES IN ECONOMIC AND FINANCIAL
ANALYSIS VOLUME 116

EXPLORING ESG CHALLENGES AND OPPORTUNITIES: NAVIGATING TOWARDS A BETTER FUTURE

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United Kingdom – North America – Japan
India – Malaysia – China

Emerald Publishing Limited
Emerald Publishing, Floor 5, Northspring, 21-23 Wellington Street, Leeds LS1 4DL.

First edition 2025

Editorial matter and selection © 2025 Simon Grima, Dimitrios Maditinos,
Gratiela Georgiana Noja, Jelena Stankevičienė, Malgorzata Tarczynska-Luniewska,
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British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

ISBN: 978-1-83549-911-5 (Print)

ISBN: 978-1-83549-910-8 (Online)

ISBN: 978-1-83549-912-2 (Epub)

ISSN: 1569-3759 (Series)



INVESTOR IN PEOPLE

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INTRODUCTION

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The sustainable development of economies is now an important point of action for many organisations. One of the key documents that has, in a sense, become a benchmark for implementing a sustainable approach to business practice is the 2030 Agenda for Sustainable Development ([Transforming Our World: The 2030 Agenda for Sustainable Development, 2022](#)). The orientation towards a sustainable approach in business has also found its dimension in subsequent documents and relevant regulations like the Paris Agreement (2015), the European Green Deal (n.d.), the CSRD (Corporate Sustainability Reporting, n.d.), the Taxonomy (Regulation - 2020/852 - EN - EUR-Lex, n.d.), and the Task Force on Climate-related Financial Disclosures (TCFD) ([Task Force, 2020](#)).

The 17 UN Sustainable Development Goals offer a comprehensive framework for businesses to build their sustainable development policies. This framework is not just about meeting our current needs, but also about respecting the environment, the rights of others, and the needs of future generations. It underscores the importance of our actions today in shaping the world of tomorrow.

On the one hand, it is an extremely important and seemingly understandable issue, but on the other, it raises a lot of discussion and controversy. This area is still the field of ongoing scientific discourse.

A look into the future of ESG operation in business operations identifies existing challenges and opportunities. Doing business consistently with ESG practices, regardless of the type of organisation, involves fundamentally changing the way it thinks, including integrating sustainability into core business strategies. Today, companies face many challenges with regard to ESG practices. First, the issue of their implementation is not only due to existing regulations but also requires a refocusing of the business towards sustainable operations. This involves an overall understanding by company managers and employees of the concepts of sustainability and ESG. Another element is measuring and reporting ESG performance.

This is difficult because while there are relevant guidelines and regulations, there are still no standards in this area. However, it is worth noting that the benefits of introducing ESG concepts into business practice are significant. These include better evaluation of the company by stakeholders, the achievement of better financial results by companies, or increased public trust in business.

The book *Exploring ESG Challenges and Opportunities: Navigating Towards a Better Future* is a significant contribution to the ongoing scientific discourse on sustainable business practices. It fills a crucial gap in the literature by focusing on implementing ESG practices. The book's context is diverse, covering economic and legal issues, providing a comprehensive understanding of the subject.

Thus, the book addresses issues such as measuring the effects of ESG practices, reporting problems, the importance of ESG for building corporate value, investment decision-making, or the integration of big data with ESG. The reference of ESG integration in emerging markets is also an important issue. Attention to regulatory compliance for sustainable management is also an important element.

Taking into account a diversified range of topics in the form of chapters, the book draws attention to the standing challenges and opportunities in ESG. The strengths of the book are both the unique research results of the Authors, as well as the presentation of their unique perspective on issues concerning sustainable approaches in business practices, including ESG issues. It is worth noting that the book's structure was adopted deliberately, which is intended to emphasise the multi-layered and diverse nature of the subject matter covered.

Offered to the reader, the book *Exploring ESG Challenges and Opportunities: Navigating Towards a Better Future*, in addition to drawing attention to issues related to the implementation of ESG in economics, is at the same time intended to inspire discussion on such an important topic as sustainability for generations.

The book *Exploring ESG Challenges and Opportunities: Navigating Towards a Better Future* is also consistent with the UN-designated trend included in the Agenda 2030 document for sustainable development.

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CHAPTER 1

NAVIGATING THE LEGAL LABYRINTH: ESG COMPLIANCE MANAGEMENT AS A LEGAL SERVICE

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ABSTRACT

Purpose: ESG compliance management is transforming legal practices through its necessity in the current corporate world, and its role in limiting legal risk in the ESG area.

