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DRIVING ESG INITIATIVES FORWARD IN INDIA

Introduction (Meaning and Prominence)

In layman terms, ESG refers to 'Environment', 'Social' and 'Governance' aspects of an enterprise which socially conscious investors refer to decide about operations of the company. In recent times, the ESG have gained extreme prominence as a result of investors being more responsive towards consideration of environment and human wellbeing, as well as the economy.

Criteria for Environment is the yardstick as to how the company operates viz-a-viz the steward of nature, whereas, Social criteria examines as to how company manages relationships with its workers, employees, suppliers, customers and the communities at large, where it operates. Governance deals with a company's leadership, executive pay, audits, internal controls/ checks and shareholder rights.

ESG is gaining prominence across the globe in the recent times. Companies are focusing on making sustainable choices, minimising their operational impact on the biodiversity, et cetera. Lenders and creditors are also increasingly incorporating ESG metrics in evaluation of borrowers and credit analysis. Moreover, a lot of companies are also showing interest in investing in ESG funds.

The reasons why ESG gained a lot of prominence are manifold. First, there is a real need for evaluating the businesses on parameters which are related to environment, social and governance aspects so as to invest 'sustainably'. Second, due to changing societal mind-set, various stakeholders including consumers, activists, investors, etc. are demanding more transparency in businesses. Third, increased regulatory, compliance and litigation risk also prompted the whole focus to shift on ESG. Fourth and last, a greater need to scrutinise corporate behaviour also provided a further push to need of ESG compliances.

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Development of ESG Reporting & Regulatory Frameworks in India

The laws, regulations, policies surrounding the environment, social issues and governance are not something new; instead they were and are always there. Hundreds of years ago, religious and ethical beliefs influenced investment decisions, such as Muslims established investments that complied with Sharia law, which included prohibitions on weapons. The governments, regulators, companies and investors have seemed to have realised the importance of non-financial factors like ESG at par with financial factors.

In furtherance of this realisation, the regulations governing ESG reporting in India evolved and developed through the following timeline:

Year	ESG Initiative taken by	ESG Initiative
1974 - 2006	Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India (GoI)	Apart from the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981, and Biological Diversity Act, 2002, under the Environment (Protection) Act, 1986, the Environment Impact Assessment Notification, 2006 (replaced the earlier 1994 notification) was notified for the environment related compliance.
2009	Ministry of Corporate Affairs, GoI	With the issuance of the National Voluntary Guidelines (NVGs) on Corporate Social Responsibility (CSR), ESG reporting started in India.

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Year	ESG Initiative taken by	ESG Initiative
2010	MoEFCC, GoI	National Green Tribunal Act, 2010 was enacted for the expeditious disposal of cases arising out of environment related disputes.
2011	MoEFCC, GoI	Coastal Regulation Zone Notification, 2011 was notified under the Environment (Protection) Act, 1986.
2012	Securities and Exchange Board of India (SEBI)	Mandated the top 100 listed companies by market capitalisation to file the Business Responsibility Report (BRR) based on NVGs along with annual reports.
2013	Ministry of Corporate Affairs, GoI	Under the Companies Act, 2013, CSR activities have been made mandatory for companies falling under the prescribed category. Section 134(m) of the Companies Act, 2013 mandated companies to include a report by their Board of Directors on conservation of energy, along with annual financial statement. Rule 8(3)(A) of the Companies (Accounts) Rules, 2014 further mandated the Board to provide information regarding conservation of energy.
2015	SEBI	Extended the BRR to the top 500 listed companies by market capitalisation. As per Regulation 34(3) of the SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015 [LODR], companies are mandated to include disclosures on opportunities, threats, risks and concerns as part of their annual reports.
2016	MoEFCC, GoI	E-Waste (Management) Rules, 2016; Construction and Demolition Waste Management Rules, 2016; Plastic Waste Management Rules, 2016; Hazardous and Other Waste Management Rules, 2016; and Construction and Demolition Waste Management Rules, 2016 were prescribed to be complied by every enterprise situated in India.
2017	SEBI	Integrated Reporting (IR) was introduced voluntarily for the top 500 companies required to prepare BRR. Issued a circular on 'Disclosure Requirements for Issuance and Listing of Green Debt Securities' by supplementing the SEBI (Issue and Listing of Debt Securities) Regulation, 2008, so as to introduce the regulatory framework for issuance of green debt securities in India and enhance investor confidence. The circular envisaged a list of disclosures that an issuer must make in its offer document before and after the commencement of a project financed by green debt in order to attract the finance reserved for ESG-compliant projects.
	Indian Banks' Association (IBA)	Released the National Voluntary Guidelines for Responsible Financing. Principle 2 provides that Financial Institution's should integrate the analysis of environmental, social and governance factors in their investment, lending and risk-management processes across business lines to minimize adverse impact on their own operations and on society.
2019	Ministry of Corporate Affairs, GoI	Introduced the National Guidelines on Responsible Business Conduct (NGRBC).
	SEBI	Extended the BRR to the top 1,000 listed companies by market capitalisation.
May 2021	SEBI	Replaced the BRR framework with the Business Responsibility and Sustainability Reporting (BRSR) framework by amending Regulation 34(2)(f) of the LODR Regulations to further strengthen the ESG disclosure regime in India. BRSR framework is aligned with 9 principles of NGRBC and it will be mandatory for the top 1,000 listed companies to annually disclose ESG-related information from financial year 2022-23.

