

ESG – THE GOLD MINE

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Off the mark!

By now the term “ESG” is a better understood terminology than what it was about five years before. For example, as a part of initiative by BCCI, the regulatory body for cricket in India, in the live telecast of the matches, the dot balls were shown with the symbol of green trees towards the end of the tournament. It is understood that BCCI is partnering the Tata Group in this initiative and will plant 500 trees for every dot ball bowled in the last four play-off games, highlighting the importance of ESG aspects. The underlying message through the live telecast of the IPL 2023, which is followed by millions of cricket fans across the globe bears testimony to the awareness being created with respect to ESG. While awareness for ESG is growing, even today the potential and the opportunities that it offers to a new class of professionals including a Company Secretary (CS) who may think of diversifying his / her practice is not something that has been fully gauged. If one were to state that it is a goldmine for professionals to make a career in ESG, it would be an understatement. This is because the gaps that have been created with respect to environmental and social concerns call for stringent governance actions and it would take the globe a long time to narrow these gaps to reasonable limits. For instance, one of the identified SDGs with respect to freezing carbon emissions to Net Zero by 2030 was not acceptable to India and China, both of whom agreed to phase down carbon emissions and committed to Net Zero target by 2070. Even to achieve this commitment of extended target by India will require a focussed collaborative effort with multi-disciplinary professional approach focussing on governance where CS as the preferred professional can play a major role.

Unravelling the potential

While Environmental and Social concerns continue to raise concerns and questions at a global level on the long-term sustainability of the planet, there has been a rising demand for professionals in the domain of ESG and Sustainability. Whatever has been done so far by the Corporates, particularly in India and other emerging nations have been in the form of increased hiring at middle management levels and / or supplementing these efforts through upgrading of in-house competencies at middle/lower management levels. Globally there is a demand-supply-gap in this domain and with respect to India it is perceived that there is a huge gap at the Key and Senior Management levels, which translates into big opportunities to those professionals who are willing to learn and develop new skills to diversify and / or specialise in these domains. According to a 2022 report by Indeed, a US-based website that keeps track of employment trends, the job demands in the ESG sector has grown by 468% in the last three years.

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According to Xpheno, Money Control, it has been estimated that in India, five sectors namely Construction & Civil Engineering, Oil & Energy, Environmental Services, Pharmaceuticals and Chemicals collectively make up around 45% of the ESG linked talent. Further according to the same source, the five top clusters namely Government Administration, Industrial Engineering, Architecture / Planning, IT & IT related services and Management Consulting & Advisory Services account for around 40% of the senior / middle management roles in the field of ESG. Given the present gap in demand-supply of ESG talent, professionals talented in ESG may be able to command a premium ranging from 30% to 50%. Add to this scenario, the requirements of the MSME for ESG talent, which is expected to be directly as well as indirectly impacted arising out of implementation of the ESG / Sustainability related measures by the large / mid-size business houses makes the opportunities in this field even more exciting. With reference to the PCS the opportunities in the Management Consulting & Advisory Services can be both interesting as well as rewarding.

Emerging global regulatory landscape in ESG

Driven by concerns largely related to climate change particularly in the United States and a large part of Europe and also related to achieving social equity in lesser developed countries, regulators globally have responded with prescribing a surfeit of regulations in their respective jurisdictions calling for reporting and disclosures on ESG parameters. These disclosures are largely on various non-financial parameters concerning ESG having significant bearing on stakeholder concerns and interests.

The Securities and Exchange Commission, USA (SEC) has proposed some new rules as well as carried out certain amendments with enhanced disclosures on March 21, 2022 requiring companies to disclose information relating to greenhouse gas emissions (GHG) and other climate related risks as well as transition plans. These proposals focus on promoting consistent, comparable, and reliable information required by investors with respect to funds focussing on ESG.

The European Union (EU) has come out with new rules on Corporate Sustainability Reporting entitled “The Corporate Sustainability Reporting Drive (CSRD)” on January 5, 2023. Approximately 50,000 large companies in the EU will be covered by these new rules which will be applied for the first time in 2024, whose reports will be published for the first time in 2025. These rules will ensure that investors and other stakeholders have access to the information they need to assess investment risks arising from climate change and other sustainability issues thereby creating a culture of transparency about the impact of these companies on people (society) and the environment.

