ESG fraud types. ESG washing Manipulation of ESG data, Failure to report ESG metrics. Legal responsibility for ESG fraud.

Types of ESG Frauds

ESG washing

- Greenwashing
- Pinkwashing
- Brownwashing
- Whitewashing
- Bluewashing
- Purplewashing
- Redwashing

Manipulation of ESG Data

Market manipulation are deliberate actions that affect trading activity and corporate policies. Market manipulation has unintended consequences also for the ESG policies of the firm.

Incorrect data provided by third parties

External ESG fraud is facilitated by third parties, such as sellers, buyers or contractors, who deceive an organization by omitting material facts or disclosing information about ESG programs. Suppliers can also provide incorrect ESG information (ex. On carbon emission), causing an organization to fraudulently report ESG data.

ESG underreporting issue

Failure to disclose - omitting material ESG facts; or by the improper disclosure of ESG initiatives, programs, and metrics. Examples of omission may be failure to disclose the use of child or forced labor, harvesting resources from illegal sites, or illicit trade and trafficking
As opposed to financial data which lives in well defined and regulated financial statements, ESG data (thus far) has been highly inconsistent in the way it is presented, let alone measured.

Legal responsibility for ESG fraud

Regulatory Framework trends

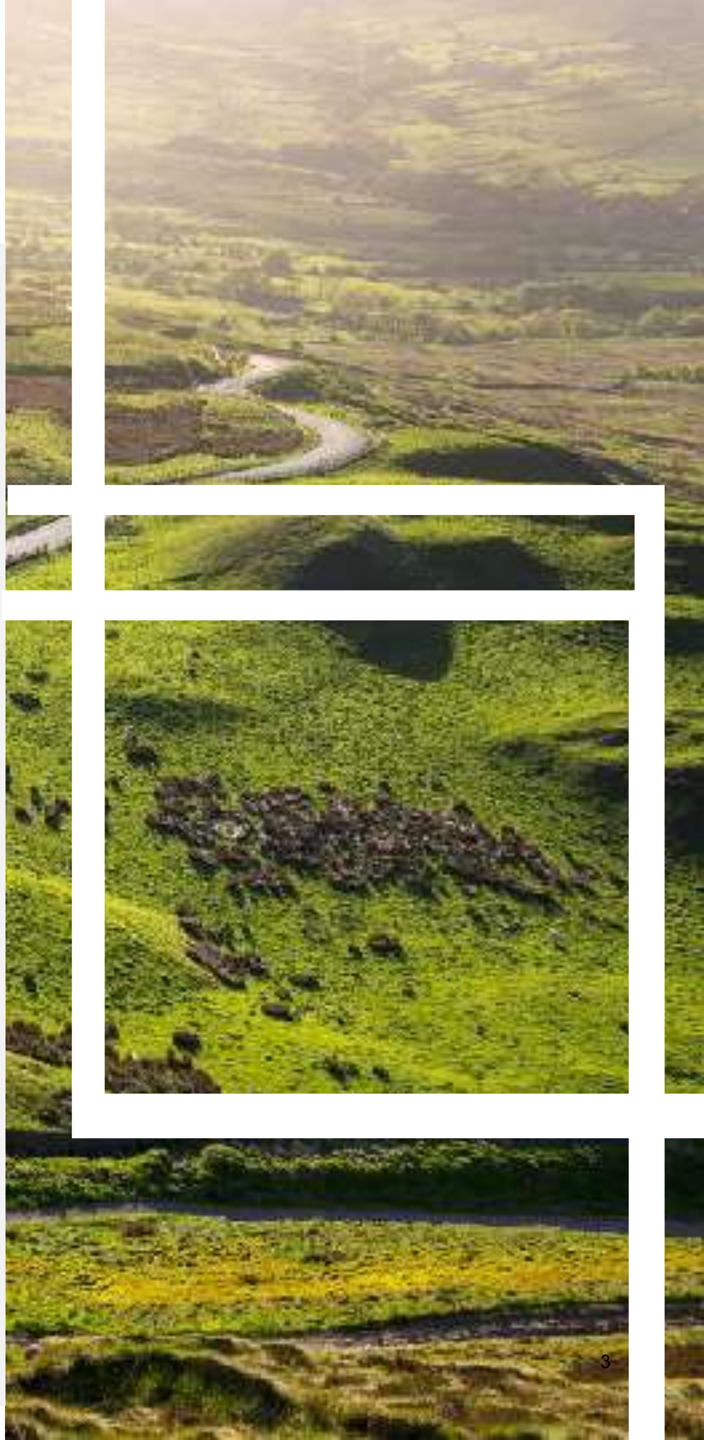
- The changes in the legal framework at the EU level and at the local level tend to legislate the accountability of the board of directors in for ESG frauds.
- Proposal to amend the Unfair Commercial Practices Directive defining and sanctioning “greenwashing” and untransparent sustainability labels. Scope is to eliminate misleading environmental messaging setting clear rules for how companies should market their environmental impacts and performance. Infringing **fined up to 4% of annual turnover**.

Personal liability for directors and officers

- Committing ESG fraud can have serious consequences for its executive bodies and business partners. These include reputational damage and liability risks, as well as fines and imprisonment.
- ESG factors are increasingly being used to determine executive compensation
- At local level – specific criminal offence provided by art 272^1 from Law no. 31/1990 on companies

Contractual liability

- In view of CSRD and CSDD, companies are specifically required to seek the necessary contractual assurances from their business partners – as well as from their respective business partners that are part of the value chain through contractual cascading – so as to make them comply with the company's ESG policy.
- This means that if a supplier breaches any of the clauses in their contract, they may be held liable (such as any data manipulation or incorrect reporting to the buyer)



Thank you