

Requirements for the Growing Environment, Social & Governance Movement

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- United States Magistrate Judge, District of New Jersey, 1986-2007
- Co-Senior Editor, *Sedona Conference Cooperation Proclamation: Resources for the Judiciary Third Edition* (June 2020)
- Lead Author, *Managing Discovery of Electronic Information, Third Edition* (Federal Judicial Center: 2017)
- Chair of Court Technology Committee of the ABA Judicial Division
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- Strategic Advisor, Global & Strategic Accounts, Iron Mountain
- Executive Director leading data protection and eDiscovery programs at large global bank, 2014-2018
- Director developing and managing information governance (IG), eDiscovery, business research and related functions for global banks over 20 years
- Association and networking leadership roles in IG and financial services
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- ① The information in these slides and this presentation is not legal advice and should not be considered legal advice.
- ① This presentation represents the personal opinions of the presenters.
- ① This presentation is offered for informational and educational purposes only.

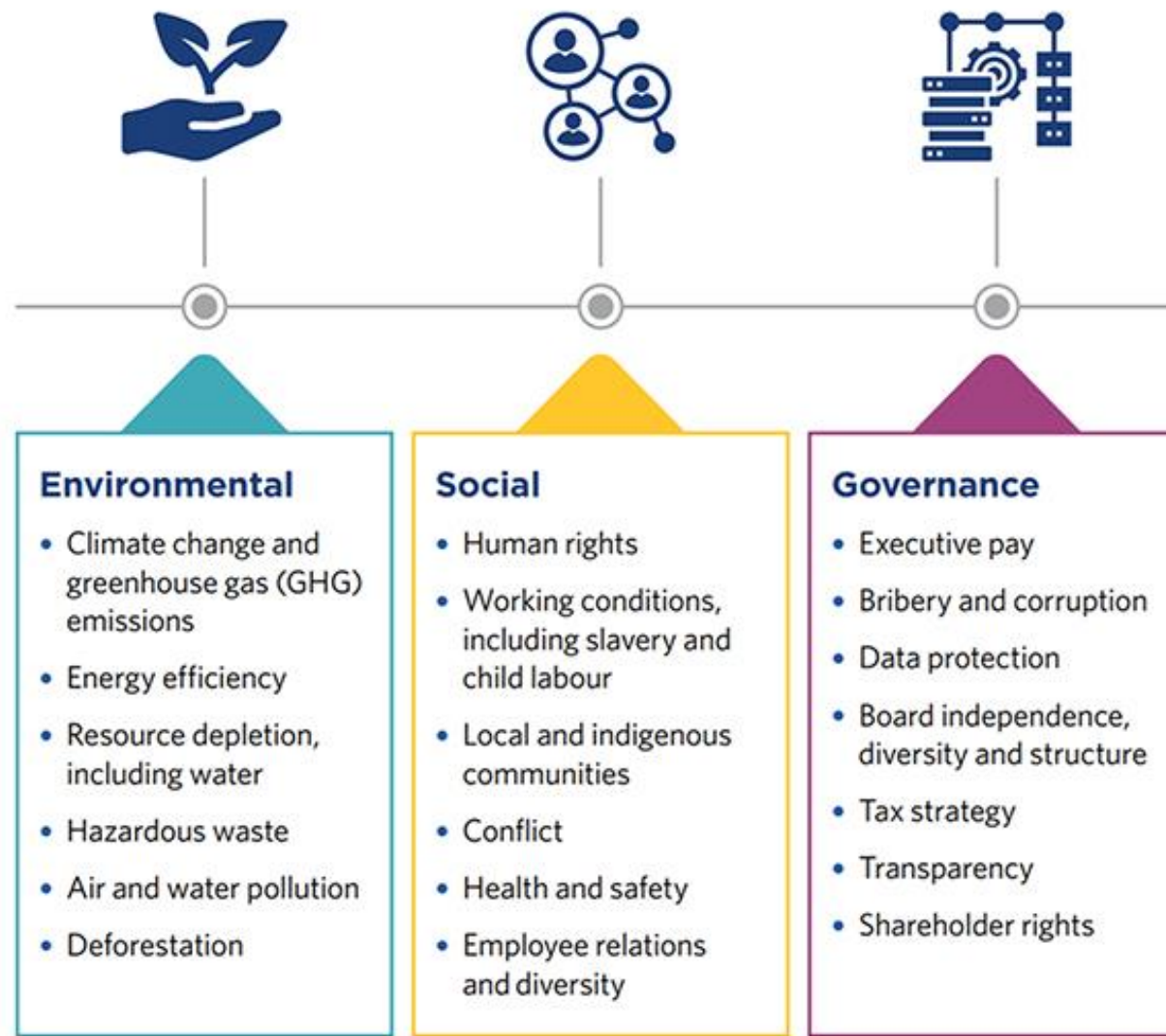
Learning Objectives

- Why is ESG Relevant to You
- Emerging Laws and Regulations
- Controls, Data and Documents
- IG/RIM Initiatives

- ESG as a sustainability framework
- Impact of ESG on organizations and society
- IG/RIM contribution to good governance
- IG/RIM management and reporting of ESG information

ESG

The ESG universe at a glance



Source: 2018 Thomson Reuters

ESG as a Sustainable Framework

Every organization – public or private or non-profit – needs to be aware of requirements, including IG/RIM.



