BARNES &



INSIGHTS

Optimizing The 'E' In ESG: Environmental Practices Companies Can Implement To Improve ESG Performance

May 15, 2023

Highlights

• The "E" in ESG, has taken on ever-increasing importance as the effects of climate change, pollution, and resource depletion escalate

• There are a number of environmental initiatives and practical steps that can help companies in the United States and the European Union mitigate environmental risks and align with the global movement toward a circular and low-carbon economy

• While the "E" is often considered the key to successful ESG performance it is crucial to recognize all three factors are interrelated and a comprehensive approach to ESG allows companies to capitalize on synergies among the three pillars

The three pillars of ESG – environmental, social, and governance – are interconnected aspects of a company's operations and performance and play a vital role in determining a company's overall sustainability. While each component is important in its own right, they are also interdependent and can significantly influence one another. By addressing

RELATED PEOPLE



Bruce White Partner Chicago

P 312-214-4584 F 312-759-5646 bruce.white@btlaw.com

RELATED PRACTICE AREAS

Compliance and Monitorships Environmental Environmental, Social and Governance

RELATED INDUSTRIES

Energy and Utilities Federal Government Relations and Lobbying Government and Public Finance Renewable Energy the "E" in ESG effectively, companies can create a strong foundation for achieving success in the other two components as well.

Environmental performance is directly linked to a company's social and governance practices. The "S" represents social factors, which encompass issues related to labor practices, human rights, diversity and inclusion, and community relations. The connection between the "E" and "S" components becomes apparent when considering the broader social implications of environmental issues, such as the impact of climate change on vulnerable communities, the importance of equitable access to natural resources, and the need for a just transition to a low-carbon economy.

Proactive environmental management can have positive social implications, such as protecting public health and ensuring access to clean water and air.

The "G" represents governance factors, which involve the structure and practices by which a company is directed and controlled. This includes board diversity and independence, executive compensation, and shareholder rights. Effective governance helps ensure that a company's ESG strategy is well-aligned with its long-term goals and that it is responsive to the needs of its stakeholders.

A company's governance practices, such as transparent reporting, risk management, and stakeholder engagement, can significantly influence its ability to address environmental challenges and capitalize on emerging opportunities.

The "E" in ESG, environmental factors, is often considered the key to a successful ESG program because it addresses the impact of a company's operations on the natural environment and how the company manages its environmental risks and opportunities. The escalating effects of climate change, pollution, and resource depletion have led to increased awareness of the importance of environmental sustainability.

Optimizing environmental management and practices can help companies mitigate risks associated with climate change, reduce their environmental footprint, and align with the global movement towards a low-carbon economy. Moreover, strong environmental performance can contribute to better financial results, as it can help companies reduce costs through improved resource efficiency, minimize regulatory risks, attract environmentally conscious investors and customers, and help create long-term value for stakeholders.

There is a broad range of environmental initiatives and practical steps that can help companies in the U.S. and European Union (EU) improve their overall ESG performance and contribute more broadly to a sustainable, resilient, and equitable future.

Compliance With Environmental Laws and Regulations

Ensuring strict adherence to environmental laws and regulations helps companies avoid legal penalties, maintain a strong reputation, and demonstrate their commitment to responsible environmental stewardship. Potential steps to facilitate compliance include:

• Establish a robust environmental compliance program,

including regular monitoring and auditing of operations to identify and address potential compliance gaps

- Develop and maintain an up-to-date understanding of applicable environmental laws and regulations at local, regional, and national levels
- Provide training and resources for employees to understand and follow relevant environmental regulations, and encourage a culture of compliance and accountability

Energy Efficiency

Enhancing energy efficiency can significantly reduce a company's energy consumption and associated costs, as well as decrease greenhouse gas emissions. In March, the EU reached an agreement to cut final energy consumption across all member states by 11.7 percent by 2030. In the U.S., the administration's most recent budget proposal builds on the unprecedented financial incentives for improving energy efficiency provided by the Inflation Reduction Act of 2022 (IRA).

Companies can invest in energy-efficient technologies, processes, and practices to reduce their energy consumption, including:

- Conduct regular energy audits to identify areas for improvement
- Implement energy management systems such as ISO 50001
- Use smart building technologies to optimize energy consumption in real-time, including upgrading to energy-efficient lighting and equipment, optimizing heating and cooling systems

Renewable Energy

Transitioning to renewable energy sources helps companies reduce their dependence on fossil fuels, decrease greenhouse gas emissions, and demonstrate environmental leadership. The European Parliament and the 27 EU member states agreed in March to raise the 2030 renewable target to 42.5 percent of total energy consumption.

