SEA View

ESG regulation in Singapore – from baby steps to a run

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Stephanie Keen, Amelia Lee, Crispin Rapinet, and Khushaal Ved from our Corporate, Consumer, and Corporate Investigations practices have collaborated to chart the sprint in ESG regulation in Singapore, and why it matters in the Lion City, and across Southeast Asia and the Pacific.

Your company, stakeholders, shareholders, and the watching regulators all have their expectations of inevitable ESG-related implementations.

ESG, short for environmental, social, and governance (ESG), refers to the practice of integrating ESG criteria into businesses, to bring about sustainable development outcomes. Coined almost two decades ago in 2004 by a group of financial institutions[1] in a United Nations report titled "Who Cares Wins," references to ESG have become nearly ubiquitous worldwide, especially in the United States and Europe, reflecting the startling growth of this area. According to *Bloomberg*, global ESG assets under management increased by nearly 66 percent over four years, from US$22.8 trillion in 2016 to US$37.8 trillion as of the end of 2020.

Earlier this year, our global Consumer industry sector group prepared this brochure, "Consumed, counselling consumer companies on ESG practices" – from procuring ethically sourced or organic products, to fair pay and working conditions, diversity and inclusion initiatives, and consumption and community relations.

The attractiveness of ESG for all stakeholders is the thought that companies attending to such practices are better designed for sustainable returns and better designed to steer through volatility.

ESG is trending. In Singapore, as with much of Asia, change has been slower to arrive than in the West.

Although the Singapore Exchange (SGX) began requiring listed companies to publish annual sustainability reports in 2016, including information on material ESG factors applying to those companies; their policies, practices, and performance; details on sustainability targets; as well as the sustainability reporting framework used by those companies[2], these requirements have been

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[1] https://d306pr3pise04h.cloudfront.net/docs/issues_doc%2FFinancial_markets%2Fwho_cares_who_wins.pdf

[2] SGX-ST Listing Rules, Rule 711B

questioned on the basis that companies are essentially free to decide which ESG factors are "material" and to be reported on.[3] This reduces the usefulness of any data gleaned from such disclosures. In April 2021, a survey also showed that there was a "significant" gap between what Singapore investors believed, and their actions with respect to ESG investing. Although 80 percent of Singapore investors asserted that ESG issues were central to managing their investments, in practice, only a quarter of such investments considered ESG factors – and more than half of those investors said that they lacked the knowledge on how to approach ESG investing.[4]

A slow start

According to a 2019 report by the CFA Institute,[5] the main reasons for Singapore companies' reluctance to adopt ESG practices included, amongst others, a lack of comparable and historical data to show the links, relationships, and causation between ESG and investment performance, a limited understanding of ESG issues, and little evidence of benefits of ESG investing. According to the investors surveyed, the correlation between embracing ESG and improved corporate performance was not clear, and asset owners were not making explicit demands for ESG practices in their mandates.

The relatively flexible ESG regulatory regime in Singapore, which allows most businesses to choose whether or not to comply with ESG practices (and if so, the degree of such compliance) has also contributed to Singapore companies' reluctance to wholeheartedly embrace ESG policies and practices, despite generous support provided by the Singapore government. Such incentives include, for instance, more than SG$1 billion in projected expenditure by the Singapore government to help businesses become more energy and carbon efficient, and the Monetary Authority of Singapore's (MAS') Green Investments Programme, which will invest up to US$2 billion in public market investment strategies that have a strong green focus.

The accelerating pace of change

However, the initial cautious approach towards the regulation of ESG reporting and investing is changing – and quickly.

In 2019, MAS published its Green Finance Action Plan,[6] which set out a roadmap for Singapore's transition to green finance. As part of this plan, MAS has been taking increasingly active steps to promote ESG factors in Singapore's financial sector. In addition to the launch of the Green Investments Programme, MAS also updated its Sustainable Bond Grant Scheme in 2019, which aimed to encourage the issuance of green, social, and sustainability bonds in Singapore by helping issuers to cover additional costs associated with external reviews of such bonds based on internationally recognized standards and frameworks. Through our market-leading Impact Financing and Investing group, we are able to support clients as they navigate across a spectrum of sustainable finance and investments including blended finance and alternative structures, social and development bonds, green and blue finance, financial inclusion products, sustainability-linked loans and bonds, green infrastructure transactions, and gender lens investing.

