



ESG integrity

Establishing and maintaining stakeholder trust when dealing with local and international ESG misconduct and litigation risks

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Environmental, social, and governance pressures

Expectations regarding companies' Environmental, Social, and Governance (ESG) practices continue to evolve. Investors are increasingly putting pressure on their portfolio companies, vendors are imposing ESG requirements on their suppliers, employees want to work for companies that align with their values, and customer behavior is shifting toward ESG ideals. At the same time, companies are coming forward with bold ESG commitments (e.g., to align with net zero), which often have accelerated timeframes and are often tied to executive compensation. These pressures, combined with an evolving standard-setting, regulatory, and internal control environment, can create risk for potential ESG fraud, misrepresentation, and litigation risk.

With more focus on these issues, and the risk of breach leading to potential fines and penalties, reputational damage, loss of investor confidence, litigation, and financial damages, and ultimately the risk of loss of social license to operate, boards and executives can strengthen and expand organizations' ethics and compliance programs to help ensure ESG integrity and protect stakeholder trust.

ESG integrity

The breadth of issues that fall under the umbrella of ESG is quite vast and continues to expand. An effective ethics and compliance program strategy that proactively addresses key ESG risks can help organizations establish and maintain trust with their stakeholders as the world of ESG evolves. This foundation can assist organizations in meeting regulatory, societal, and other stakeholder expectations by focusing on areas of the business that may be subject to fraud, misconduct, and litigation risk; evaluating relevant controls; and setting the tone for ethical behavior to achieve high levels of ESG integrity.

Maintaining stakeholder trust also involves responding appropriately should allegations of misconduct arise. Stakeholders continue to have increased expectations related to transparency while simultaneously expecting thorough and swift investigation and resolution of any damaging claims that may jeopardize an organization's social license to operate. A holistic response typically also includes the management of potential litigation and regulatory noncompliance risks.



How KPMG can help

We often work with legal counsel and are familiar with the importance of conducting our work under privilege, where appropriate, in the following areas:

Identify and mitigate ESG misconduct risks

We apply lessons learned from assisting clients when things go wrong to advise on the design, implementation, maturity, and effectiveness of various aspects of ethics and integrity compliance programs, including a comparison to leading practices, such as:



Ethics, compliance, and fraud risk management, including whistleblower hotlines, proactive data analysis, ethics training, and mitigation of other risks related to unethical conduct or breaches of regulatory or voluntary commitments (i.e., ESG fraud, ESG regulatory breaches, misuse of ESG government grant funds, competition laws, etc.)



Anti-bribery, corruption, and related risks associated with negative political, economic, social, and environmental impacts



Anti-money laundering and other financial crimes, including prevention of cleaning funds related to human trafficking, forced labor, and other human rights issues



Integrity due diligence and third-party risk management, including corporate intelligence research into individuals and organizations with a focus on ESG issues (i.e., human trafficking, forced labor, human rights, sanctions, etc.), supply chain due diligence with a focus on responsible sourcing, and embedding ESG risk management within third-party risk management programs.

Our ethics and integrity compliance program assessment framework is based on KPMG proprietary methodologies, regulatory guidance, and various globally recognized leading practices.

Respond to and remediate ESG misconduct/litigation concerns

We have extensive experience assisting clients in resolving integrity concerns, whistleblower allegations, and litigation. We can help with the following:



Investigations: Conducting independent investigations into ESG-related allegations, such as greenwashing/other “washing” schemes, manipulation of ESG reporting, regulatory breaches (bribery and corruption, money laundering, green claims, etc.), misused government grant funding, general ethics and compliance violations, and whistleblower reports



Litigation support: Damage quantification and financial analysis regarding ESG-related litigation, such as ESG-related securities and other class actions, investor and consumer protection claims, property remediation and environmental impact, and insurance matters triggered by ESG-related claims—arbitration and remediation of ESG-related issues or breaches of agreements



Data collection and analysis: Capturing and analyzing complex and disparate data in a forensically sound manner that can withstand scrutiny.

We advise clients on lessons learned from these experiences and perform root cause analyses and post-event remediation, including designing frameworks to mitigate the risk of future events occurring.

Our relevant experience

Identify and mitigate ESG misconduct risks

We have helped many of our clients enhance their ethics, compliance, and governance programs, as set out in the examples below:

Ethics and compliance program assessments

We have conducted numerous independent maturity assessments to assess the scope and content of organizations' ethics and compliance programs against regulatory guidance, industry leading practices, and peers/competitors, including analysis of the control framework, policies, and procedures that support ethical decision-making and the compliance culture across an organization with global operations. Our recommendations include manual and automated controls to optimize the resources dedicated to the program.

Environmental crimes framework assessment

Our UK team supported a large European bank in assessing its risk and operational management of environmental crimes and its longer-term strategic approach. "Environmental crimes" included illegal mining, extraction and trade of forestry and minerals, illegal fishing, land clearance, waste trafficking, and illegal wildlife trafficking. We conducted a current-state assessment and provided recommendations regarding governance, policy, processes, and operational execution.