In the U.S., the IRA has given a strong boost to development and use of renewables, particularly in underserved communities. In furtherance of this renewables initiative, the federal government is required to utilize 100 percent carbon pollution-free electricity by 2030 to power federal facilities. Companies can transition to renewable energy sources, such as solar, wind, and hydropower, to reduce their dependence on fossil fuels and decrease greenhouse gas emissions. More specifically, they can:

- Install on-site renewable energy systems, such as solar panels or wind turbines
- Purchase renewable energy certificates or participate in power purchase agreements to support renewable energy projects

• Encourage employees to use electric vehicles by installing charging stations at facilities

Waste Management:

Effective waste management can minimize the environmental impact of a company's operations, conserve resources, and help meet sustainability goals. Companies can adopt waste reduction strategies, including the following, to minimize the volume of waste sent to landfills and reduce the environmental impact of their operations:

- Implement a waste management hierarchy: reduce, reuse, recycle, and recover energy
- Establish a zero-waste-to-landfill goal and track progress
- Develop and implement a pollution prevention plan to minimize air, water, and soil pollution and the potential risk of release of hazardous substances

Water Conservation

Conserving water is crucial in the face of increasing water scarcity worldwide, and can lead to operational cost savings and reduced environmental impact. In the U.S., the Department of Agriculture and Department of the Interior have been instrumental in efforts to combat water shortages. The Environmental Protection Agency (EPA) has implemented water management plans and best practices at its own facilities to lead by example.

The EU Water Protection Framework establishes a legal framework to protect and restore clean water in the EU and to ensure its long-term sustainable use. The European Environment Agency recognizes the water scarcity conditions in Europe, and the need for additional effort to ensure sustainable water use. Companies can employ water-saving measures similar to those utilized by the EPA:

- Implement water-saving technologies like low-flow fixtures and drip irrigation systems
- Treat and reuse wastewater for non-potable applications and install rainwater harvesting systems
- Monitor, manage and optimize water use through a water management plan to minimize their water footprints

Sustainable Sourcing

Sustainable sourcing ensures that companies procure materials and resources from environmentally responsible suppliers, promoting the adoption of sustainable practices throughout the supply chain. In the U.S., the EPA is leading again through its commitment to purchasing recycled, biobased and other sustainable products throughout its operations. The EU has implemented similar green public procurement practices, and is working on a Corporate Sustainability Due Diligence Directive that will impose similar obligations on EU companies and non-EU companies operating within the EU. Companies looking to prioritize procurement of

materials and resources from suppliers with sustainable practices can start with the following:

- Develop a sustainable procurement policy that prioritizes environmentally friendly suppliers
- Engage with suppliers to ensure compliance with environmental standards and practices
- Source certified sustainable raw materials, such as FSC-certified wood or fair-trade certified products

Emissions Reduction

Actively working to reduce greenhouse gas emissions demonstrates a company's commitment to mitigating climate change and helps fulfill regulatory requirements and stakeholder expectations. President Biden has set a target to reduce emissions 50-52 percent below 2005 levels by 2030 and achieve net-zero emissions economy-wide by no later than 2050. The European Climate Law adopted by the EU as part of the European Green Deal raised the EU's target for reducing net greenhouse gas emissions to at least 55 percent by 2030 and requires climate neutrality by 2050. Steps companies can take to reduce their greenhouse gas emissions include:

- Set science-based emissions reduction targets aligned with the goals of the Paris Agreement
- Adopt cleaner production processes, such as switching to low-carbon fuels or utilizing carbon capture and storage technologies and investing in carbon offset projects to compensate for unavoidable emissions
- Optimize logistics and distribution networks to reduce transportation-related emissions, and transition to low-emission or electric vehicle fleets. The goal set by the European Green Deal is to achieve a 90 percent reduction in transport-related greenhouse gas emissions by 2050 In the U.S. the White House recently announced new private and public sector investments for affordable electric vehicles.

