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Civil Fraud in ESG

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What is ESG Fraud?

Providing inaccurate, misleading or dishonest information relating to ESG credentials or to compliance with ethical standards and/or values in order to derive a benefit.

- Greenwashing
- Greenhushing – making vague and opaque statements around ESG targets, metrics and achievements

Examples in practice:

- Unsubstantiated claims of ESG focus or achievements in investment or listing materials
- False or exaggerated ESG claims used in advertising/marketing
- Mis-statements in external financial and internal reporting

#buzzwords



Named and shamed



How big a problem is it?

- Water Companies facing a claim valued at **£800 million** for under-reporting of regulatory breaches (environmental) in order to achieve financial rebates and bonuses.
- VW agreed a settlement of **£193 million** in the UK alone, but rising into the **£billions** worldwide.
- Truck Cartel combined claim value of **£billions** EU-wide

Under Pressure

- Remuneration linked to achievement of ESG targets
- Favourable lending terms linked to ESG metrics
- Competitive marketing

Opportunity knocks

- Societal expectation v lack of regulation
- Lack of transparency
- Reliance on industry bodies, autonomous associations or independent movements to set and enforce universal standards

Is it wrong?

- Green fades to grey
- Who is the judge?
- Drive towards enforcement through climate related impact-litigation

ESG in Financial Services

A key risk, but a key role to play

A triple front:

1. Internal compliance
 - Advertising
 - Investment materials
 - Financial reporting and disclosures
2. External
 - lending policies
 - Disclosure of negative impact of investment decisions on ESG factors
3. Mitigate risk to individuals
 - Monitoring activity of regulated firms

Global developments in regulation

- US Securities & Exchange Commission proposals to expand reporting and disclosures obligations to climate issues and cybersecurity issues. Further proposals expected in areas such as human capital
- EU Sustainable Finance Disclosure Regulation
- Sustainable Markets Initiative's Financial Services Taskforce
 - **Net-Zero Banking Alliance**
- FCA
 - Sustainable Disclosure Requirements Rules
 - Anti-Greenwashing Rule – references to sustainability characteristics must match the sustainability profile of the product and be clear, fair and not misleading.
- EU proposed **Green Directive** aimed at regulating green claims

Final thoughts...

*“ESG issues are some of the most important topics discussed in the boardroom today. Consumers and employees are paying increased attention to these areas, and ESG issues have become a major consideration for individual and institutional investors. **But, as with many new trends, the regulatory and reporting frameworks related to ESG are struggling to keep up with the pace of change. Without consistent standards, the opportunity for fraud is increased.** Consequently, anti-fraud practitioners have a critical role to play in the future of ESG programmes.”*

Managing fraud Risks in an Evolving ESG Environment

Association of Certified Fraud Examiners with Grant Thornton