The UK in April 2022 enacted two mandatory ESG disclosure laws namely a) The Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 and b) The Limited Liability Partnerships (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 requiring certain companies based on thresholds of no. of employees (500) / Turnover (£ 500 million) which will have impact not only on the country’s largest companies and financial institutions but also on the supply chains of umpteen number of businesses, underscoring the relevance of ESG reporting irrespective of whether they are directly affected or not.

New Zealand has made ESG reporting mandatory for large public listed companies, insurers, banks and investment managers from 2023 onwards. In Asia, Malaysia became one of the first few countries to introduce mandatory ESG reporting in 2016, but as on date consistent reporting framework is not mandated.

ESG initiatives in India

Starting with the earliest visible initiative in December 2009 when the Ministry of Corporate Affairs (MCA) issued the Voluntary Guidelines on Corporate Social Responsibility, it can be said that India has travelled quite a distance with respect to ESG, but a lot more needs to be done at breakneck speed on the ESG front. India is known to be the only country to have mandatory Corporate Social Responsibility (CSR) since the same was introduced for the first time through the Companies Act, 2013 with effect from April 1, 2014. CSR mandates compulsory spends by a company to the extent of 2% of average pre-tax profits over the last three years in certain identified areas having environmental and social focus based on thresholds of profits, turnover or net worth. The rules relating to CSR when first introduced was based on “comply or explain”. These have now moved from “comply or explain” to “comply or get penalised”. However, the spectrum of ESG / Sustainability is far larger and wider than that of CSR.

Securities and Exchange Board of India (SEBI) which governs the space of listed entities mandated Business Responsibility Report (BRR) for the first time in August 2012 for the top 100 listed entities by market capitalisation, which was later extended to top 500 listed entities in April 2016 and to top 1000 listed entities in December 2019, applicable with effect from FY 2019-20 to FY 2021-22. With the growing emphasis on Environment, Social and Governance (ESG), SEBI has expanded the scope of the BRR by including the concepts of “Sustainability” under the revised framework of “Business Responsibility and Sustainability Reporting (BRSR)”. Listed entities were encouraged to voluntarily adopt the new BRSR framework for FY 2021- 22 instead of the BRR framework with the rider that the reporting under the BRSR framework from FY 2022-23 is mandatorily applicable for the top 1000 listed entities. The listed entities other than the top 1000 listed entities are encouraged to voluntarily adopt the BRSR framework. According to estimates by SEBI, more than 175 listed entities voluntarily adopted the BRSR framework for the FY 2021-22, which included a few listed entities not figuring in the top 1000 listed entities. The BRSR framework seeks to link the performance of a listed entity on business, financial and economic parameters with its ESG performance so that the stakeholders such as the regulators, investors, suppliers, creditors and others have the necessary information to be able to make an assessment and evaluation of the progress made by the listed entity in terms of growth and sustainability in totality considering all parameters wherein financial parameter is one of them. It can be readily seen that the BRSR framework lays emphasis on sustainability initiatives and their disclosures by the listed entity. It is estimated that there are more than around 100 data points for disclosures in the new BRSR format which highlights the truly multi-disciplinary nature of the entire framework.

Need to respond to challenges by raising the bar

In the wake of plenty of opportunities to the CS through regulatory requirements in the form of ESG/ BRSR going forward, a note of caution is sounded here. The challenges in ESG may be such that cannot be resolved from the comfort of the corporate office. CS should be ready to pack the bags and go to the site of the operations many a times to understand and comprehend the nature, extent and complexity of ESG issues. The CS may have to take part in key stakeholder consultations in order to properly identify the governance challenges that have to be addressed. This will also involve brain storming sessions with key and senior management personnel in the organisation as well as consultations with external multi-disciplinary professionals wherever required before concluding on the possible manner to address the ESG issues.

ESG has led to a shift from “shareholder focus” to “stakeholder focus” when it comes to the

corporates. Even otherwise, with the increased pace of regulatory changes, CS is the focal point in the corporate structure of any organisation and plays a major role in shaping its governance structure. With the added dimension of focussing on stakeholders other than shareholders as well, the expectations from CS is getting more complex given the dynamic nature of the stakeholder concerns which need to be balanced appropriately to achieve sustainability for the corporates in line with the stakeholder expectations.