Biodiversity and Habitat Protection

Integrating biodiversity considerations into business operations helps protect ecosystems and species, while also reducing the risk of negative impacts on a company's reputation and regulatory compliance. The EU biodiversity strategy for 2030 (adopted in May 2020) aims to further strengthen the protection of marine ecosystems. The U.S. has implemented a variety of initiatives to combat the global biodiversity crisis, including the 10-year America the Beautiful program, launched in 2020, to support local and voluntary efforts to conserve, connect, and restore 30 percent of our lands and waters by 2030. Ways that companies can integrate biodiversity considerations into their operations include:

• Conduct a biodiversity risk assessment to identify potential

impacts on ecosystems and species

- Implement strategies to avoid, minimize, and mitigate negative impacts on biodiversity
- Collaborate with conservation organizations to support habitat restoration and preservation efforts

Environmental Risk Management

Identifying and addressing environmental risks helps companies proactively manage their impact on the environment and maintain a strong reputation among stakeholders. Companies can conduct environmental risk assessments to identify, assess, and mitigate potential environmental risks associated with their operations, products, and services. This can include assessing the potential impact of climate change on their business and developing adaptation and mitigation strategies, such as:

- Integrate environmental considerations into the company's overall risk management framework
- Develop and implement an environmental management system, such as ISO 14001
- Engage stakeholders, including local communities and environmental organizations, to identify and address potential environmental risks

Environmental Reporting and Disclosure

Companies can enhance transparency by regularly reporting on their environmental performance, including progress toward sustainability goals, environmental risks, and opportunities. This can help investors and stakeholders better understand a company's commitment to ESG principles. Approaches to voluntary and required disclosures may include:

- Align environmental reporting with recognized frameworks such as the Global Reporting Initiative (GRI), the Sustainability Accounting Standards Board (SASB), or the International Standards Sustainability Board's inaugural disclosure standards due to be issued at the end of Q2 2023
- Prepare for disclosure of climate-related risks and opportunities. EU companies and those doing business in the EU need to prepare for compliance with the climate disclosure requirements of the Corporate Sustainability Reporting Directive, which went into effect earlier this year, and the Corporate Sustainability Due Diligence Directive, when finalized. In the U.S., companies will need to prepare to make disclosures in accordance with the requirements of the Security and Exchange Commission's climate disclosure rule, when finalized.
- Participate in voluntary disclosure programs, such as the

Green Product Design and Innovation

Focusing on environmentally friendly product design and innovation can help companies meet evolving customer demands, differentiate themselves in the market, and reduce the environmental impact of their products and services. A Green Deal Industrial Plan was recently proposed in the EU to facilitate the technological development, manufacturing production and installation of net-zero products and energy supply in the next decade. This plan is in response to the U.S. IRA, which provides substantial financial support for a variety of renewables and green products. In parallel with these initiatives, the EU and U.S. are taking strong action to prevent greenwashing and assure that consumers receive accurate and verifiable information about green products. Some of the initial steps for those looking to benefit from green product design and innovation include:

- Adopt eco-design principles, such as using recyclable materials, reducing hazardous substances, and designing for end-of-life product management
- Develop and market environmentally friendly products and services
- Collaborate with research institutions and industry partners to advance sustainable technologies

Circular Economy Practices

Embracing a circular economy approach that moves away from linear production and consumption – in which things are used for a short time and thrown away after use – toward a more circular process that involves refurbishing, repurposing, redistributing and other strategies that extend the lifetime of products is more environmentally responsible. Circularity enables companies to reduce resource consumption and waste generation while creating new business opportunities and driving innovation.

The EU's Circular Economy Action Plan is a key part of the framework for achieving its sustainability objectives. Circular economy innovation has become a focal point of the current U.S. administration, exemplified by the Draft National Strategy to Prevent Plastic Pollution issued May 1, 2023, that builds on the EPA's National Recycling Strategy to reduce, reuse, collect, and capture plastic waste. Steps companies can take to help move toward a circular economy include:

- Implement a product life cycle approach that reduces resource consumption and waste generation
- Establish partnerships with suppliers, customers, and other stakeholders to facilitate the recovery, reuse, and recycling of products and materials
- Develop business models that promote productas-a-service, sharing economy, or take-back schemes to extend product life and reduce waste

Takeaways

The "E" in ESG serves as a cornerstone for successful ESG performance as it directly influences a company's social and governance aspects. As the global economy transitions toward a greener, more sustainable and low-carbon future, companies with robust environmental practices will be better positioned to adapt to new regulations, market dynamics, and stakeholder expectations. Implementing responsible environmental practices can help companies capitalize on emerging opportunities in the burgeoning green economy.

At the same time, it is essential to recognize that the environmental, social and governance factors are interrelated. A comprehensive approach to ESG allows companies to capitalize on the synergies between the pillars, unlocking opportunities for innovation, risk mitigation, and sustainable growth.