Methodology: A qualitative research approach, relying on a range of sources, including legal sources, case studies, and information on the practical aspects of the work of lawyers specialising in ESG compliance management, the methodology facilitates a deep understanding of the practical aspects of ESG compliance management and its integration into legal services.

Conclusions: Results show that ESG compliance management is becoming an indispensable part of legal services due to the increasing complexity of regulations and the need for proactive ESG risk management strategies. The growing demand for specialised lawyers adept in compliance strategies, the importance

Exploring ESG Challenges and Opportunities: Navigating Towards a Better Future

Contemporary Studies in Economic and Financial Analysis, Volume 116, 3–24

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ISSN: 1569-3759/doi:10.1108/S1569-37592024000116002

of developing ESG concepts in business practice, also reveals the role of technology in enhancing the efficiency and effectiveness of ESG compliance management practices.

Limitations: Limitations in its scope, primarily due to the rapidly changing nature of legal regulations and ESG compliance requirements, mean this study is constrained by the variability of ESG compliance practices in different areas of the legal services market, which may affect the generalisability of the findings.

Future Research: The impact of emerging technologies on ESG compliance management, the evolution of regulatory frameworks in response to global challenges, and the development of standardised best practices for ESG compliance management in the legal services market areas.

Keywords: ESG compliance management; legal services; corporate governance; compliance strategy; technology; sustainable development

JEL Classifications: K22, Business and Securities Law; K23, Regulated Industries and Administrative Law; K32, Energy, Environmental, Health, and Safety Law

INTRODUCTION

The growing threat associated with environmental change, particularly climate change, and the increasing complication of social issues (legal exclusion, inequality of access to goods) have necessitated the consideration of external risk generated by non-financial factors: environmental, social, governance, known as ESG, in the activities of businesses and other entities. According to [Zioło et al. \(2021\)](#), this risk encompasses two categories: transitional risk related to adapting to new legal requirements and standards, and chronic, physical risk associated, for example, with extreme weather events. Regarding legal services, transitional risk, associated with the implementation of sustainable corporate governance standards and ESG goals, is of particular importance. These standards require market participants to consider not only the pursuit of short-term profit but also the interests of employees, consumers, local communities, the economy, and society as a whole, as well as environmental protection (mitigating climate change) from a long-term perspective (sustainable value creation). As signalled, legal doctrine emphasises the transience of legal risk, but attention must also be paid to its recurrent (repetitive) nature, as legal rules (often aimed at raising axiologically justified rigor) change with the increasing requirements of conventions, statutory requirements, and environmental expectations (e.g., regarding the care for the entrepreneur's image and reputation, which forces adaptation to trends prevailing in their environment). As emphasised by [Watchman et al. \(2022\)](#), we are facing a "tsunami" of ESG regulatory initiatives: legislation, directives, guidelines, standards, results, indices, and requirements concerning the disclosure of information and responsibility. As society becomes more aware of the importance of sustainable development, businesses are under increasing pressure to not only report on

their activities in these areas but also demonstrate their positive impact on the environment. This requires not only a thorough knowledge of regulations and trends but also the ability to anticipate future changes in regulations and social expectations. In this context, legal services play a crucial role, offering entrepreneurs the necessary support in managing ESG risk, going beyond the interpretation of existing regulations. Consequently, ESG legal risk management is a complex task, requiring entrepreneurs not only to be familiar with regulations but also to take a proactive approach to identifying, monitoring, and minimising potential legal risks associated with their activities in environmental, social, and governance areas.

The problem in practice is difficult as various studies, including empirical ones, reveal that ESG has no clearly defined relationship with compliance with regulations. This ambiguity extends to whether ESG is correlated or related to a higher level of legal compliance, as well as what this means for corporations' "compliance" with ESG goals in light of the spread of sustainable development standards and social impact indicators. For example, studies conducted by [Pollman \(2019\)](#) from the perspective of the USA reflect the fact that the business world is in a state of continuous change regarding how corporations consider their impact on stakeholders and the environment, while legal regulations attempt to effectively respond to issues such as disclosing information on sustainable development. Some representatives of legal academia, like [Greenfield \(2007\)](#), explicitly speak of progressive corporate law, thus advocating for more comprehensive, mandatory changes in corporate law to serve the public interest.

