

# ESG

An overview of the process, key components of an ESG plan, and future litigation risk arising from disclosures.

Featuring presentations by: Amy Maguire, Brooke Dillon, Paul Lewandowski, and Louis Tosi

# ESG: THE ROLE OF COUNSEL IN ESG REPORTING

- **9:00am – 9:15am** - Introduction to the Program, Topics, and Speakers..... *Louis E. Tosi*
- **9:15am – 9:45am** - Doing Well by Doing Good.....*Amy Maguire*
  - ESG Role and Impact on Employees, Shareholders, Customers, and the Community
  - How Companies Develop Pillars, Guidelines, Processes, and Practices
- **9:45am – 10:15am** - The Consultants' View of Materiality, Consistency, Internal Standards, Reporting Matrices, and Measurement Metrics.....*Brooke Dillon*
  - What Really Matters to Stakeholders and Share Price
- **10:15am – 10:45am** - The Role of Inside Counsel.....*Paul Lewandowski*
  - Interaction with Different Staffs
  - Ensuring Internal Consistency of the Message and Statements to Shareholders
- **10:45am – 11:15am** - Litigation Risk, SEC Developments, and Case Law.....*Louis Tosi*
  - How ESG Reporting Can Go Bad
- **11:15am – 12:00pm** - Interactive Panel and Participation Discussion

# I. Introduction

- Topics
- Panelists
- Order of Presentations

*Louis Tosi*

# Everyone wants to do ESG now

- ESG people will be paid less than the regular finance people at their firms because there is a glut of them and their alternative is working at nonprofits for much less money; and
- There will be a certain amount of bad blood and suspicion between the ESG people (who hate finance and want to save the world) and the regular finance people (who like finance and, uh, sometimes get stereotyped as not caring so much about the world?).

# The YOLO Ad

No VOC & Eco Friendly Paint Products • Colorhouse - Internet Explorer  
http://www.colorhousepaint.com/

colorhouse

PAINT FOR THE PEOPLE AND THE PLANET

▶ PLAY

COLOR  
INSPIRATION  
PAINT  
ABOUT US  
RESOURCES  
BLOG  
SHOP NOW

★★★★☆  
see our reviews  
add a review

OUR COLORS  
INSPIRATION:

Start No VOC & Eco Frien... Snagit Editor - [Ama... Paused... 11:34 AM 2/19/2016

# YOLO Gets Sued

## COMPLAINT

The Federal Trade Commission, having reason to believe that YOLO Colorhouse, LLC, a limited liability company, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent YOLO Colorhouse, LLC (“YOLO”) is a limited liability company with its principal office or place of business at 519 NE Hancock St. # B, Portland, Oregon 97212.
2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed paint products to consumers, including Colorhouse Paints.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

### YOLO’s Colorhouse Paints

4. Respondent distributes Colorhouse Paints directly to consumers through its showroom and website (<http://www.colorhousepaint.com>), and through independent retailers.
5. Respondent and its independent retailers have disseminated or have caused to be disseminated advertisements, packaging, and other promotional materials for Colorhouse Paints to consumers, including the attached Exhibits A-B. These materials contain the following statements and depictions:
  - a. “Our products have NO VOCs, NO toxic fumes/HAPs-free, NO reproductive toxins, and No chemical solvents or other stinky stuff.”

- b. “We’re proud of what is not in our paint – NO VOCs. VOCs are the ‘stinky stuff’ in paint that is emitted as vapor when paint is drying. VOCs can be harmful to human health and the environment.”

# Just what is ESG?

## Roots in Corporate Social Responsibility

- The debate goes back to at least the 1970s
- “The discussions of the “social responsibilities of business” are notable for their **analytical looseness and lack of rigor**. What does it mean to say that “business” has responsibilities? Only people can have responsibilities. A corporation is an artificial person and in this sense may have artificial responsibilities, but “business” as a whole cannot be said to have responsibilities, even in this vague sense. The first step toward clarity in examining the doctrine of the social responsibility of business is to ask precisely what it implies for whom.” – **Milton Friedman**
- But groups such as CERES and NRDC argued for benefit to society through corporate responsibility – NDRD v. SEC, 1975