The CS will need to have a much closer understanding and connect with the Board of Directors in terms of strategies pursued in order to connect them to the emerging regulatory and governance framework which duly factors the ESG parameters. This will also call for validating and updating the various internal policies, systems and procedures followed by the company and connect with the emerging requirements in the ESG domain. Wherever necessary, constitutional documents such as MOA / AOA as well as the Board policies may have to be amended and all these requirements will keep the CS on his / her toes. Considering the responsibilities and expectations on the in-house CS, it may be worthwhile for that CS to seek external help whenever required without hesitation so that the responsibilities are discharged effectively.

Any professional seeking to get respect and standing in the international arena will have to achieve mastery in English language. Proficiency in English language is an absolute must, since it is at least one of the official languages in as many as 86 countries and is estimated to be the most widely spoken language across the globe. As governance professionals, the CS would be dealing with stakeholders across the globe and since most of the globe understands English language, it is obvious that mastery in English is a basic requirement to succeed as Governance Professional. Considering the often observed deteriorating English language skills amongst the average Indian professionals, ICSI may consider the need to strengthen the curriculum emphasising on certain basic minimum proficiency in English. The ICSI may also consider introducing a separate certification programme on Global Governance Professional where there could be added focus on English language skills and interested members may pursue such programmes to enhance their standing in the global market. This is stressed even more in view of the suggestion given by our Hon'ble External Affairs Minister to make English the official language in the G20 proceedings.

ESG – A low hanging fruit for PCS

The profession of Company Secretaries has grown by leaps and bounds ever since the Companies Act, 2013 became operational since April 1, 2014 and has now travelled beyond the conventional e-filing, IPO and listing and sky rocketed to handle critical governance issues not only in the corporate regime but also other hemispheres. It is very well established that CS is the ultimate governance professional and is second to none in this field. It is also well recognised that armed with their background, the CS professionals are in a good position to navigate and excel in new and emerging areas wherever there is focus on stakeholder interest and this is equally applicable to ESG as well. CS as a student as well as a professional is adept at handling and helping the corporates to comply as well as navigate their business operations in the new and emerging regulatory as well as governance framework. CS is today the preferred professional, whether as in-house CS or as an external consultant when it comes to compliance and governance functions. However, many of the new and emerging areas of opportunities such as ESG require the CS to appreciate the importance of multi-disciplinary focus and obtain the co-operation and support of the entire organisation as it pursues its strategy while at the same time remain well governed. The demands of ESG and sustainability make the role of CS very crucial.

From a practitioner's perspective there will be significant opportunities for PCS. Some of these avenues include the following: -

- a) Handholding corporates when they implement ESG related policies to navigate to higher levels of maturity,
- b) Providing advisory services relating to obtaining ESG ratings in the MSME sector where as part of supply chain, even medium sized or small businesses will have to address ESG related risks,
- c) Conducting internal as well as external ESG Due Diligence,
- d) ESG Internal Audit,
- e) External ESG assurance,
- f) Nomination as independent director in ESG / Sustainability committees (This requires regulatory amendments which may be pursued by ICSI with appropriate authorities).

Though the above identified avenues looks apparently lucrative and tempting, Darwin's theory of Survival of the Fittest will always have the last say, unless there is an inclusive approach. As highlighted and stressed repeatedly, ESG practice has a multi-disciplinary focus whereby each of the above areas require apart from CS, CA and CMA also the technical expertise of other professionals. An inclusive approach by at least the three professional bodies (CS, CA and CMA) can contribute to the size of the professional cake becoming very big and all professionals can grow. This is one way by which more professionals survive to be fit to negate the Darwin's theory. Else, the entire thought process would be consigned to remain as an utopian dream.

The government is making all out efforts to position India as the Vishwaguru when it comes to ESG. Given that unlike other emerging or new areas, the demand supply gap for ESG professionals globally is ever on the increase and the trend is expected to continue even after the gap in achieving the SDGs is substantially bridged. This is because continued involvement of governance professionals in this multi-disciplinary opportunity is necessary to ensure that the ESG parameters are monitored on an ongoing basis globally as well as locally. The CS professionals and the ICSI are virtually sitting on a goldmine, and it is up to the profession and the Institute to encash this global opportunity to position the profession of CS as the Vishwaguru of Governance.

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