Regulations regarding sustainable development are not only complex and scattered across various legal acts and soft law instruments, but they also change rapidly, requiring entrepreneurs to continuously monitor and adjust their strategies to meet current requirements and expectations. This means that improper management of ESG risks can lead to significant legal, financial, and reputational risks.

In the face of these challenges, legal services become an essential component of effective ESG risk management. It is crucial to recognise that lawyers specialising in ESG can assist entrepreneurs in understanding current regulations, anticipating regulatory changes, advising on best practices, and risk mitigation strategies. They can also support entrepreneurs in the due diligence process, identifying potential ESG risks, and developing and implementing effective risk management strategies. Additionally, legal advice can be crucial in crisis management, helping entrepreneurs minimise damages in the event of incidents negatively impacting the environment, society, or corporate governance for which they may be held liable.

In light of increasing pressure from investors, governmental and supranational regulators, and public opinion, ESG risk management as a legal service not only becomes a strategic advantage but also a necessity for entrepreneurs aiming for sustainable long-term success. This chapter will delve deeper into the analysis of key issues concerning legal support for entities engaged in effective ESG risk management, considering crucial areas where legal assistance is essential, and solutions implemented in the legal services field that can aid entrepreneurs in achieving sustainable success.

UNDERSTANDING ESG COMPLIANCE IN THE LEGAL CONTEXT

ESG compliance encompasses a wide range of components that are crucial for businesses to consider in their operations. Environmental factors focus on a company's impact on the natural world, including its carbon footprint, pollution, and resource consumption. Social aspects address how a company interacts with its employees, suppliers, customers, and the communities in which it operates, covering areas such as labour practices, human rights, and community engagement. Governance factors pertain to a company's internal management and decision-making processes, including issues such as board diversity, executive compensation, and transparency in corporate reporting ([The ESG Outlook for 2022, 2022](#)).

Understanding ESG compliance has become an increasingly important consideration for businesses in the modern legal landscape. As companies strive to meet the expectations of regulators, investors, and the public, it is essential for legal professionals to have a thorough understanding of ESG issues and compliance requirements. Navigating the complex realm of ESG compliance requires legal professionals to stay informed about the evolving regulatory frameworks and best practices ([Why ESG Matters for Big Law Firms, 2021](#)). In recent years, there has been a growing emphasis on the legal implications of ESG factors, including climate change, diversity and inclusion, ethical business practices, and sustainable development. Legal service providers play a crucial role in assisting businesses in navigating the complex web of ESG regulations and incorporating ESG considerations into their overall governance framework ([Luther-Jones et al., 2020](#)). This understanding allows legal professionals to navigate the complex realm of ESG compliance, helping businesses to stay in line with regulations and best practices ([The Upside of ESG: Why Strong Sustainability Programs Matter to Modern Enterprises, 2023](#)).

As the demand for ESG-focused legal services continues to rise, legal professionals must stay abreast of the latest developments in this evolving field. This may involve developing specialised expertise in ESG law, staying informed about industry best practices, and actively engaging with clients to address their specific ESG compliance needs ([The Role of the In-House Lawyer Amidst the Rising Tide of ESG Regulations, 2022](#)).

Furthermore, legal professionals can contribute to their clients' success by providing strategic guidance on ESG risks and opportunities, assisting in the development and implementation of ESG policies and procedures, and offering support in ESG-related due diligence and disclosure requirements ([Jinga, 2022](#)).

Legal professionals have a crucial role in helping businesses understand and navigate the complexities of ESG compliance ([Czarnezki et al., 2023](#)). They are responsible for providing guidance on ESG regulations, assisting in the development and implementation of ESG policies, and ensuring that businesses meet their ESG compliance obligations. Legal professionals play a vital role in ensuring that businesses understand and comply with ESG regulations, undertake appropriate risk management strategies, and integrate ESG considerations into their overall governance framework ([Top Three ESG Legal Issues to Watch in](#)

2022, 2022). In doing so, legal professionals contribute to the sustainability and long-term success of businesses, as well as promoting responsible business practices and addressing societal and environmental challenges (Czarnezki et al., 2023). Legal professionals have a crucial role in helping businesses understand and navigate the complexities of ESG compliance. They are responsible for providing guidance on ESG regulations and assisting businesses in developing and implementing ESG policies (Teaching Sustainable Business Law & the Role of ESG Lawyers, 2023). Overall, legal professionals have a multifaceted role in ESG compliance management.

