The Evolving ESG Landscape: Practical Advice for Boards and Companies in 2024

February 21, 2024

Resource Materials	
State of Play	
Wall Street Journal, <i>Business Groups Sue California to Block Climate Disclosures</i> (January 30, 2024) Link: https://www.wsj.com/finance/regulation/business-groups-sue-california-to-block-climate-disclosures-ed1400c5	1
New York Times, Exxon Sues to Prevent Climate Proposal From Getting a Shareholder Vote (January 22, 2024) Link: https://www.nytimes.com/2024/01/22/business/exxon-climate-change-lawsuit.html	2
Simpson Thacher & Bartlett LLP, Seven Key Trends in ESG for 2023—and What to Expect in 2024 (January 14, 2024) Link: https://corpgov.law.harvard.edu/2024/01/14/seven-key-trends-in-esg-for-2023-and-what-to-expect-in-2024/	3
Davis Polk & Wardwell LLP, Fifth Circuit vacates SEC buyback rule (December 20, 2023) Link: https://www.davispolk.com/insights/client-update/fifth-circuit-vacates-sec-buyback-rule	4
Travis Laster, Attorney General Barr Could Use Some Help on Delaware Law (November 26, 2023) Link: https://www.linkedin.com/pulse/attorney-general-barr-could-use-some-help-delaware-law-travis-laster-kwcse/	5
Wall Street Journal, <i>Delaware Is Trying Hard to Drive Away Corporations</i> (November 24, 2023) Link: https://www.wsj.com/articles/delaware-is-trying-hard-to-drive-away-corporations-business-environmental-social-governance-investing-780f812a	6
Bloomberg Law, ESG Investing Laws Diverge in Red and Blue States: Explained (August 14, 2023) Link: https://news.bloomberglaw.com/in-house-counsel/esg-investing-laws-diverge-in-red-and-blue-states-explained	7
Barron's, Battle Over ESG Takes New Direction as 'CEO of Anti-Woke' Runs for President (February 23, 2023) Link: https://www.barrons.com/articles/vivek-ramaswamy-woke-esg-president-6a721350	8
Deloitte, On the audit committee's agenda – Emerging trends in ESG governance for 2023 (January 2023) Link: https://www2.deloitte.com/us/en/pages/center-for-board-effectiveness/articles/emerging-trends-in-esg-governance-for-2023.html	9

Role of Regulators	
EY, Technical Line - How the climate-related disclosures under the SEC proposal, the ESRS and the ISSB standards compare (January 31, 2024) Link: https://www.ey.com/en_us/assurance/accountinglink/technical-linehow-the-climate-related-disclosure-proposals-fr	10
Bloomberg Law, SEC Presses Companies on Climate Risk With New Rules on Horizon (January 2, 2024) Link: https://news.bloombergtax.com/financial-accounting/sec-presses-companies-on-climate-risk-with-new-rules-on-horizon	11
EY, Sustainability reporting developments - Greenhouse Gas Protocol (November 6, 2023) Link: https://www.ey.com/en_us/assurance/accountinglink/sustainability-reporting-developments-greenhouse-gas-protocol	12
EY, Technical Line - A closer look at California's recently enacted climate disclosure laws (October 12, 2023) Link: https://www.ey.com/en_us/assurance/accountinglink/technical-line-a-closer-look-at-californias-recently-enacted-climate-disclosure-laws	13
Cravath, Swaine & Moore LLP, California Legislature Passes and Governor Newsom Signs Landmark California Climate Bills (October 9, 2023) Link: https://www.cravath.com/a/web/six3CK8DdTjuJVQw19UvHP/8bGHSh/california-legislature-passes-and-governor-newsom-signs-landmark-california-climate-bills.pdf	14
Mayer Brown LLP, <i>The EU Corporate Sustainability Reporting Directive - what non-EU companies should know</i> (September 17, 2023) Link: https://corpgov.law.harvard.edu/2023/09/17/the-eu-corporate-sustainability-reporting-directive-what-non-eu-companies-should-know/	15
EY, SEC Reporting Update - Highlights of trends in 2023 SEC staff comment letters (September 14, 2023) Link: https://www.ey.com/en_us/assurance/accountinglink/sec-reporting-update-highlights-of-trends-in-2023-sec-staff-comment-letters	16
Cravath, Swaine & Moore LLP, SEC Proposes Landmark Rules to Enhance and Standardize Climate-Related Disclosures (March 29, 2022) Link: https://www.cravath.com/a/web/7DrvLPZ6CsFNuNApsUUtcm/3SHC2k/sec-proposes-landmark-rules-to-enhance-and-standardize-climate-related-disclosures.pdf	17
Cravath, Swaine & Moore LLP, Staff Legal Bulletin No. 14L: More Evidence for the ESG Paradigm Shift (November 8, 2021) Link: https://www.cravath.com/a/web/qF6wWkarshHXB3FJk8NMXR/3g3Yrg/staff-legal-bulletin-no-14l-more-evidence-for-the-esg-paradigm-shift.pdf	18