# II. Doing Well By Doing Good

Amy Maguire  
Executive Vice President  
Shumaker Advisors

SHUMAKER



# Topics

- Corporate Social Responsibility – What is it really? Why do I need it?
- Shared Value Approach
- Engaged for Good Model: How to Develop Pillars, Guidelines, Processes, and Practices
- ESG Role and Impact on Employees, Shareholders, Customers, and the Community
- Communications – Telling the Story



**SHUMAKER**

# Under the ESG Umbrella – CSR & DEI

- (CSR) is a self-regulating business model that helps a company be socially accountable to itself, its stakeholders, and the public. CSR, also called [corporate citizenship](#), companies can be conscious of the kind of impact they are having on all aspects of society, including economic, social, and environmental.
- It is a business model
- DEI should be a part of your ESG models

# Shared Value

- Harvard Michael Porter concept pursuing financial success in a way that yields societal benefits
- Fostering relationships with NGOs, governments, companies, community members,
- Companies create shared value in 3 ways:
  - Reconceiving products and marketplace
  - Strengthening local clusters
  - Redefining productivity in the value chain
  - Examples – Nestle, Coca-Cola & Bank of America

# Shumaker Advisors STRATEGIES

..... ENGAGED FOR GOOD

The world's most profitable companies use their corporate philanthropy and sustainability programs to make a positive impact in the community. Through strategic planning and implementation, Shumaker Advisors Strategies will help you create a shared value for your company and your community.

Our **Engaged For Good Model** will ensure your company's philanthropic dollar is yielding the highest impact.

## THE ENGAGED FOR GOOD MODEL



As a leader of the company, ask yourself these business questions:

-  Do you have a **corporate philanthropy strategy**?
-  What **impact** has your dollar and/or time made in the community?
-  How much **cash and in-kind products** are you giving annually? And to how many not-for-profit organizations?
-  How **many hours** have your employees volunteered in the community?
-  Do you and your employees know **the impact** of your corporate philanthropy dollar?
-  Do your overall efforts meet the **shared value approach** for your company and employees?

# SHUMAKER

# Impact & Telling the Story

- Stakeholders:
  - Internal – employees
  - External – Investors, Clients, Community
- Internally
- Externally
- Social
- Customers
- Impact Report

# III. ESG: MATERIALITY, DISCLOSURE AND DATA COLLECTION

Brooke Dillon, Principal

March 29, 2022

**RAMBOLL**

Bright ideas. Sustainable change.

# Why is ESG important?

The following trends are expected to feature prominently in the actions of companies, investors, regulators, and other stakeholders



<p><b>Climate change</b> will be a dominant theme, and more companies and investors will want to commit to <b>net zero</b> emissions to alleviate climate risks</p>	<p><b>Governance</b> of environmental and social issues will take center stage for investors and boards</p>	<p><b>Disclosures</b> on ESG goals and issues will become a standardized expectation by 2030. Regulators will introduce new, more stringent disclosure requirements</p>	<p>Investors will move from ESG stewardship to <b>integration</b> and conducting ESG risk assessments will become the norm</p>	<p>More <b>collaborations</b> between regulators and asset managers are expected to take place, and this will lead to more proactive ESG integration</p>
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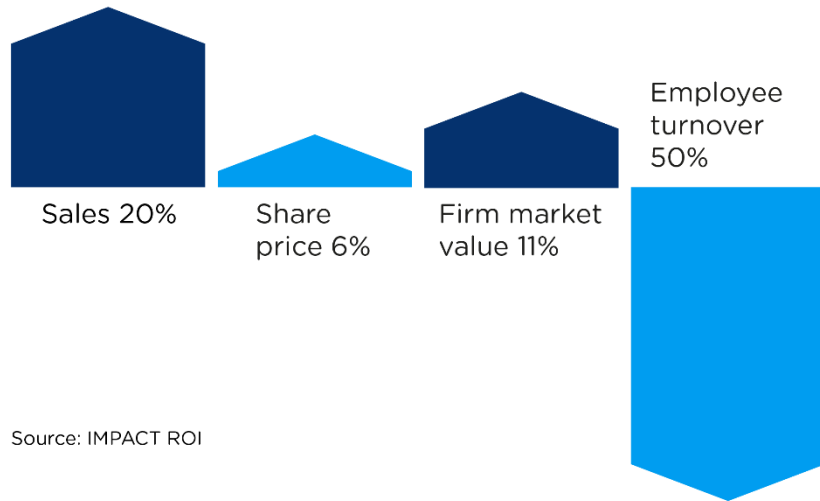