In addition, legal professionals can also play a pivotal role in helping businesses address emerging issues and challenges in the ESG space (The Rise of ESG & the Importance of Compliance, 2021). They can assist in identifying and mitigating risks related to greenwashing, ensuring transparency and accountability in ESG reporting, and guiding businesses through crisis situations that may have social, ethical, or environmental implications.

REGULATORY LANDSCAPE FOR ESG COMPLIANCE

The regulatory landscape for ESG compliance is intricate and continuously evolving, with various jurisdictions and industries adapting to meet the demands of sustainable business practices and investment criteria. Across different countries and regions, there is a noticeable trend towards heightened attention and regulation of ESG factors. This global shift stems from an increased understanding of the significance of ESG in driving sustainable business practices and investment decisions.

Numerous reporting frameworks and standards have emerged to guide companies in disclosing their ESG performance, such as the Global Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB), Task Force on Climate-related Financial Disclosures (TCFD), and the International Integrated Reporting Council (IIRC). Regulatory bodies like the SEC in the US, ESMA in the EU, and the FCA in the UK issue guidelines or regulations related to ESG reporting and disclosure.

In addition to mandatory regulations, jurisdictions are employing various measures, including tax incentives and sustainable investment requirements, to promote green finance initiatives. Stewardship codes outline responsibilities for institutional investors to engage with companies on ESG issues and exercise their voting rights responsibly.

Beyond mandatory regulations, there are numerous voluntary initiatives like the United Nations Principles for Responsible Investment (PRI) and the Carbon Disclosure Project (CDP) aimed at enhancing ESG performance and disclosure.

Industries like finance, energy, and extractives may face sector-specific ESG regulations tailored to their unique environmental and social impacts (Environmental, Social, and Corporate Governance (ESG), 2022).

Legal professionals are crucial in helping businesses navigate this complex landscape. They play a pivotal role in ensuring compliance with environmental,

social, and governance regulations, providing guidance on regulatory compliance, developing ESG policies and procedures, and conducting due diligence to identify risks. Collaboration with stakeholders such as sustainability experts, industry associations, and regulators is essential for effective ESG compliance management.

Governance regulations focusing on internal management and decision-making processes are also critical, with legal professionals advising on board composition, executive compensation, and corporate reporting to ensure transparency and accountability.

As the regulatory landscape evolves, legal professionals must stay proactive, remaining abreast of new regulations, industry best practices, and stakeholder expectations. They collaborate with clients to address specific ESG compliance needs, provide strategic guidance on sustainable practices, and foster a culture of responsibility within organisations.

To navigate this complex and evolving regulatory landscape, businesses can consider engaging with industry associations, consulting with legal and ESG experts, and participating in industry forums to stay informed about emerging regulations and best practices. Moreover, leveraging technology and data analytics can aid in effectively monitoring and reporting on ESG performance, ensuring alignment with evolving regulatory requirements and industry standards. As companies embrace the transition to a more sustainable and responsible business model, proactive adaptation to the changing regulatory environment will be crucial for maintaining competitiveness, attracting investors, and meeting the expectations of an increasingly ESG-conscious market ([EU Sustainability Regulation, 2024](#)).

Legal professionals are indispensable in promoting ESG compliance, interpreting regulations, and aligning business practices with ESG goals to navigate the complex regulatory landscape effectively. As the regulatory landscape continues to evolve, legal professionals must remain proactive in staying abreast of new and upcoming regulations, industry best practices, and stakeholder expectations. This includes actively engaging with clients to address their specific ESG compliance needs and providing strategic guidance on implementing sustainable practices and meeting regulatory requirements. They must also collaborate with other stakeholders, such as sustainability experts and regulators, to gain a comprehensive understanding of ESG issues and find innovative solutions. In summary, legal professionals are key players in effectively managing ESG compliance. They play a critical role in interpreting and advising businesses on environmental, social, and governance regulations. They help businesses develop and implement robust ESG strategies, ensuring compliance with regulations and ethical standards. Furthermore, legal professionals assist in fostering a culture of sustainability and responsibility within organisations. They work closely with internal teams and external stakeholders to align business practices with ESG goals and promote transparency, accountability, and ethical behaviour.

Challenges in Achieving ESG Compliance

Achieving and maintaining ESG compliance presents a multitude of challenges that require careful navigation and strategic foresight ([Cort & Esty, 2020](#)).