IGS

INSTITUTO GOBERNANZA Y SOCIEDAD

Febrero 2023 - Artículo destacado

ESG in 2023: Politics and Polemics

David N. Katz, and Laura A. McIntosh, Wachtell, Lipton, Rosen & Katz

Expectations of the business community have reached a new high. Amid social and economic disruption, the public increasingly sees corporations as agents of stability. In fact, business is the most trusted institution in America, according to the Edelman Trust Barometer. That puts corporations above NGOs, the government, and media when it comes to trust. But trust is tenuous—it's hardwon and easily lost. To maintain trust, companies must be intentional when it comes to thinking through their stakeholder relationships.

SG is poised to become a major element of nonfinancial reporting at the very moment that it is becoming highly controversial and politicized. New European Union rules regarding mandatory ESG reporting will affect public and private U.S. companies that meet certain EU-presence thresholds or—significantly—are part of the value chain of an entity that is required to make the mandatory disclosures. This development represents a significant departure from past practices and will reach much farther than many companies may have anticipated. In the United States, the Securities and Exchange Commission is on the verge of adopting climate-related disclosure rules, possibly heralding the start of increasingly onerous ESG reporting obligations. These regulatory developments are supported by many, though not all, institutional investors, and the extent of such support going forward is likely to influence the future direction of ESG disclosure.

Over the past year, an anti-ESG backlash has flourished in the United States, led by conservative politicians and investors. Florida governor Ron DeSantis summarized the thesis of the backlash in a recent statement: "Corporate power has increasingly been utilized to impose an ideological agenda on the American people through the perversion of financial investment priorities under the euphemistic banners of environmental, social, and corporate governance and diversity, inclusion, and equity." At the World Economic Forum summit in Davos last week, a number of executives expressed frustration and concern over the intensifying drama around ESG. Like it or not, however, executives and investors will have to contend with ESG controversies and disclosure obligations for the foreseeable future while staying focused on their strategic priorities. Proactive board oversight—of both ESG disclosure practices and ESG-related controversies—will be essential to managing companies' reputational risk strategy around ESG.

The acronym ESG has become shorthand for corporate social responsibility, a nebulous concept with no clear limits. However, not all of its components are controversial. "Governance" has been a key element of corporate housekeeping and management for two decades, ever since high-profile corporate crises at the turn of the millennium spurred new legislation and regulations aimed at improving directorial oversight at public companies. The ideals of good governance are at this point fully integrated into corporate housekeeping (i.e., maintaining good corporate "hygiene") and are...

Leer más