<p>It is being proven that good ESG governance leads to significantly <b>higher long-term returns</b> for investors</p>	<p>Data and technology will be heavily leveraged to make increase the <b>transparency</b> of the ESG reporting process</p>	<p><b>Diversity and inclusion</b> will become more nuanced: policies on equal pay, equal opportunity and corporate culture will also come under more intense scrutiny</p>	<p>As ESG considerations gain prominence, more companies will link <b>executive incentives</b> to ESG-related metrics</p>	<p><b>Politics</b> will play an ever-increasing role in shaping the ESG landscape. National security concerns may affect business partnerships and mergers and acquisitions</p>
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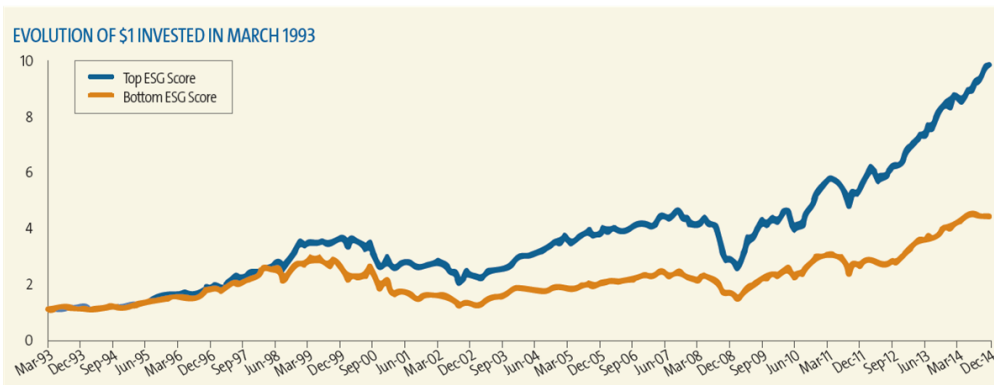


# Business Case for ESG

## Superior ESG performance benefits



Source: IMPACT ROI



Source: Mozaffar Khan, George Serafeim, and Aaron Yoon, "Corporate Sustainability: First Evidence on Materiality," *The Account Review*; forthcoming, <http://ssrn.com/abstract=2575912>

ESG investing is not about sacrificing returns.

Studies have found companies with strong performance on **material** ESG issues financially outperform companies with poor ESG performance on those issues.

For performance on **immaterial** ESG issues, no difference in financial performance was observed.

# Differing Views of Materiality



## FINANCIAL (GAAP)

- “The omission or misstatement of an item in a financial report is material if, in light of surrounding circumstances, the magnitude of the item is such that it is *probable* that the judgment of a reasonable person relying upon the report would have been changed or influenced by the inclusion or correction of the item.”



## ESG (GRI)

- Those topics are those that reflect an organization’s significant economic, environmental and social impacts
- Information that substantively influences the assessments and decisions of stakeholders



## ESG (SASB)

- Based on traditional financially oriented definition that is well accepted globally

