

OCTOBER 27, 2021 | ROUNDTABLE

# ESG Intersects with PE: Practical ESG Considerations for Private Equity

On October 27, Paul, Weiss hosted a virtual, senior level roundtable titled “ESG Intersects with PE: Practical ESG Considerations for Private Equity,” with General Counsel, Chief Compliance Officers and other C-Suite Execs from top private equity firms. Dave Curran, co-chair of the Paul, Weiss ESG Advisory Practice facilitated the conversation. He was joined by Jean Rogers, ESG expert and founder and former CEO of SASB; Nadia Karkar, General Counsel of TPG Growth & Rise; and Paul, Weiss M&A Partners Jeremy Veit and Austin Pollet.

The roundtable explored the practical considerations for private equity firms as they expand their ESG journeys, particularly as they intersect with regulatory and legal issues. The discussion focused on the role lawyers, both in-house and outside counsel, play in helping organizations further their ESG agendas. The heightened focus by investors, activists, regulators, rating agencies and other stakeholders on ESG has brought about increased scrutiny on ESG commitments and how organizations disclose their efforts. The featured speakers shared practical tips for PE firms on how to protect against risk, while also meeting their business commitments.

The featured experts agreed that while the acronym ESG may be relatively new, lawyers have always been practicing ESG, and these considerations have been part of the decision- and deal- making process for a long time. In-house legal teams already have the tools they need to help their organization and their portfolio companies meet their ESG objectives, Austin Pollet continued, and it is merely a matter of reframing and repurposing these tools in a new context. ESG considerations should also become a critical component of the diligence process, rather than a form of “check the box” compliance, Austin and Jeremy Veit noted. Applying an ESG lens in potential acquisitions can help identify areas of weaknesses in the target company that are either a deal breaker or a chance for improvement. Spotting these weaknesses early allows firms to develop a proactive go-forward plan that can be put in place following the investment.

While discussing the role of the general counsel in helping move organizations’ ESG agendas forward, one expert noted that the best value a general counsel can add is the ability to communicate across the organization and translate ESG into business terms to make it more palatable for stakeholders. ESG, they noted, should not be viewed as separate from the core of the business, but rather through a commercial lens as a key component of operations. Clear communication with stakeholders to educate and gain buy-in is critical in moving the needle internally on ESG. Jean Rogers highlighted that the dichotomy between shareholders and stakeholders is a myth, and that companies need to recognize that doing well by their stakeholders is key to long-term value and success. Actively and consciously aligning with stakeholders, she noted, can help companies better mitigate reputational risk.

Lastly, the speakers discussed the rapidly evolving regulatory landscape and how private equity firms can navigate the shift from voluntary to mandatory ESG disclosure. The best way to prepare, Jean suggested, is by looking at the [sample climate change disclosure letter](#) published by the SEC in September. While the sample provides a good indication of what regulators will be looking for in terms of disclosure, the SEC is also looking for companies to take the lead and define what issues are material to them and how they talk about it. In light of this, the featured guests anticipate that where regulators will be scrutinizing disclosures the most is on compliance: Is the organization actually doing what they say they are? Alignment of communications across channels—filings, public statements, ESG reports and more—to ensure consistent messaging is therefore key to closing gaps and mitigating risk. Doing this can also help organizations better communicate with their investors and the public.

---

*Our Sustainability and Environmental, Social and Governance (ESG) Advisory practice helps boards and executives navigate the legal, business and political ramifications of developing and implementing sustainability and other ESG initiatives. We advise on ESG-focused stakeholder engagement, corporate governance, crisis management, corporate social responsibility, sustainability, diversity and inclusion, ethics and compliance.*

**For more information about Paul, Weiss's ESG Advisory Practice, please explore here:**

<https://www.paulweiss.com/practices/sustainability-esg>

...the SEC is also looking for companies to take the lead and define what issues are material to them and how they talk about it. In light of this, the speakers anticipate that where regulators will be scrutinizing disclosures the most is on compliance: **Is the organization actually doing what they say they are?**