# PERE

## ESG

December 2021/January 2022 • perenews.com

# Setting the pace on ESG standards

*The private sector is moving forward with its own ESG initiatives and standards in the absence of clear political leadership and regulatory direction, reports Sharon Waters*

Anna Murray, managing director and global head of ESG at BentallGreenOak, says all levels of government engagement are welcomed to help constructively advance the industry's sustainability agenda. "Part of our job as fiduciaries is to anticipate the direction that the regulatory environment is moving," she says. "Irrespective of what's happening in the political arena, we continue to see businesses collaborating within and across industry lines in support of ESG."

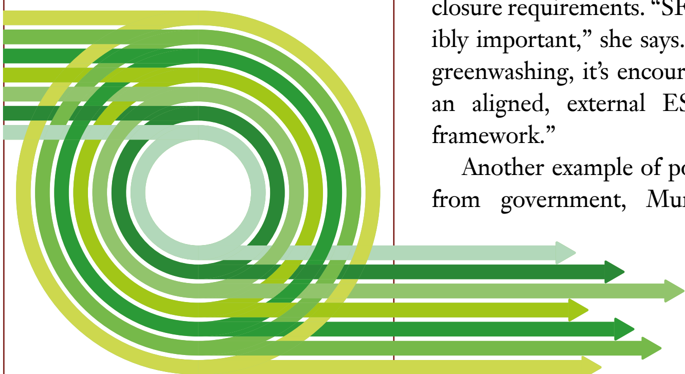
The sentiment among industry leaders seems to be that if they can't count on the government to set the pace on sustainability, then the private sector will take the lead. But the lack of guidance from government means there is no agreed-upon standard for measuring ESG progress.

"Part of the problem is that there is no single benchmark that any sponsor can look to, which creates confusion in the market," argues New York-based David Kaye, partner in law firm Ropes & Gray's real estate investments and transactions group. "So, I think that any type of regulation, however specific, would actually help sponsors to understand the extent of their disclosures and the substance of what actually needs to be disclosed."

The lack of clarity is vexing organizations in the US, but also in many other countries across the world.

The European Commission, for example, introduced the Sustainable Finance Disclosure Regulation to set mandatory ESG disclosure obligations for asset managers and financial advisers, aimed at establishing a level playing field. But that doesn't mean SFDR is crystal clear for European executives.

> *"Solutions [are] coming directly from the market and not the regulators, per se"*
>
> **ANTONIS ANASTASIOU**
> **Alter Domus**



"There's still a lot of uncertainty as to how to manage this and develop comprehensive best-in-class solutions," says Luxembourg-based Antonis Anastasiou, director and member of the ESG committee at service provider Alter Domus. "So, yes, the regulation is in place, but the guidance is more open-ended, and we will need to continue to make sense of it."

He notes that SFDR applies only to certain types of corporate entities.

Murray, however, considers SFDR to be a leading indicator of what's to come in other countries in terms of disclosure requirements. "SFDR is incredibly important," she says. "In an era of greenwashing, it's encouraging to have an aligned, external ESG reporting framework."

Another example of positive change from government, Murray says, is

New York City's Local Law 97, which requires most buildings over 25,000 square feet to meet new energy efficiency and greenhouse gas emissions limits by 2024, with stricter limits coming into effect in 2030. The law is part of the city's goal to reduce the emissions produced by the city's largest buildings by 40 percent by 2030 and 80 percent by 2050.

"Local Law 97 has been a useful strategic driver. It's a pinnacle example of where we should be focusing our efforts," Murray argues.

Ropes & Gray counsel Annise Maguire, who focuses on environmental transactions and ESG, says rules like Local Law 97 are the type of movement already happening in Europe, and these regulations can become incentives as organizations strive to ensure they are matching their peers.

"It sets an across-the-board standard where everybody has to comply, everybody knows what the requirements are, and everybody's playing on a level playing field," says Maguire. "It provides that impetus and push forward to pay attention to issues that, previously, were somewhat on the side, and I think it's created a lot of movement."

## Plugging the gap

Still, much of the action comes from industry, which is filling the regulatory gap with a proliferation of standards, plus working groups. These include Principles for Responsible Investment, Global Real Estate Sustainability Benchmark, and Sustainability Accounting Standards Board. So, the private sector has many – some would say too many – frameworks to help drive ESG performance.

"There's no shortage of ways for us to collaborate and address the issues at hand," says Murray. "We must be aware of the evolving interests of investors and the realities they are contending with. It's a constantly shifting environment – look no further than this past year with the global pandemic and social unrest as dominant forces, and how quickly we were called up to demonstrate action to address our stakeholders' concerns."

On the diversity and inclusion side, the Pension Real Estate Association Foundation and Sponsors for Education Opportunity are spending time and money to focus on the issues, notes Sonny Kalsi, co-CEO at private real estate manager BentallGreenOak. The heightened attention on social justice and diversity starting in the summer of 2020 continues to have an impact. "It's a movement and not a moment," says Kalsi. "It's become a real movement over time, and it's just picking up pace."

Anastasiou hailed the recent agreement, led by asset manager Carlyle Group and pension giant California Public Employees' Retirement System, to standardize reporting on ESG performance of portfolio companies. The private equity firms and pension funds will track data on renewable energy, greenhouse gas emissions, board diversity and other benchmarks.

"Solutions like this are coming directly from the market and not the regulators, per se. I think more guidance will eventually be provided by the regulators, and it needs to," says Anastasiou.

## Conflicting rules

Besides a lack of clarity on standards and metrics, US organizations must deal with inconsistent, and sometimes conflicting, rules in different states.

"We're getting this piecemeal regulatory environment where it's not only a lack of consistency, but where regulations are directly conflicting. So, it puts managers and firms in a hard position because if they have a broad reach, they actually can't take a consistent approach," says Maguire. "By having a more consistent, single, federal standard, you get rid of these sorts of conflicts."

There also needs to be a harmonized approach around the world so that global entities aren't required to do different things on various continents, according to Anastasiou. "At the end of the day, multicorporate global organizations need to focus on ESG on a cross-border basis, in all of the geographical regions where they have a presence."

The urgency to act is on everyone's radar. "We're all well aware of the challenges in front of us from a sustainability perspective, from a social justice and lack of diversity perspective, and there's a lot we can do," says Kalsi.

And the private sector can benefit from taking action. Anastasiou says an organization's inability to indicate what it is doing on ESG could result in loss of business and clients, and even talent, as employees judge how their bosses are performing on ESG.

Kalsi agrees that making progress on ESG can help the bottom line. "I firmly believe not only is it the right thing to do, but it's good business." ■

*"Irrespective of what's happening in the political arena, we continue to see businesses collaborating within and across industry lines in support of ESG"*

**ANNA MURRAY**
**BentallGreenOak**