

# Environmental, Social and Governance (ESG)

Our attorneys closely follow the shifting ESG landscape, as well as how this diverse, growing and increasingly important element of modern business will factor into strategies, business operations, public disclosures and transactions. Our multidisciplinary team monitors ESG developments and advises companies on their implementation of a variety of measures.

Skadden's ESG team comprises attorneys from across our practice and office platform who share with clients their robust knowledge of this rapidly evolving area of law and provide innovative and practical approaches to litigation, regulatory proceedings and transactions that maximize business opportunities and minimize risk.

A number of our lawyers have served in leadership roles at the U.S. Securities and Exchange Commission (SEC), including senior enforcement officials who worked under the Biden administration. Our team is well versed in preparing, reviewing and advising on current and periodic reports, proxy statements and other filings made with the SEC to ensure our clients are up-to-date on ESG disclosure and compliance issues, including the recently proposed ESG fund name and strategy disclosure rules, and the proposed rules mandating detailed climate-related disclosures in annual reports and registration statements.

We represent a variety of clients on ESG matters, including financial institutions, financial services and private equity firms, investment advisers, public and private companies, technology and manufacturing entities, and boards of directors, management and other stakeholders.

Areas on which we have advised include:

- Regulatory reporting and compliance, including disclosure requirements imposed by the SEC, stock exchanges, state board diversity statutes and the European Union, such as the Sustainable Finance Disclosure Regulation.
- Financing initiatives and fair lending issues.
- Stakeholder analysis and ESG engagement.
- Shareholder proposals on ESG matters.
- ESG reporting and related disclosure controls and procedures.
- Investor reporting and activism.
- Executive compensation tied to DEI-related goals, including related disclosure considerations.
- Equal pay audits and compliance with equal pay legislation, including reporting and strategies to reduce/eliminate the gender pay gap.
- Transaction due diligence and disclosures.
- Cybersecurity and data resilience.
- Engagement with proxy advisory firms and ratings agencies.
- Disclosure requirements for fund registration, including Forms ADV, fund prospectuses, annual reports and adviser brochures.
- Updating policies and procedures and controls focused on ESG investment strategies.
- Litigation — including securities, derivative, antitrust and ERISA litigation and consumer class actions — and advising on and defending against civil and criminal claims brought by non-governmental organizations, as well as in human rights arbitration.
- Investigations brought by legislative bodies, including U.S. congressional hearings and executive accountability hearings before U.K. parliamentary committees, as well as investigations brought by antitrust authorities, including the Department of Justice and Federal Trade Commission.
- Internal investigations and audits as proactive exercises or responses to specific issues such as shareholder demands investigating DEI initiatives, including document review, employee interviews and a review of standing policies and procedures.

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More specifically, our work has focused on:

## Environmental

- Regulatory frameworks for climate change disclosures.
- Climate change initiatives and strategies.
- Sustainability initiatives and compliance.
- ESG and sustainability issues as a part of due diligence for transactions.
- Third-party rating agencies and tools for ESG performance assessment.
- Sustainable finance, including green bonds.
- Green IPOs and equity offerings.
- Green fund investments.
- Greenwashing and related regulatory disclosure.
- Investigations and enforcement actions brought by the U.S. Environmental Protection Agency, U.S. state environmental agencies and attorneys general, the Environment Agency U.K. and the European Environment Agency.

## Social

- Diversity, equity and inclusion-related policies and procedures, including hiring, training, mentoring and leadership development.
- DEI in management and boards.
- Human capital management disclosure.
- Racial justice and equity.
- #MeToo and workplace culture.
- Employee representation, including employee representative bodies.

- Equal pay audits and compliance with equal pay legislation, including reporting and strategies to reduce/eliminate the gender pay gap.
- Supply chain matters, including compliance with the U.K. Modern Slavery Act and voluntary human rights commitments.
- Workplace conditions.
- Remuneration structures (for executives and employees) and employee share plans.
- Social bonds.
- Impact and mission-focused fund formation and investments.

## Governance

- Reporting frameworks and whistleblowing investigations.
- Investigations and enforcement.
- Board oversight of ESG matters and related disclosures.
- Shareholder proposals on ESG matters.
- Shareholder demand letters inquiring into ESG initiatives.
- Investor, proxy advisory firm and other stakeholder engagement on ESG matters.
- Shareholder activism and proxy fights relating to ESG matters.
- Crisis management, continuity and reputational risk management.
- Executive compensation linked to ESG metrics, including related disclosure considerations.
- Compliance frameworks and regulatory risk management.
- Responses to congressional correspondence.