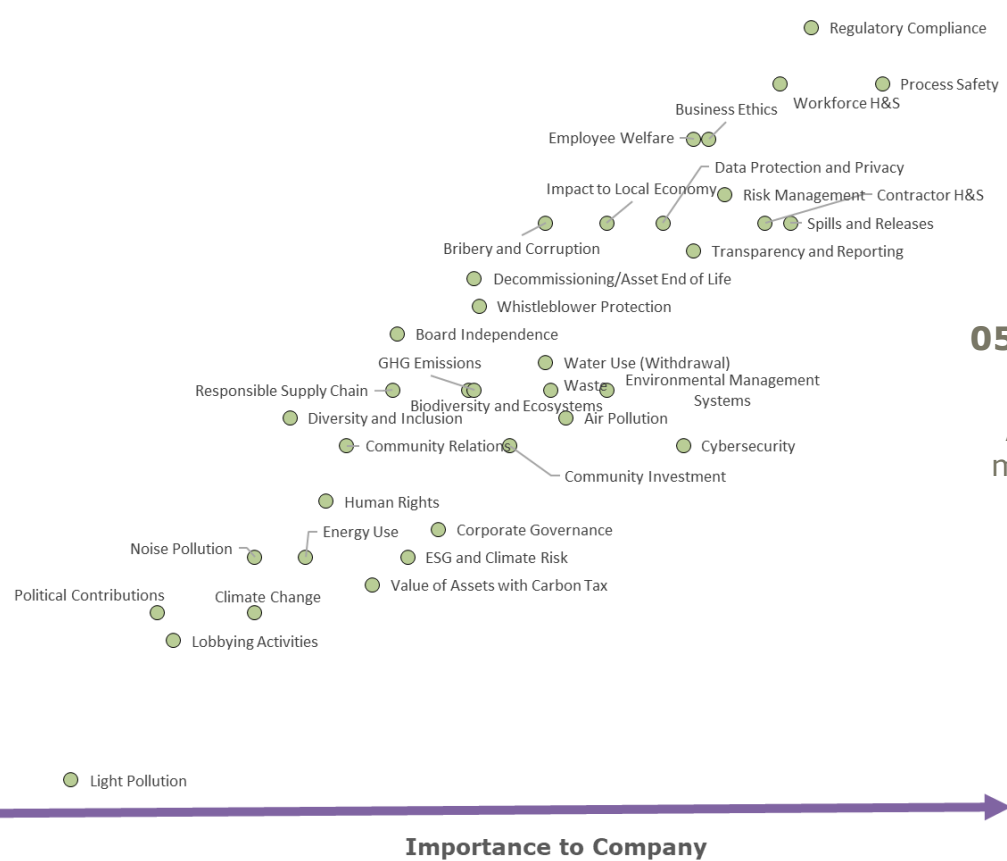


## DOUBLE - EU COMMISSION

- Basis for EU Non-Financial disclosures
- Combination of financial and impact materiality

# Materiality Assessments

## Company Materiality Matrix



### 01 STAKEHOLDER MAPPING

Conduct a workshop with senior personnel to identify important external stakeholders, which included business partners, industry, investors, community organizations, customers and regulators



### 03 SURVEY DESIGN

Written ESG survey for distribution to internal and external stakeholders



### 05 SUMMARIZE ASSESSMENT DATA

Analyze survey data to prepare a materiality matrix and list of high, medium, and low priority topics



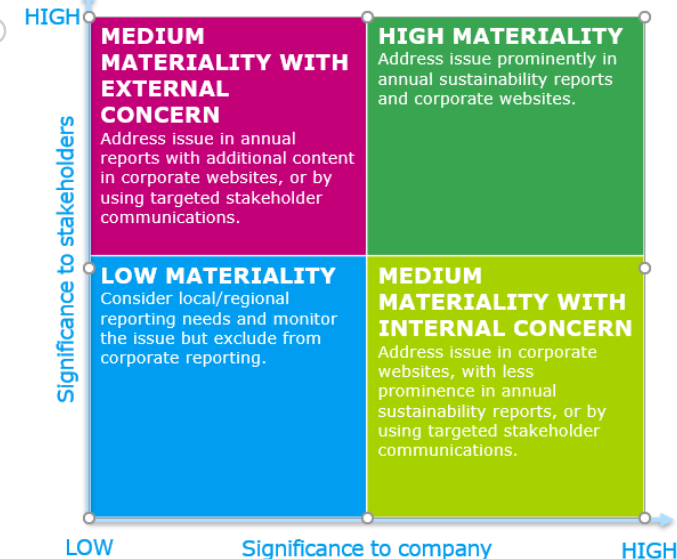
### 02 SUSTAINABILITY INDICATOR SELECTION

Identify ESG indicators to measure as part of the survey with sector neutral topics



### 04 STAKEHOLDER OUTREACH

Provide online survey to over internal and external stakeholders; 87 responses were received and reviewed



# Identifying key ESG Topics

- In order to focus on material ESG issues, Companies can utilize your own experience as well as guidance developed by SASB
- SASB is an independent non-profit organization that provides sustainability accounting standards for use by public companies
- Material ESG topics have been identified for 77 industries in 11 sectors
  - **Consumer Goods**
  - **Extractives & Minerals Processing**
  - **Financials**
  - **Food & Beverage**
  - **Health Care**
  - **Infrastructure**
  - **Renewable Resources & Alternative Energy**
  - **Resource Transformation**
  - **Services**
  - **Technology & Communications**
  - **Transportation**



# ESG topic identification

## ESG Topics – Sector Neutral

The following ESG topics are “sector neutral” topics and may be evaluated for every type of Company:

### **ENVIRONMENTAL**

Environmental management system (EMS)

