

ESG



The world is in the midst of a tectonic shift, with investors, shareholders, financial institutions and stakeholders demanding that companies and organizations play a central role in creating a better future. Environmental, social and corporate governance (ESG) criteria are being used to identify organizations that will lead the charge in charting a path to sustainability.



Developing an ESG strategy provides an opportunity to reignite your organization's vision and purpose, create a competitive advantage and increase your ability to access capital. These strategies allow you to create a roadmap for how you will contribute to a better future in a measurable way by reporting regularly on your progress and providing ongoing accountability to shareholders and other stakeholders.



What Is ESG?

ESG is an assessment tool that relies on non-financial criteria to determine how well an organization operates from an ethical and socially conscious perspective. ESG metrics are now being used by the investment and financing communities to screen and rank potential investments and determine how capital will be allocated. A few of the most common ESG factors used to develop ESG criteria are outlined below.

Environmental











Anything that impacts the natural world

-  Climate change
-  Carbon emissions
-  Air/water pollution
-  Water usage
-  Biodiversity
-  Energy use & efficiency
-  Treatment of animals
-  Waste

Social



People and relationships

-  Community relations
-  Labour & employment standards
-  Health and safety
-  Ethical supply chain
-  Human rights
-  Diversity
-  Employee engagement
-  Customer satisfaction
-  Data protection and privacy

Governance



How well your company is managed

-  Board composition
-  Executive compensation
-  Auditing
-  Bribery/anti-corruption/whistleblower policies
-  Lobbying/political contributions

Why Is ESG Important?

Sustainable investors are increasingly considering ESG criteria in their investment analysis and portfolio construction. Investors at every level (institutional, retail, individual) are actively seeking out sustainable investments. Likewise, financial institutions are increasingly allocating funds specifically to companies and organizations that have robust ESG programs.

Currently in Canada, more than 50% of investment assets under management are sustainable, and that number is expected to rise significantly in the next few years.

Similarly, the vast majority (~75%) of institutional investors report that they are actively considering divesting companies and industries that do not perform well from an ESG perspective.

(2021 EY Global Institutional Investor Survey)

Although ESG criteria are most commonly applied to public companies, there is significant momentum growing in support of a complete ESG analysis of companies' and organizations' supply chains, both on the supply and customer sides.

This trend will have far-reaching implications and will soon create the expectation that all companies and organizations (public, private and

governmental) must demonstrate that they perform well from an ESG perspective.

At the moment, ESG disclosure is not mandatory in Canada. However, numerous jurisdictions around the globe (e.g. European Union, United Kingdom, United States) have either legislated mandatory ESG disclosure requirements, or are rapidly moving in that direction. In Canada, there are also strong signals from government and regulators that mandatory ESG disclosure is imminent.

With the implementation of mandatory ESG disclosure requirements, there is the potential for exposure to significant legal risk if ESG strategies are not developed and implemented properly. For instance, if ESG disclosure does not meet the mandatory disclosure requirements or is misleading, investigations, enforcement and litigation may be initiated against companies or organizations by governments, regulators, shareholders and other stakeholders.

With the increasing emphasis on sustainable investing and financing, as well as the move toward mandatory ESG disclosure and the accompanying legal risk that will follow, it has never been more important for companies and organizations to have a well-defined ESG strategy that clearly identifies ESG risks and opportunities over short- and long-term horizons.

Services We Offer

ESG Strategy and Program Review

We have experience advising clients across a broad range of sectors in developing their ESG strategies, and in particular in identifying ESG risks and opportunities. For companies and organizations that are relatively new to ESG or are just starting out on their ESG journey, we offer an ESG Strategy and Program Review. This review consists of the following:



ESG strategy assessment and identifying gaps in your strategy



Peer benchmarking



Recommendations for ESG metrics and content creation



Future steps for ESG implementation and integration

Discrete ESG Advice

For companies or organizations that are further along in their ESG strategy development and journey, our deep subject matter knowledge can be beneficial for refining and optimizing your strategy. Our lawyers have extensive experience in E, S and G and can provide practical advice on how to address each category. We are also deeply integrated in many industries and areas of business, and offer a truly unique perspective. Examples of discrete ESG advice include:

E

- Purchase and sale of carbon credits and offsets
- Environmental compliance program/metric review
- Benchmark reporting by industry
- Advising on GHG legislative requirements

S

- Labour and employment/ health and safety advice
- Community/ Indigenous engagement strategies
- Data protection and privacy
- Metric review

G

- Compliance program review development
- Equity/inclusion/ diversity policies
- Standards of business conduct/ethics review/development
- Metric review

Our Value Proposition:

UNPARALLELED EXPERIENCE IN ESG

The lawyers on our ESG team have worked as in-house counsel responsible for developing and implementing ESG strategies in the energy and mining sectors, two of the most heavily scrutinized industries from an ESG perspective. We know the challenges you face because we've been there; after living those experiences, we know what it takes to succeed.