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3 https://www.businesstimes.com.sg/companies-markets/investors-to-see-more-useful-data-in-mandatory-sustainability-reports

4 https://www.businesstimes.com.sg/banking-finance/80-of-singapore-investors-believe-in-esg-but-only-a-quarter-take-action-survey

5 https://www.cfainstitute.org/-/media/documents/survey/esg-integration-apac.ashx

6 https://www.mas.gov.sg/-/media/MAS/News/Media-Releases/2020/MAS-Green-Finance-Action-Plan.pdf

MAS upped the pace again in 2020, releasing a set of three Guidelines on Environmental Risk Management (guidelines) for the asset management,[7] banking,[8] and insurance[9] sectors. These guidelines are notable in that they depart from MAS' previous "carrot" tactics (i.e., the use of incentives to encourage the adoption of ESG) in favor of a more prescriptive approach. Banks, asset managers, and insurers covered by these guidelines should comply with the standards and recommendations set out by MAS within the specified transition period, and MAS may take such compliance (or noncompliance) into account, in making an overall risk assessment of such institutions.[10] MAS also launched the Singapore Green Finance Centre in October 2020 (a research institute dedicated to green finance research, and supported by universities and nine founding financial institutions) and the Green and Sustainability-Linked Loan Grant Scheme (GSLS). The GSLS aims to support Singapore corporations and banks by providing grants to cover expenses incurred in engaging independent sustainability assessments, developing green and sustainability frameworks and targets, and obtaining external reviews for green and sustainable loans.

The way forward?

Coming into 2021, the rate of reform has shown no signs of slowing. In March 2021, MAS announced a slew of upcoming ESG initiatives at the IMAS-Bloomberg Investment Conference, including an upcoming review of the Singapore Stewardship Principles to provide specific guidance on company stewardship for environmental considerations and an ongoing consultation led by the Green Finance Industry Taskforce, which aims to ultimately create a standardized set of criteria to classify the environmental friendliness of economic activities.

Regulatory reckoning

Singapore's gradual shift away from a purely incentive-based strategy to an approach which incorporates "harder" ESG regulatory requirements is not without precedent. Regulators globally have signaled their willingness to adopt more interventionist tactics: in the United States, the U.S. Securities Exchange Commission (SEC) is expected to announce a mandatory ESG disclosure framework – following their April 2021 risk alert for examinations of ESG investing – which may require issuers to provide uniform and standardized line-item ESG disclosures. The EU's Sustainable Finance Disclosure Regulation (SFDR) also began implementation in March 2021 and imposes a detailed set of mandatory ESG disclosure obligations on asset managers and other financial markets participants. Failure to comply with the SFDR may result in the imposition of sanctions on such participants by local regulators in the European Union.

ESG investing, as the SEC tells us,[11] does not mean that:

- ESG investment strategies are particularly unique in the gaze of the government.
- Regulators will evaluate the merits of the ESG investment.
- A whole raft of ESG policies and procedures need to be rolled out.

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7 https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Fund-Management/Regulations-Guidance-and-Licensing/Guidelines/Guidelines-on-Environmental-Risk-Management-for-Asset-Managers.pdf

8 https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Commercial-Banks/Regulations-Guidance-and-Licensing/Guidelines/Guidelines-on-Environmental-Risk---Banks/Guidelines-on-Environmental-Risk-Management-for-Banks.pdf

9 https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Insurance/Regulations-Guidance-and-Licensing/Guidelines/Guidelines-on-Environmental-Risk-Management-Insurers.pdf

10 https://www.mas.gov.sg/regulation/MAS-Supervisory-Approach-and-Regulatory-Instruments

11 SEC.gov | Statement on the Staff ESG Risk Alert - https://www.sec.gov/news/public-statement/peirce-statement-staff-esg-risk-alert

Instead, the SEC is telling us that the lack of precise ESG definitions and varying terminology presents risks. And much like fraud or false and misleading statements around a non-ESG investment, the SEC want investors to be protected, and firms selling ESG products to be adhering to their own claims.

We recommend evaluating – with informed legal counsel – what ESG claims your own company can actually deliver.

How can a supply chain be protected, and represent a policy that says how it should be performing? Business integrity is not being watched solely by regulators in the corridors of power, or by ESG activists, but by consumers with smartphones and social media who don't need the firm's 10K or annual report to hear about poor working conditions, or environmental destruction. Even if the pace has been slower in Asia than in the West, our clients can't adopt a narrow geographic analysis when contemplating ESG changes. Rarely do our clients have operations solely in one ZIP code, and ESG practices are intertwined, like the internet, across borders.

Compliance processes will need to be reviewed. And with so many interested parties the time for action can bring significant upside for your brand. We can assist with risk management, risk intervention, corporate reporting, sustainable financing, and due diligence risk assessment exercises. And we already are; the pressure is not just from the regulators or consumers, but from your competitors too.

We are already beginning to see signs of corporate transparency and ESG changes in Singapore; the coming months and years will show if other regulators in Asia follow suit. We expect that change and readiness to intervene to be only a matter of time, and in a span of weeks and months, rather than years and decades.

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SEA View

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