U.S. Securities and Exchange Commission, Division of Corporation Finance, <i>Shareholder Proposals: Staff Legal Bulletin No. 14L</i> (November 3, 2021) Link: https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals	19
U.S. Securities and Exchange Commission, <i>Commission Guidance Regarding Disclosure Related to Climate Change</i> (February 2, 2010) Link: https://www.sec.gov/rules/interp/2010/33-9106.pdf	20
Getting ESG Data Right	
Cravath, Swaine & Moore LLP, Practical Steps for Board and Management Supervision of ESG Data Gathering and Disclosure (January 2023) Link: https://iclg.com/practice-areas/environmental-social-and-governance-law/07-practical-steps-for-board-and-management-supervision-of-esg-data-gathering-and-disclosure	21
Cravath, Swaine & Moore LLP, Responding to the ESG Paradigm Shift: Practical Steps for Boards and Management (March 2021) Link: https://www.cravath.com/a/web/rNxzSCu9FNLZRS86HoZmsY/2rT2Fg/cravath-responding-to-the-esg-paradigm-shift-practical-steps-for-boards-and-management.pdf	22
Board and Executive Involvement	
Cleary Gottlieb Steen & Hamilton LLP, Delaware Courts Beef Up Caremark Claims Involving Corporate Misconduct While Leaving Hot-Button Political and ESG Issues to the Boardroom (January 17, 2024) Link: https://www.clearygottlieb.com/news-and-insights/publication-listing/delaware-courts-beef-up-caremark-claims-involving-corporate-misconduct-while-leaving-hot-button-political-and-esg-issues-to-the-boardroom	23
Bloomberg Law, Anti-ESG Backlash Is Phenomenon Boards Must Tackle, Lipton Says (July 27, 2023) Link: https://news.bloomberglaw.com/business-and-practice/anti-esg-backlash-is-	24
phenomenon-boards-must-tackle-lipton-says	
Weinberg Center for Corporate Governance, Navigating an Evolving Challenge: Role of the Board and the CEO in Navigating Political and Social Issues (January 10, 2023) Link: https://capture.udel.edu/media/Navigating+an+Evolving+ChallengeA+Role+of+the+Board+and+the+CEO+in+Navigating+Political+and+Social+Issues+-+1+10+23+-+Final/1_fwgeb8qn	25
Weinberg Center for Corporate Governance, <i>How Companies Navigate Political and Social Issues – Investor Perspective</i> (November 29, 2022) Link: https://capture.udel.edu/media/HOW+COMPANIES+NAVIGATE+POLITICAL+AND+SOCIAL+ISSUES+-+INVESTOR+PERSPECTIVE/1_zktfdqyn	26

Leo E. Strine, Jr., Kirby M. Smith and Reilly S. Steel, Caremark and ESG, Perfect

Together: A Practical Approach to Implementing an Integrated, Efficient, and

Effective Caremark and EESG Strategy (July 30, 2020, rev. July 2, 2021)

Link: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3664021