WE LIVE OUR VALUES

We are trusted advisors and fiduciaries, which means we are ethically and professionally obligated to act with integrity and in our clients' best interests at all times. We treat our clients the way we want to be treated. We also walk the walk: MLT Aikins is deeply committed to building, maintaining, and continuously improving its own best-in-class ESG strategy and program.

THE "WHY"

There are other service providers that offer similar ESG offerings. You won't choose MLT Aikins because of *what* we do; you will choose us because of *why* we do it.



Meet the MLT Aikins ESG Team ▶▶▶

Conor Chell, Counsel | Calgary



When Conor joined MLT Aikins, he set out to do things differently. His goal is to infuse humanity into his legal practice and help companies, as well as those who work for them, become the best versions of themselves.

Conor comes from a long line of coal miners who immigrated to Canada from the UK and Norway in the mid-1850s. His ancestors sacrificed their health, well-being and ultimately their lives in order to provide a better life and better opportunities for their families. Conor's great grandfather, James Chell, was the Mine Manager for the Cumberland Mine in Springhill Nova Scotia for nearly 30 years. James resigned in 1955 as a result of his displeasure with the growing number of serious health and safety injuries and fatalities in the mine, and management's unwillingness to address those issues. Soon thereafter, in 1956, an explosion occurred in the Cumberland Mine, trapping 127 miners and killing 39. In a separate incident in 1958, 174 miners were trapped and 75 were killed, representing the largest mining disaster in North American history up to that point in time. When Conor was growing up, he remembers his Nana often singing "The Ballad of Springhill"; a constant reminder of loved ones lost.

As a result of the sacrifices of Conor's great-grandparents and grandparents, Conor's parents were the first on either side of their families to be able to go to university, the first to obtain university degrees (bachelors and masters), and the first to become professionals, starting as teachers, then principals, then directors of education in the Saskatchewan education system. They made a significant and positive impact on the communities in which they lived and worked.

In recent years, Conor found himself increasingly thinking about the purpose of his life, both personally and professionally. He reflected often on the sacrifices and contributions of his grandparents and his parents, and wondered if his children and grandchildren would see him in a similar light. As part of that reflection, Conor decided that going forward, he was going to live a life, both personally and professionally, with purpose. His goal is to have the broadest positive impact possible, and to create a legacy that his family will be proud of. This is what brought him to MLT Aikins, and this is why he does what he does.

Prior to joining MLT Aikins, Conor spent several years at a national law firm. More recently, he spent over a decade with Suncor Energy in various roles of increasing responsibility. Conor has extensive experience with environmental and regulatory permitting of major energy infrastructure, environmental management, risk and compliance systems, health and safety process development and incident investigations, interactions and relationships with Indigenous communities, and in the development of ESG strategy. Conor is an emerging thought leader on ESG matters and a frequent author/blogger on the topic, and was recently featured in an article by *Canadian Lawyer* on ESG activism.

Connect to discuss your organization's ESG strategy today.

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Samina Ullah, Associate | Saskatoon



Samina's practice includes advising on construction and infrastructure projects, joint venture agreements and implementing governance and compliance programs in the mining and natural resource industries. After spending several years consulting internationally and acting as an in-house counsel for a nuclear energy company, Samina brings a well-rounded approach to advising companies on their ESG metrics. Samina's passion for ESG stems from a deep interest in where things come from, how they get there and who is impacted along the way. Companies and organizations are increasingly asked to be aware of their broader impacts and engage as social actors operating within complex global supply chains and changing investment and financing requirements. Most companies have deeply held values and mission statements that outline their impact and guide their work, but sometimes organizations struggle to make these intentions a reality. Companies and organizations are also now faced with much greater scrutiny. Samina's practice is founded on the belief that a company's or organization's principles and values must be embedded throughout the organization's culture. This requires strategic planning, broad engagement and regular measurement and review to make sure a company's best intentions have their intended impact.

Connect to discuss your organization's ESG strategy today.

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