Energy and greenhouse gas (GHG) management

Water use and impact

Biodiversity and ecosystems

Climate risk and resilience

Waste and materials use

Product stewardship – environmental topics



### **SOCIAL**

Human capital, employee welfare, workforce diversity, and labor relations

Stakeholder engagement, community relations

Employee health, safety, and security

Human rights

Product stewardship – social topics

Data security



### **GOVERNANCE**

Ethics

Supply chain

ESG management framework

ESG/sustainability reporting



# Esg topic identification

## ESG TOPICS – Sector Specific examples

SASB identifies the following ESG topics as material to these industry sectors:

### **BUSINESS / FINANCIAL SERVICES**

Professional integrity  
Data security  
Workforce diversity and engagement



### **CONSUMER**

Water management  
Packaging lifecycle management  
Product EHS performance  
Logistics and packaging efficiency  
Data security and fraud protection



### **HEALTH CARE**

Quality of care and patient satisfaction  
Pricing and billing transparency  
Energy and waste efficiency  
Patient privacy and electronic health records  
Ethical marketing



### **INDUSTRIAL**

Greenhouse gas emissions  
Energy and feedstock management  
Water management  
Health, safety and emergency management  
Hazardous waste management



### **TECHNOLOGY**

Data privacy  
Data security  
Intellectual property protection & competitive behavior  
Managing systemic risks from technology disruptions



# ESG frameworks, standards and ratings

The alphabet soup

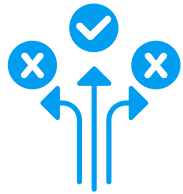
REPORTING FRAMEWORKS AND STANDARDS	CORPORATE RATING AGENCIES	FUND RATING AGENCIES	ESG DATABASES
  	 		
 	 		
 	 		
  	   		
  	  		

# DATA COLLECTION AND TARGETS

- SASB, GRI, GRESB (infrastructure) and other disclosure standards are a good place to start
- Data Convergence Project: sector neutral ESG metrics relevant to all industries
  - GHG Emissions (tons CO<sub>2</sub>e) – Scope 1 and 2 using the Greenhouse Gas Protocol ([www.ghgprotocol.org](http://www.ghgprotocol.org))
  - Renewable Energy Consumption (kWh)
  - Diversity of Board Members (women, LGBTQ, racial)
  - Work related injuries (TRIR/fatalities and lost time injuries)
  - Net new hires
  - Employee engagement (% participating in employee feedback survey Consider how/when data can be verified or audited)



# NEXT STEPS



**Align Material Topics  
with Business  
Objectives**



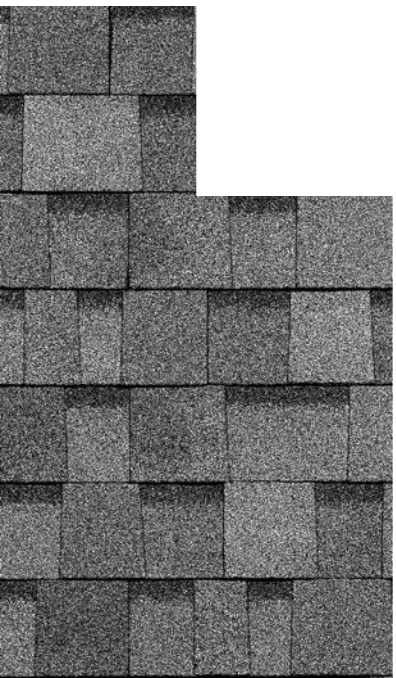
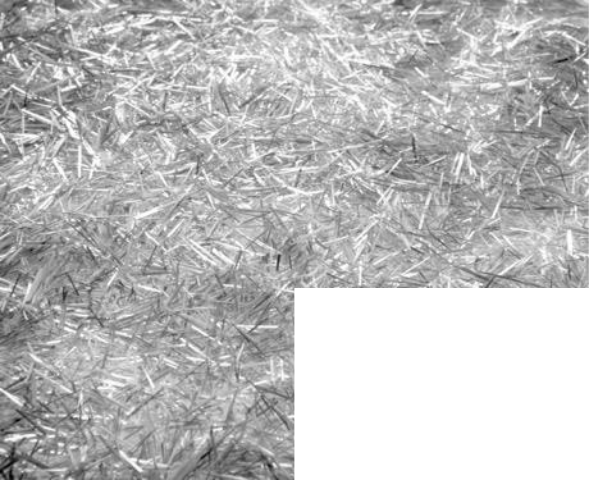
**Collect Data**



