

ESG Ballooning In Two Years Since Paul Weiss Group Launch

By **Anna Sanders**

Law360 (April 13, 2022, 11:55 AM EDT) -- The two years since Paul Weiss Rifkind Wharton & Garrison LLP began an environmental, social and governance advisory practice have seen a flurry of activity as businesses and BigLaw respond to the field's growth during the pandemic.

David Curran, the firm's chief sustainability and ESG officer, told Law360 Pulse he never knew how quickly ESG issues would emerge when Paul Weiss hired him as it launched the practice in April 2020. The practice has grown from just Curran, who is based in New York, to seven full-time ESG lawyers and five nonlawyers working with 25 partners across the firm.

"We predicted the issues, but not that everything would happen in 2020 that happened," said Curran, a former litigator.

The pandemic helped advance the area in the legal industry, driving public awareness of environmental and social issues and increasing pressure on businesses to become more resilient and tackle societal problems. The country's racial reckoning following the deaths of George Floyd and others in police custody, as well as the renewed focus on sustainability under President Joe Biden, have only hastened ESG's rise as regulators, customers and shareholders demand more from boards and organizations.

ESG has already added pressure to law departments. A study released last week said that most of general counsel and chief legal officers surveyed say they face much more work over ESG issues but lack clear guidance from regulators or the expertise, resources and support from the C-suite to handle the risks.

"Our in-house clients have been challenged to get much more involved and to seek our counsel on a much more complex set of issues than they were 24 months ago," Curran said. "It's both the societal drivers, the stakeholder pressure and U.S. government scrutiny for the first time."

Last month, the U.S. Securities and Exchange Commission proposed rule changes that would require some climate-related disclosures from public companies, mutual funds, investment advisers and others registered with the agency, including information about risks and their greenhouse gas emissions.

Curran said he expects the move to be just the start of a wave of federal ESG regulation. The Federal Deposit Insurance Corp., the Federal Reserve and the New York State Department of Financial Services will also expand into ESG, he said.

"The SEC has already thrown down the gauntlet in environmental, and they are, by all accounts, going to

issue rule-making on human capital disclosure requirements," Curran said. "If you have to disclose much more transparently around areas like human rights and diversity, equity and inclusion, which have not been required, basically, that's going set off a significant amount of work for us and other firms."

Curran said he expects more firms to prioritize ESG in the coming months and years. A host of BigLaw firms and smaller outfits have already bulked up their ESG offerings or started dedicated practice groups.

Kirkland & Ellis LLP has an ESG and impact practice group, and it hired at least five new partners for the team last year. Orrick Herrington & Sutcliffe LLP and Gibson Dunn & Crutcher LLP also have ESG practices. In February 2021 Hunton Andrews Kurth formed a "multidisciplinary" ESG team and Seyfarth Shaw LLP launched an ESG, corporate citizenship and human rights group. Before merging with Arent Fox LLP, Schiff Hardin LLP formed an ESG team last May. In September, Sheppard Mullin Richter & Hampton LLP formed an ESG and sustainability team. And in January, Latham & Watkins LLP hired two attorneys to be global co-chairs of the firm's multidisciplinary ESG practice.

"I would say the other firms have adjusted to us, and I'm not saying that with arrogance," Curran said. "I would imagine eventually more will have specialty groups like ours."

Paul Weiss designed its sustainability and ESG team to easily deploy advisers within other areas across the firm. The advisory practice includes nonlawyer experts in components of ESG, like data science. He said climate change and sustainability will be fixtures in mergers and acquisitions, capital markets transactions, litigation, the diligence before a company goes public and other matters.

"We have a group of experts who work with our corporate practice, work with our restructuring practice, work with our litigation groups, our capital markets teams, our M&A teams," Curran said.

The full-time focus of the team is key, Curran said, because clients "want that level of sophistication and knowledge."

That's why he says the biggest challenge is the lack of law school education surrounding ESG.

"We had to put this whole curriculum together at our firm that didn't exist, and the same is true everywhere else," Curran said. "There is no course at a law school about this, but we're hoping that in the next 18 months that changes."

To close this knowledge gap, last fall Paul Weiss launched the ESG and Law Institute, a forum where lawyers, companies and academics can discuss and independently study issues at the intersection of ESG, business and the law. The institute has already teamed up with the University of California, Berkeley School of Law's Business in Society Institute and with Howard University School of Law.

Curran said the growth of ESG is a great opportunity for younger attorneys, particularly those who are comfortable working without decades of legal precedent.

"This is a burgeoning area that will be a massive area of specialty — bigger than cyber, bigger than a lot of these other specialties because of its broad impact," Curran said.

--Additional reporting by Sue Reisinger and Al Barbarino. Editing by Brian Baresch.
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