The Global Reporting Initiative (GRI)



Morgan Stanley Capital International – [MSCI ESG Ratings](#)



The Sustainable Accounting Standards Board

United Nations Sustainable Development Goals (SDGs)



ESG Impact on Organizations & Society

- The Takeaway¹ –ESG creates enterprise value
 - Top-line growth
 - Cost reductions
 - Regulatory & legal interventions
 - Productivity uplift
 - Investment & asset optimization
- Ethical Supply Chains
- Sign climate pledge
- Join sustainability councils

Carbon Disclosure Project



\$110tn

investor assets

Over 590 investors with over US\$110 trillion in assets requested companies disclose through CDP on climate change, water security and forests

\$5.5tn

purchasing power

Over 200+ major buyers, with a combined purchasing power of US\$5.5 trillion asked their suppliers to disclose through CDP

9,600+

companies

Over 9,600 companies reported through CDP on climate change, water security and forests

810+

cities

Over 810 cities disclosed environmental information through CDP

130+

states and regions

Over 130 states and regions disclosed their environmental impacts through CDP

1. <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/five-ways-that-esg-creates-value> Nov. 2019

***JPMorgan announced a \$2.5 trillion
climate and sustainable
development push.***

– Marisa Buchanan is the Global Head of
Sustainability at JPMorgan

***We believe today's ESG commitments
are an important step forward for AIG,
the clients we serve and the global
communities where we live and work.***

– Peter Zaffino, Chairman and Chief
Executive Officer (CEO), AIG



Corporate Governance Boards

The IG/RIM role in supporting an enterprise ESG framework:

- Government
- Public Interest Impact – Roles, Responsibilities, Action
 - Enhance Board Diversity
 - Increase ESG Expertise
 - Incentivize Management Success
- Investing – Securities & Exchange Commission
- Reporting
- Challenges
 - Corporate Governance
 - Data sources and aggregation



Corporate Perspectives

- What do they say?
- ESG Rating
- What does this mean?
 - For the organization
 - For IG/RIM
 - For Legal
 - For Technology



Procter&Gamble



One ESG Perspective

IG/RIM as part of governance responding to and within an enterprise ESG framework. Human Capital perspective from Aon.

ESG Factors for Professional Service Firms



Human Capital

Professional service firms are dependent on retention of skilled human capital to perform revenue-generating client service

ESG & Technology

Data Centers

Major opportunities to reduce energy consumption

Reporting Applications

Providers and organizations developing reporting capabilities

Compliance

Impact of regulations on technology

Energy – The Data Center Story

- The Data Center – ESG relationship
- How is 'big tech' balancing sustainable computing with exponential growth?
- Opportunity for IG/RIM?
 - By 2025, 85% of infrastructure strategies will integrate on-premises, colocation, cloud and edge delivery options, compared with 20% in 2020.



Scenarios – *The SOX Analogy*

- The Sarbanes-Oxley Act of 2002, often simply called SOX or Sarbox
 - Is U.S. law meant to protect investors from fraudulent accounting activities by corporations
 - It also covers issues such as auditor independence, corporate governance, internal control assessment, and enhanced financial disclosure
- Lawyers and analysts say that for the most part Sarbanes-Oxley is working. It has strengthened auditing, made the accounting industry a better steward of financial standards, and fended off Enron-sized book-cooking disasters. ... Sarbanes-Oxley also increased criminal penalties for various kinds of financial fraud
- The five components of the internal control framework are
 - control environment
 - risk assessment
 - control activities
 - information and communication, and
 - monitoring

Scenarios – *A Legal Perspective*

Broad enforcement and specific actions:

- Food safety, global sourcing of pet food
- Sourcing and counterfeit face masks
- Green operations and renewable energy credits
- Insurance

Virginia Pipeline Ruling Could Have a Significant Impact on the Fight for Environmental Justice

Acting Enforcement Director warns of ESG enforcement actions

[Corporation] Faces "Sustainable" Lawsuit

EPA Regulatory & Guidance Information

Air



- [Criteria Air Pollutants \(Lead, Particulate Matter, etc.\)](#)
- [Ozone Protection and Refrigerants](#)
- [Transportation, Engine Emissions](#)

[Find more Air topics](#)

Cross-cutting Issues



- [Asbestos in Buildings, Materials](#)
- [Lead in Paint, Water, Waste](#)
- [EPA Certifications \(608, 609, Lead, etc.\)](#)

[Find more Cross-Cutting Issues](#)

Emergencies



- [Oil Spills, SPCC](#)
- [Risk Management Plans \(RMP\)](#)
- [Chemical Reporting](#)

[Find more Emergencies topics](#)

Land & Cleanup



- [Superfund](#)
- [RCRA Corrective Action](#)
- [Underground Storage Tanks \(USTs\)](#)

[Find more Land & Cleanup topics](#)

EPA Regulatory & Guidance Information

Pesticides



- [Registration](#)
- [Establishments](#)
- [Worker Protection](#)

[Find more Pesticides topics](#)

Toxic Substances



- [Polychlorinated Biphenyls \(PCBs\)](#)
- [Chemicals and Hazardous Substances](#)
- [Toxic Release Inventory \(TRI\)](#)

[Find more Toxic Substances topics](#)

Waste



- [Solid Waste](#)
- [Hazardous Waste](#)

[Find more Waste topics](#)

Water



- [Drinking Water](#)
- [Hydraulic Fracturing](#)
- [Mountaintop Mining](#)

[Find more Water topics](#)

The first step corporate leaders can take to prepare the shift in focus [in ESG] is to recognize the forces driving it.

- Robert Eccles
- Oxford University Professor and Sustainability Expert



Questions?

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Resources

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