

THE ROLE OF ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG) FACTORS IN CORPORATE LAW

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In recent years, Environmental, Social, and Governance (ESG) factors have gained significant traction in corporate decision-making. This shift reflects a growing recognition that companies' responsibilities extend beyond mere financial performance to encompass broader social and environmental impacts. The integration of ESG factors into corporate strategies is not just a global trend but has become increasingly relevant in the Indian context as well. With stakeholders, including investors, regulators, and consumers, demanding greater accountability and sustainability, Indian companies are re-evaluating their legal and business strategies to incorporate ESG considerations. Legal Framework ESG (environmental, social and governance) covers a range of methods and measurements that assess businesses in ways other than their financial achievements and performance.

Regulatory Framework for environmental, social and governance regulations in India:

Business Responsibility Reporting (BRR):

SEBI introduced BRR in 2012, making it mandatory for the top 100 listed companies by market capitalization to report on their ESG initiatives. This requirement was later extended to the top 500 companies. BRR focuses on nine principles of responsible business, including environmental stewardship, human rights, and transparency.

Under the **SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015**, some listed entities must have an independent female director. If the chairperson of the board of a listed company is a non-executive director and is not a promoter or related to one or a person occupying a management position, one-third of the board must be independent directors. Otherwise, at least half of the board should consist of independent directors. Such regulations increase diversity and inclusion of women in the corporate world.

Business Responsibility and Sustainability Reporting (BRSR):

In 2021, SEBI introduced the BRSR framework, which is more comprehensive and aligned with global standards such as the Global Reporting Initiative (GRI) and the Sustainability Accounting Standards Board (SASB). BRSR requires companies to disclose their ESG risks and opportunities in a structured format, providing investors with greater transparency and comparability.

The SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, prescribe disclosure of green debt securities. The Reserve Bank of India requires disclosure under the Framework for Acceptance of Green Deposits. The corporate governance regime have increasingly realized the importance of sustainability and environmental conservation.

National Guidelines on Responsible Business Conduct (NGRBC):

The Ministry of Corporate Affairs (MCA) in India released the NGRBC, which encourages businesses to adopt sustainable and responsible practices. These guidelines align with international frameworks such as the United Nations Guiding Principles on Business and Human Rights.

From FY 2022-23, the SEBI required some companies to include a business responsibility and sustainability report (BRSR) with their annual report highlighting their ESG initiatives. From FY 2023-24, the top 150 listed entities must comply with the nine parameters in the BRSR core framework. Guidelines for ESG rating providers are in the SEBI (Credit Rating Agencies) Regulations, 1999. ESG investment requirements were introduced by the SEBI (Mutual Funds) Regulations, 1996.

Integration of ESG Factors:

Indian companies are increasingly integrating ESG factors into their legal and business strategies to enhance long-term sustainability, manage risks, and create value for stakeholders. Some key areas where ESG considerations are being integrated include:

Corporate Governance: Companies are strengthening their governance frameworks by incorporating ESG considerations into boardroom discussions, risk management practices, and executive compensation structures. This shift is driven by the need to align corporate governance with broader societal expectations and regulatory requirements.

Environmental Sustainability: Indian companies are adopting green practices, such as reducing carbon emissions, investing in renewable energy, and implementing circular economy principles. The adoption of sustainable business practices is often driven by regulatory mandates, consumer demand, and the desire to attract ESG-focused investors.

Social Responsibility: Companies are increasingly focusing on social factors such as employee well-being, diversity and inclusion, community engagement, and human rights. These efforts are essential for building trust with stakeholders and enhancing the company's reputation.

Because ESG obligations are found in various statutes, regulations and contracts with a multitude of stakeholders, no uniform approach to ESG exists. The concept is still evolving and requires a comprehensive and focused framework.
