

Litigation and shareholder activism

Our world-class team of cross-practice lawyers advises clients around the globe on all matters relating to litigation and shareholder activism on issues concerning the environment, social, and wider governance issues. Combining deep industry sector experience with the strength of our market-leading litigation practice, we get the very best results for our clients.

The issue

Also known as “sustainable investing” or “conscious consumption,” ESG-focused spending continues to gain momentum and will have ongoing impacts on companies world-wide. Stakeholders, including consumers, shareholders, and pension fund members, scrutinize the ESG behaviours and credentials of companies, and with the power of the purse and through litigation, the stakeholders attempt to drive action. Individuals bringing claims are often backed by environmental action groups and use the courts to bring attention to environmental-related risks, change corporate behaviour, and seek compensation. We advise and represent our clients as they navigate this complex and developing litigation landscape, helping them on the front end to implement strategies to avoid litigation and representing them when litigation does ensue.

What we do

Responding to the evolving ESG landscape requires a multi-faceted approach. We prepare clients in advance by evaluating their operations, particularly as they relate to environmental compliance and governance issues, and advising them on best practices. In doing so, we seek to prevent any litigation and shareholder activism. While we advise client on all aspects of environmental compliance, ESG-related litigation tends to focus on issues relating to climate change, and we have specific expertise in advising clients on the potential legal risks and challenges associated with their energy consumption and production, and GHG emissions. This includes advising our clients on potential climate impacts associated with their business operations, and with respect to what they communicate about their corporate behaviour, their products and services. When preventative measures fail or when litigation has already begun, we represent our clients through every stage of associated litigation.

The support we provide to businesses includes:

- Briefing in-house counsel teams and business decision makers about climate related risks and opportunities, specific to their business
- Reviewing public facing consumer and stakeholder communications and assisting companies in developing strategies in their communications that minimize the potential for ESG disputes
- Advising on governance structures to ensure the company is well-situated to ensure environmental compliance and avoid governance related disputes
- Advising on robust forward-looking defensible policies on climate impact issues and disclosures compatible with “TCFD” (Task Force on Climate Related Financial Disclosure) principles
- Negotiating with stakeholders to find mutually beneficial solutions
- Defending clients in ESG-related litigation

Our impact

Representative matters we’ve handled include:

- Advising a major Silicon Valley tech company as it navigates its responses to public criticism relating to its energy use and data centre activities
- Working with leading manufacturers of consumer products to evaluate their product categories with respect to product design, sustainability and climate impact
- Advising on litigation risk associated with environmental impact claims and representing companies navigating litigation and shareholder actions
- Advising multinational conglomerates on all aspects of environmental compliance, including developing strategies around climate change, sustainability, and governance issues
- Advising a multinational company on all risks associated with climate change, including public and stakeholder perception, messaging, and litigation avoidance
- Advising a publicly-traded, global manufacturing company on environmental governance and sustainability

Useful links

- [Global Products Law at Hogan Lovells](#)

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