**Assign Targets**



**Develop  
Implementation  
Strategy**



# IV. IN-HOUSE LEGAL STRATEGIES FOR MANAGING ESG CHALLENGES

Paul Lewandowski  
March 29, 2022

# OVERVIEW

Understanding Company ESG Goals and Objectives – Why is ESG Important

Understanding Company Strategies and Tactics – How will ESG Goals be Achieved

Assessing the Causes of ESG Legal Problems

Elements of a Collaborative ESG Legal Risk Management Strategy

Questions and Discussion

# WHY DOES YOUR COMPANY HAVE AN ESG PROGRAM?

- **KNOW YOUR INTERNAL STAKEHOLDERS!**
- **IDENTIFY AND MANAGE CHANGING PRIORITIES**
- **MAINTAIN A REGULAR LEGAL RISK ASSESSMENT AND DIALOG**



# HOW WILL YOUR COMPANY ACHIEVE IT'S ESG GOALS?

- **Defined Goals and Objectives**
- **Written Policies**
- **Defined Legal Involvement**
- **Centralized Strategic Development**
  - **Executive Committee**
  - **ESG Leadership Team(s)**
  - **Sustainability Organization**
  - **CSO**
- **Defined Enterprise Accountabilities**



# ASSESSING CAUSES OF COMPANY ESG LEGAL PROBLEMS

WEAK/INCONSISTENT  
CORPORATE POLICIES

DATA COLLECTION,  
MANAGEMENT AND  
ANALYSIS CHALLENGES

POOR DOCUMENT  
MANAGEMENT  
PROGRAMS

INSUFFICIENT SENIOR  
LEVEL OVERSIGHT

INSUFFICIENT LEGAL  
DEPARTMENT  
INVOLVEMENT

POORLY DEFINED  
ACCOUNTABILITIES

POOR INTERNAL AND  
EXTERNAL  
COMMUNICATION  
PROCESSES

LACK OF  
DOCUMENT/MARKETING  
REVIEW PROCESS

# ELEMENTS OF A COLLABORATIVE ESG LEGAL RISK MANAGEMENT PROGRAM

## ESG LEADERSHIP COUNCIL

Collaborative Decision Making Team

- Includes representatives from key stakeholder groups: Sustainability, Legal, Marketing, Business Leaders, HR, IT, EHS, Etc.
- Senior Leadership Sponsored
- Sets High Level ESG Priorities, Strategy, Tactics + Oversight
- Legal Participation is Critical – Central Decision Making Function Allows Effective and Efficient Legal Oversight of ESG Program

## DEFINED LAW DEPARTMENT ACCOUNTABILITIES

Single Lead ESG Lawyer

- Assures Required Focus and Attention
- Simplifies Cross-Function Communication
- Identified Legal Decision Making Process
- Involvement in all key ESG Decisions and Communications

## INTERNAL LAW/STAKEHOLDER COMMUNICATION PROCSS

Standardized, Routine and Required

- Minimizes Surprises
- Allows Timely Identification of Emerging Issues
- Establishes Strong Legal Involvement in ESG Programs
- More than One Stakeholder – Identify and Prioritize

# ELEMENTS OF A COLLABORATIVE ESG LEGAL RISK MANAGEMENT PROGRAM (CONT.)

## DEFINED LEGAL ROLE IN INTERNAL/EXTERNAL COMMUNICATION PROCESS

Formal Legal Review of All ESG Communications

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- SEC Disclosure Accountability
- ESG Marketing Claim Review Process
- Establish ESG Marketing Claim and Substantiation Data
- Incorporate ESG Reviews in Social Media Programs
- Assures Consistency which is CRITICAL

## ESG LEGAL DOCUMENT MANAGEMENT PROCESS

Assure Good Policy Development and Decision Making Memory

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- Establish Official Decision Making Documentation Process
- Helps Assure Consistency
- Helps Manage Disclosure and Transparency Risks
- Allows for Effective and Efficient Response to Legal Inquiries/Challenges
- Enables Development of Legally Sound ESG Policy Positions

