

Environmental, Social and Governance

Overview

A growing number of companies are recognizing that environmental, social and governance (ESG) factors are critical to their long-term success. Prioritizing ESG issues mitigates risks, spurs innovation, creates opportunities to enhance corporations' reputations, attracts investors and employees, and increases companies' bottom lines. In order to best help companies navigate the evolving landscape of ESG regulations, standards and best practices, Katten has assembled a multidisciplinary team to provide comprehensive and creative solutions for our clients.

Innovative counsel driven by a diverse team

Whether the issues involve litigation, shareholder activism, government regulations, compliance, disclosures or efforts to develop strong ESG policies, our team is well-positioned to provide comprehensive counsel on all aspects of ESG for a broad range of industries. Katten's ESG attorneys are at the forefront of the industry, with several holding ESG certifications from some of the most prestigious institutions in the United States.

ESG Risk and Investigations

Katten attorneys help clients identify and mitigate ESG-related risks by establishing or bolstering necessary policies and procedures, by providing in-depth, independent assessments in a variety of areas, including diversity, racial equity, civil rights, human rights, workplace culture and gender pay parity, and by strengthening compliance with environmental and social goals and requirements.

The ESG Risk and Investigations team advises clients on environmental, social impact and governance issues, including helping clients respond to ESG-related shareholder proposals, providing litigation and investigation support, and devising and implementing the necessary compliance measures to account for the evolving regulatory landscape. Experienced attorneys assist clients with matters involving board composition; creating diversity, equity and inclusion (DEI) programs; conducting training and remediating DEI-related shortcomings. Racial equity audits, civil rights audits, human rights audits and DEI reviews are powerful tools that enable companies to demonstrate they are meeting (and exceeding) their social responsibility goals. Our attorneys are experienced at conducting complex audits involving sensitive matters and counseling companies on the myriad of issues that may stem from those audits.

ESG Litigation and Sustainability Compliance

The ESG Litigation and Sustainability Compliance team offers a broad range of counsel to clients facing regulatory enforcement actions, litigation, shareholder activism and other reputation management challenges related to environmental and sustainability policies and practices. We have market-leading experience defending clients against

allegations of "greenwashing" and are well-positioned to identify and advise on risk reduction regarding potential advertising vulnerabilities, including the use of third-party certifications related to sustainable products and practices. Our attorneys are on top of the latest federal and state regulatory developments, including the FTC Green Guides and state laws on recycling that are proliferating.

"Sustainability" issues increasingly incorporate notions of social responsibility, not only environmental performance. We work with clients to identify and mitigate risks and respond to matters involving human rights issues, and help them navigate supply chain and vendor concerns such as child labor, human trafficking and negative impacts on minority and vulnerable populations.

ESG and Sustainable Investing

Katten's ESG and Sustainable Investing team of Financial Markets and Funds attorneys represents all manner of financial market participants — from global financial institutions and investment companies to investment managers, hedge funds, private equity and other alternative funds; from family offices to proprietary trading firms and trading platforms, pension and profit-sharing plans, endowments and other institutional investors.

We support clients with integrating ESG considerations, criteria and standards into fund structures and strategies; drafting disclosures and strategies for reporting and documentation; negotiating side letters; developing policies, procedures and compliance programs; responding to SEC and other ESG-related regulatory inquiries and examinations; advising clients on EU/UK sustainable finance-related legislation, the Sustainable Finance Disclosure Regulation (SFDR), and the revised Markets in Financial Instruments Directive (MiFID II) product governance obligations; and advising investors on investments in clean energy and ESG-related entrepreneurial ventures at any stage of the business cycle.

Corporate ESG Disclosures and Regulatory Compliance

With a wealth of experience in corporate ESG disclosures and regulatory compliance, Katten's Capital Markets attorneys advise clients, including private and public companies, on mandatory reporting and voluntary disclosures within SEC filings, investor presentations, sustainability reports, state filings and other public materials. We also assist clients with ESG-related stakeholder engagements and communications, submissions to third-party ratings and the creation and implementation of ESG-related policies, procedures and strategies.

In addition, we help clients to comply with the emerging and ever-changing international, federal, state and local ESG-related laws, rules, regulations, standards and frameworks, including the Task Force on Climate-related Financial Disclosures (TCFD) Framework, the Sustainability Accounting Standards Board (SASB), International Sustainability Standards Board (ISSB) and Global Reporting Initiative (GRI) standards.

UK and EU ESG Counsel

ESG-related regulations across the globe frequently have drastically varying regulatory obligations for businesses. For companies operating in Europe (whether in the EU/European Economic Area (EEA) or the UK), this can pose significant compliance and reputational challenges. The Katten ESG team in London provides integrated, cross-border guidance on ESG requirements and sustainability goals, including specific and comprehensive reporting

requirements (including the Financial Conduct Authority's (FCA) ESG handbook and Task Force on Climate-related Financial Disclosures (TCFD), the EU Corporate Sustainability Reporting Directive (CSRD), Sustainable Finance Disclosure Regulation and Taxonomy Regulation, among others), accessing sustainable finance, protecting personal data, or championing diversity and inclusion. Our multidisciplinary team — with practices rooted in banking, corporate and M&A, employment law, financial services, insolvency and restructuring, intellectual property, data privacy, real estate, hospitality and leisure, and tax — is well-positioned to help.

Key Contacts



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