Third-party and M&A ESG integrity due diligence

We have supported numerous clients in targeted third-party due diligence to understand their third-party risk exposure and to support buy/sell side merger and acquisition (M&A) activity. This includes due diligence over money laundering, sanctions, fraud, bribery and corruption, tax evasion, and forced labor. We have also supported clients in designing supply chain due diligence programs aligned with regulatory requirements and guidance.

Ethics training in various industries

We have delivered professional ethics training in various industries, covering ethics, fraud, anti-bribery and corruption, tax evasion, whistleblowing, insider trading, corporate social responsibility, and forced labor.

Forced labor and compliance assessments

We have performed forced labor and compliance assessments in a variety of industries. We have assisted multiple clients in benchmarking their programs against government, NGO, and industry best practices to develop robust forced labor programs and to meet reporting requirements.

Human rights framework assessment

Our UK team assessed a global banking client's human rights framework against the United Nations Guiding Principles (UNGPs) using the KPMG human rights diagnostic assessment tool. We proposed edits to the client's Human Rights Statement and ESG disclosures and developed a roadmap of recommendations to improve the human rights framework.

ESG compliance supplier audits

Our UK team provided supplier audit services to a significant UK utility to assess the ESG compliance maturity of its major suppliers. We set control maturity across fraud, bribery and corruption, carbon reporting and carbon reduction, standards and vetting, Real Living Wage, Code of Conduct, off-payroll working, diversity and inclusion, and whistleblowing.

ESG data regulatory reporting assessment

Our team in the UK provided regulatory reporting services to a UK utility client to ascertain the accuracy of various externally reported ESG data, including carbon emissions, renewable energy generation, environmental pollution incidents, environmental schemes delivered, water use reduction, waste, and recycling. We identified some errors that the client corrected before reporting.

Respond to and remediate ESG misconduct/litigation concerns

We have helped many of our clients in responding to ESG misconduct or litigation concerns, concerning the potential financial impact, as set out in the examples below:

Whistleblowing investigation

Our UK team investigated a series of whistleblowing allegations relating to the global supply chain of a fast-fashion company. This is related to allegations related to workers' pay, working hours, and conditions. As part of the investigation, we assessed employment practices, adherence to the entity's Supplier Code of Conduct, and other evidence regarding the allegations.

Vulnerable customer handling investigation

Our UK team performed an independent investigation into the treatment of vulnerable customers by a regulated energy supplier following concerns raised by the regulator. We conducted in-depth call listening and an assessment of processes and controls to identify areas of potential regulatory noncompliance and develop recommendations for improvement.

Environmental pollution remediation assurance

Our UK team assisted a utility regularly over its redress program following regulatory enforcement for environmental pollution (permit noncompliance). We assisted the utility in redressing its payment scheme, compliance audit program, and governance and culture reforms to prevent similar breaches from occurring again.

Responding to disputes and claims

Disputes are an inevitable byproduct of doing business. We have lent our experience, offering robust, practical advice to assist with the successful resolution of disputes, as set out in the examples below:

Assistance in a dispute related to a potential claim

We assisted related to a potential claim related to a breach of a financial statement representation. We reviewed relevant accounting documentation and governing agreements and advised counsel and the insured as to the potential value of the claim. The claim was settled by the insurer and insured.

Serving as an arbiter in a commercial issues arbitration

We served as arbiter in connection with a dispute arising from a commercial issues arbitration agreement related to the sale of a software product and associated assets. The disputed items related to obligations associated with reasonable efforts to collect outstanding receivables pursuant to a reseller agreement, payments required for pre-existing licenses and future obligations associated with such licenses pursuant to a reseller agreement.

Acting as a neutral accountant in a working capital dispute

We served as a neutral accountant in connection with a working capital dispute in excess of \$1.5 billion arising from the sale of a generic pharmaceutical business. We reviewed the parties' written submissions and also conducted an in-person oral hearing in which the parties, their advisers, and in-house and external counsel participated.

Key contacts

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Using his distinct viewpoint and skill sets developed over the past 20 years working around the world as an ethics and compliance officer and consultant and in the U.S. government, Brent works collaboratively with clients across industries as well as across geographies to solve critical business issues involving ethics and compliance, organizational culture, investigations, and related matters. Prior to joining KPMG LLP, Brent was a senior leader in the ethics and compliance function of a large, multinational energy company.

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Jose Claudio brings over 19 years of experience in assisting companies in preventing, detecting, and responding effectively and efficiently to cases of internal and external financial crime, including corruption, asset misappropriation, and financial statement fraud, all with a bilingual and bicultural understanding of today's business challenges, threats, and opportunities. He has advised on ethics and compliance to management and boards of global organizations, members of audit committees, and in-house and outside counsel.

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