

The diversity of regulators needs the involvement of lawyers for proper interpretation and to guide the entrepreneurs against disobedience, default and non-compliance

Law Firms and ESG Compliance in India

Due to the vast number of affected segments, no comprehensive law has governed ESG compliance in India so far. But as a major economy, India is reorienting its strategies to mitigate its finer ESG risks, utilising multiple statutory bodies to implement the climate risk mitigation rules. The ESG compliance regulations continue to be shaped by SEBI, RBI, GOI, IRDA, Bombay Stock Exchange, National Stock Exchange and Local Industry Regulators. The development has pronounced the need for ESG-aware law firms in India. India initiated the launch of a Global Biofuel Alliance in September 2023 with the leaders of Singapore, Argentina, Mauritius, UAE and the USA to harness Biofuels. In the recent 28th session of the Conference of Parties (COP28) under the UN Framework Convention on Climate Change (UNFCCC) in Dubai, the Indian Prime Minister offered to host COP33 in India in 2028. The paradigm shift allows Indian law firms to incorporate ESG advisory as a valuable business proposition of the decade after NCLT laws. Companies increasingly recognise the importance of ESG factors in their decision-making processes as investors and stakeholders evaluate a company's impact on the environment, its treatment of employees, and governance practices for sustainability.

ESG compliance aspects in India needing legal assistance:

- Many jurisdictions insist on mandatory ESG reporting requirements. The regulations stipulate that companies disclose information about environmental impact, social practices, and governance structures. The step enhances transparency.
- Legal frameworks establish standards companies must adhere to regarding environmental protection, labour practices, and corporate governance. Violating them now results in legal consequences, including penalties.
- Company directors have fiduciary duties to act in their best interests. Legal frameworks can clarify that this duty includes considering long-term sustainability, environmental impact, and social responsibility. The step encourages directors to integrate ESG factors into their decision-making processes.
- Companies failing to meet ESG standards may face legal liability. Violations can lead to fines and legal action. Companies with poor social practices may face labour rights and discrimination lawsuits.
- Governments provide tax incen-



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tives for companies that adopt sustainable practices. The provision encourages businesses to invest in environmentally friendly technologies and socially responsible initiatives.

- Laws empower shareholders to engage with companies on ESG issues. Shareholders may have the right to propose resolutions related to ESG matters, ensuring that these topics are discussed and voted upon at shareholder meetings.
- Directors and KMPs are personally liable for breach of duty if they fail to address ESG risks and opportunities adequately. This liability creates a strong incentive for corporate leaders to prioritise ESG considerations.
- Legal frameworks include government programs that support companies to improve ESG performance. The aid involves grants, subsidies, and financial assistance.
- Some ESG issues are global, such as climate change. International agreements and treaties establish frameworks encouraging countries and companies to address these issues collectively.

Law guidance is essential to track and follow the ESG guidelines of these regulations and regulators:

- The Companies Act of 2013 is a legislation that governs the functioning of companies. It includes corporate social responsibility (CSR) provisions under Section 135. Companies meeting the criteria must spend a specific percentage of their profits on CSR activities. ESG and CSR both monitor the observance of the social responsibilities of Corporations.
- Securities and Exchange Board of India (SEBI) promotes ESG disclosures in the Indian capital

markets. SEBI issued a circular in 2020 requiring the leading 1,000 listed entities by market capitalisation to disclose their business responsibility reports (BRRs), including information on environmental, social, and governance aspects.

- The Ministry of Corporate Affairs introduced the National Voluntary Guidelines on Social, Environmental & Economic Responsibilities (NVGs) to adopt responsible business practices. These voluntary guidelines provide a framework for companies to observe the social, environmental, and ethical concerns in their business operations.
- Stock exchanges in India, such as BSE and NSE, have Listing Regulations that now include requirements related to ESG disclosures. For example, listed entities may need to provide information on their environmental impact, social initiatives, and governance practices.
- Insurance Regulatory & Development Authority of India (IRDAI) has also emphasised the importance of ESG factors in the insurance sector. Insurance companies must consider ESG risks and opportunities and disclose related information. The premium charged on their policies depends on the ESG score of the insured entities.
- Reserve Bank of India (RBI) has issued guidelines related to ESG factors for banks and financial institutions. Individual bank boards devise the ESG norms to be observed by borrowers for

The bottom line!

In India, the law overseeing ESG norms is multifaceted, encompassing regulatory frameworks, fiduciary duties, liability mechanisms, incentives, and international standards involving multiple regulators and state players. As governments increasingly recognise the importance of sustainable and responsible business practices, the legal system in prosperous India assumes a crucial role in shaping and enforcing ESG norms.

internal and external Rating Rationales. The borrower's score in the internal rating decides the interest rate.

- Many industries have industry-specific guidelines and codes of conduct that incorporate ESG considerations. For example, the Sustainable Development Framework for the Indian Power Sector includes ESG guidelines for the power industry. The local watchdogs of the industry enforce these guidelines.

Experience and expertise

S. K. Singhi & Partners LLP's core area of practice includes Corporate Law, Banking Law, Domestic and International Arbitration, International Police (Interpol), Red Corner Notice (RCN), Legal Vetting, Title Search Verification, and Legal Drafting of documents relating to Commercial Contracts, banking, financing and security documents, ESG Compliances on Moderating Carbon Footprints.

The firm provide services, including complex Corporate Litigations, Real Estate, Energy Law, Hospitality, Telecom, Infrastructure and Mining Laws, Securities Law, Private Equity and FDI, Direct and Indirect Taxation, and Labor and Industrial Laws. SKS are one of the few law firms with expertise in handling International Criminal Matters through

the instrumentality of Interpol, Extradition Treaties, Bilateral treaties, and matters relating to the International Court of Justice, The Hague, Netherlands. The firm promises less and endeavours to deliver more. They avoid giving false hopes to the clients.

Their USP for driving people to come to them flows from being contrarian, holistic, value proposition, personalised attention and balanced advice. At SKS, the pro bono activities include emergency service enhancement, advisory roles, speaking assignments and representing home buyers before NCLT and the Kolkata High Court. Their strength lies in punctuality, prompt communication, customer-centricity, and cost-effective delivery within timelines.



It's essential to stay updated with the regulatory landscape of the ever-evolving ESG compliance. The role of law in implementing ESG norms is crucial, as it operates at various levels. The legal connotations of ESG norms are vast and varied. Further, several regulators simultaneously monitor the observance of norms.