## ESG EDUCATION AND TRAINING PROGRAM

Legal Risk Awareness Throughout the Enterprise

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- Corporate-Wide Knowledge of ESG and Sustainability Organizations
- Corporate-Wide Understanding of ESG Risk and Function/Individual Responsibility
- Proper Use of Communication Tools (Especially Social Media)
- Knowledge of ESG Document Development and Management Requirements
- Very Important Risk Minimization Tool



**QUESTIONS?**

# V. The SEC Rule, The FTC, & Case Law

Presented by Louis Tosi

# Recent SEC Proposed Rules – March 21, 2022

## Enhancement and Standardization of Climate-Related Disclosures

The Securities and Exchange Commission proposed rules related to:

- Climate-related risks and their actual or likely material impacts on the registrant's business, strategy, and outlook;
- The registrant's governance of climate-related risks and relevant risk management processes;
- The registrant's greenhouse gas ("GHG") emissions, which, for accelerated and large accelerated filers and with respect to certain emissions, would be subject to assurance;
- Certain climate-related financial statement metrics and related disclosures in a note to its audited financial statements; and
- Information about climate-related targets and goals, and transition plan, if any.

The proposed disclosures are similar to those that many companies already provide based on broadly accepted disclosure frameworks, such as the Task Force on Climate-Related Financial Disclosures and the Greenhouse Gas Protocol.

# Highlights of SEC Proposed Rule

The proposed rules would require a registrant to disclose information about:

- The **oversight and governance** of climate-related risks by the registrant's board and management;
- How any climate-related risks...have had or are likely to have a **material** impact on its... **financial statements**, ...over the short-, medium-, or long-term;
- If the registrant has adopted a **transition plan**..., a description of the plan; including the relevant metrics and targets used to identify... transition risks;
- The impact of climate-related events... on the line items of... consolidated financial statements, as well as the financial estimates and assumptions;

*Continued*

- The registrant’s direct GHG emissions (**Scope 1**) and indirect GHG emissions from purchased electricity and other forms of energy (**Scope 2**);
- Indirect emissions from upstream and downstream activities in a registrant’s value chain (**Scope 3**), if material...;
- If the registrant has publicly set climate-related targets... information about:
  - The scope of activities and emissions included in the target...;
  - How the registrant intends to meet its climate-related targets or goals;
  - Relevant data to indicate whether the registrant is making progress...;
  - If carbon offsets or renewable energy certificates (“RECs”) have been used; etc.

*Continued*

# Phase-In Periods and Accommodations

The proposed rules would include:

- A phase-in period for all registrants... and an additional phase-in period for **Scope 3** emissions disclosure;
- A phase-in period for the assurance requirement and level...
- A safe harbor for liability for **Scope 3** emissions disclosure;
- An exemption from the **Scope 3** emissions disclosure requirement for smaller reporting companies; and
- Forward-looking statement safe harbors pursuant to the Private Securities Litigation Reform Act.

# The Importance of Accurate Counting or Estimates

## An Example

### BP to Pay \$525 Million Penalty to Settle SEC Charges of Securities Fraud During Deepwater Horizon Oil Spill

*Washington, D.C., Nov. 15, 2012 —*

The Securities and Exchange Commission today charged BP p.l.c. with misleading investors while its Deepwater Horizon oil rig was gushing into the Gulf of Mexico by significantly understating the flow rate in multiple reports filed with the SEC.

The SEC alleges that the global oil and gas company headquartered in London made fraudulent public statements indicating a **flow rate estimate of 5,000 barrels of oil per day**. BP reported this figure despite its own internal data indicating that potential flow rates could be as high as **146,000 barrels of oil per day**. BP executives also made numerous public statements after the filings were made in which they stood behind the flow rate estimate of 5,000 barrels of oil per day even though they had internal data indicating otherwise. In fact, they criticized other much higher estimates by third parties as scaremongering. Months later, a government task force determined the flow rate estimate was actually more than 10 times higher at 52,700 to 62,200 barrels of oil per day, yet BP never corrected or updated the misrepresentations and omissions it made in SEC filings for investors.

# Deepwater Horizon

## An Example of Aspirational vs. Hard Commitment

Arising from of the Deepwater Horizon incident of 2010, the U.S. District Court for the Southern District of Texas found that the plaintiffs had adequately alleged both falsity and scienter as to certain statements from British Petroleum's Annual Reviews and **Sustainability Reviews**. In re BP plc, Sec. Litig., 2013 WL 6383968 at \*26-27. These statements included, among other things, that BP's Operating Management System ("OMS"), the cornerstone of BP's safety program, was "to be implemented at each site," and that the OMS is "being progressively adopted by all operating sites." Id. at \*26. The plaintiffs alleged these to be misleading because the OMS actually was not adopted by BP-owned sites operated by contractors, which accounted for six of seven drilling units in the Gulf of Mexico. Id. at \*7.