Challenges

Awareness and knowledge about ESG:
Big companies clearly understand the concept of ESG and their responsibilities under the same. Challenges actually arises for smaller companies. These small companies still see ESG as a compliance requirement and that makes the level and quality of attention to ESG troublesome. So that kind of mindset has to be changed and management, people, employer and employee alike need to be educated. ESG is much more than a mere compliance requirement and it is going to play a key role in

how a company is going to perceive and perform in a long run acting the process as a steward of Nature.

Data:

Since ESG cuts across numerous departments in an organisation, the issue that arises is the availability of data. Collating such kind of data itself is going to be a big challenge even within the organisation, which immediately requires to be streamlined and shall only happen over a period of time. Another challenge is the accountability and accuracy of data.

Voluntary disclosure:

In a country like India, voluntary disclosures are really difficult to take place.

Subjectivity:

At the heart of ESG reporting is a subjective framework as compared to financial reporting of a company which has a fairly accurate sense of each metric and consistent understanding of it. Whereas, when it comes to ESG given its subjective understanding, its measurement and reporting framework are still evolving and that leaves a lot of room for a company to do it in its own way; rather than having a scientific, objective or quantified measurement.

Small and Medium sector:

We often hear a lot about ESG reporting in terms of large companies, we need to see a similar dialogue in the middle and small sector companies. That way, the adoption of ESG is still a long way to go.

Government initiatives:

With respect to policies, although a number of siloed efforts have been taken by the government, we are yet to see the standardised ESG policies.

Conclusion and Suggestions

In short, we in India are at the early stages of the journey of ESG and that's one big opportunity to drive some resemblance of standardization and sustainability. Definition of ESG is obviously not going to be 'one-size, fit-all' an it may have to be contextualized for each industry. But having a little bit more resemblance of standardization and objectivity in the indexing and measurement framework will be useful for everyone across the table which can be achieved partly from the regulation framed through consultation across all stakeholders. Moreover, the willingness of the company to comply with ESG should not be based on the mindset of legal enforcement but out of sheer enthusiasm for achieving societal goal within three dimensions, i.e., the environmental, economic and social dimension.

Further today a lot of focus and spotlight has come in on large corporates and listed companies and their ESG reportings. But the ESG system will be served pretty efficiently if the same scrutiny or spotlight flows in building capacity at grass-root level. We also need to make sure that there's enough going in terms of building capacity where there will be solutions which will come in helping these corporates drive that ESG agenda. Hence, there is a lot more room needed to be able to put resources to build capacity so that the ESG measurement is more robust across the whole end of value chain. Least to say, Indian subcontinent having sprawling fauna and flora with extravagant biodiversity, it is imperative that Company should play a major role in concretely re-shaping the goal of sustainable development

Further, the ESG filing and reporting has to be also seen from the perspective of ease of doing businesses in India. Thinking ESG as a culture and a way of doing business rather than a mere compliance framework would go a long way. A company's vision and values also have to be integrated for better ESG results. Lastly, a concerted effort is required from all the stakeholders viz. government, corporates, investors, analysts and media, et cetera to make ESG truly effective. The same shall not only result in welfare for all classes and communities, associated directly or indirectly with the company but shall be detrimental in interaction of the company and its operations with the Nature, as well.