The court **dismissed** certain other alleged misrepresentations because of their generalized, aspirational character, including statements during meetings such as "there was a clear and increasing focus on safety" and that "BP's strategy ... [was to] focus ... on safety and performance." Id. at \*24-25.



# Federal Trade Commission Liability Exposure

The FTC is expected to update its “Green Guides,” which govern claims made about the environmental qualities of a product or service in connection with the marketing, offering for sale, or sale, of such item or service to individuals. The Guides make clear that “it is deceptive to misrepresent, directly or by implication, that a product, package, or service offers a general environmental benefit.”

The Green Guides also make clear that “unqualified general environmental benefit claims are difficult to interpret and likely convey a wide range of meanings.” Companies can be subject to penalties of up to \$43,792 per violation.

# Greenwashing & The FTC

## IN RE: VOLKSWAGEN

- Volkswagen and the FTC settled a claim for false advertisement regarding “clean diesel”
- Over \$500,000 in penalties
- More than \$9.5 billion in restitution for buyers
- The MPG data was “false”

*Continued*

# Greenwashing & The FTC

## IN RE: PACIFIC GAS & ELECTRIC

- PG&E touted their vegetation management efforts, and that the company had been “recognized by the National Arbor Day Foundation... demonstrating best practices in utility arboriculture.”
- PG&E emphasized a focus on “maintaining and replacing aging equipment,” (e.g. replacing old/worn, clearing vegetation from lines), but inspectors found them to be consistently behind schedule.
- PG&E equipment has been responsible for some 1,550 fires resulting from equipment between 2014-2017
- Numerous lawsuits have been filed against PG&E for this and other wildfires allegedly resulting from their equipment.

# Examples of the Aspirational Defense

- In *Ruiz v. Darigold*, the plaintiff alleged that Darigold, a marketing and dairy processing entity, misrepresented the conditions under which its products were produced, including misrepresentations regarding the ethical treatment of their cows and workers.  
*Ruiz v. Darigold, Inc.*, No. C14-1283RSL, 2014 WL 5599989 at \*1 (W.D. Wash. October 31, 2014).
- *Barber v. Nestle USA, Inc.*, dismissed consumer protection claims resulting from social responsibility-type disclosures... regarding the presence of forced labor in its supply chain in violation of the California Legal Remedies Act and False Advertising Law.  
*Barber v. Nestle USA, Inc.*, 154 F. Supp. 3d 954 (C.D. Cal. 2015).
- *Nat'l Consumers League v. Wal-Mart Stores, Inc., J.C. Penney Corp., and The Children's Place, Inc.*, No. 2015-CA-007731, 2016 WL 4080541, the plaintiff brought an action... alleging violations of D.C.'s consumer protection statutes.

*Continued*

# Corporate Social Responsibility and the Role of the Environmental Lawyer

- There remains a compelling advantage to involving legal counsel in the preparation of CSR reports: the attorney-client privilege.
- Legal counsel should also attempt to ensure that reporting is balanced, contextual, and consistent.
- Representations of the reporting entity's ideals and goals should be clearly labelled as such. The use of aspirational language, such as "goal," "hope," and "expect" may help to soften forward-looking predictions.
- Counsel should ensure that only the most accurate, verifiable, and audited data is represented in a CSR report.
- Counsel should be aware of the ambiguity and laxness of estimates typically used by contractors, and review any contracts with external auditors, consultants, and advisors and ensure that the reporting entity is limiting its liability through insurance and indemnity provisions.

# Thank you!

- **Louis Tosi**

Shumaker

[ltosi@shumaker.com](mailto:ltosi@shumaker.com)

- **Brooke Dillon**

Ramboll

[BDILLON@ramboll.com](mailto:BDILLON@ramboll.com)

- **Amy Maguire**

Shumaker Advisors

[amaguire@shumakeradvisors.com](mailto:amaguire@shumakeradvisors.com)

- **Paul Lewandowski**

Owens Corning

[Paul.S.Lewandowski@owenscorning.com](mailto:Paul.S.Lewandowski@owenscorning.com)