

NIEDERER KRAFT FREY

Environmental, Social and Governance (ESG)

Supporting our clients to navigate a new corporate landscape



Introduction

Environmental, social and governance (ESG) concerns are of increasing importance in the corporate landscape. A growing global awareness of topics like climate change and diversity, combined with empirical studies showing a positive correlation between the sustainability of companies' financial success and their ESG performance, have catapulted ESG topics from the fringe into the limelight in the corporate world. Investors and companies both in Switzerland and around the globe are embracing this rapid evolution and are developing practices which enable them to contribute to being part of the solution to some of today's most pressing problems.

At Niederer Kraft Frey, we are ready to assist you in navigating the opportunities and challenges that this change brings.



ESG: What is it?

The concept of ESG encompasses more than just climate change. It involves a broadening of focus beyond short-term profits to a more sustainable form of corporate engagement, by emphasizing three areas of concern.

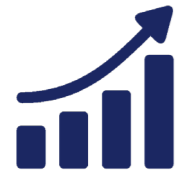


- Developing new environmental opportunities, such as clean-tech
- Slowing and preventing climate change
- Reducing carbon footprint, waste and pollution
- Improving handling of and impact on natural resources
- Bringing efficiency and biodiversity to land use

- Engaging meaningfully with all stakeholders
- Improving labour relations and developing safe working environments
- Accepting social responsibility along the full supply chain
- Respecting public opinion and working to gain and maintain public trust
- Fostering diversity and inclusion

- Focusing on ethical, transparent and sustainable corporate conduct
- Enabling responsible ownership and decision-making structures
- Ensuring comprehensive oversight and risk management
- Implementing fair executive compensation

ESG: Why does it matter?



ESG is good for business. Data increasingly show that companies with good ESG practices bring increased returns, as well as leverage in negotiations with counterparties and stakeholders.



ESG is good for risk management. Effective risk mitigation is inherently linked with long-term value creation.



ESG is good for the world. ESG focuses on reducing inequality, raising living standards and slowing climate change, and adds reputational value to companies that can show strong ESG performance.

In Switzerland, there are growing levels of engagement with ESG. Although the Responsible Business Initiative (*Konzernverantwortungsinitiative*) was recently rejected, alternative legislation will come into force which introduces ESG reporting obligations on certain Swiss companies, as well as a human rights due diligence obligation. A growing number of listed companies are opting in to the SIX Swiss Exchange's sustainability reporting scheme, and sustainable and green finance is becoming an ever-greater feature of Swiss financing practices, with lenders being willing to factor ESG performance into the pricing discussions.

How can NKF help?

Managing ESG risks and availing of ESG opportunities require an indepth knowledge of evolving and complex legal requirements. At NKF, we have the expertise to guide you successfully and safely through this new landscape, with a focus on three key ESG pillars.



- Support in drafting ESG/ sustainability reports and navigating complex and sometimes opaque reporting requirements
- Assistance in establishing appropriate ongoing reporting procedures and processes
- Determining the ESG compliance of companies in due diligence processes
- Building appropriate ESG protections into transaction agreements, such as through the use of indemnities



- Assistance in formulating ESG policies, codes of conduct and practices, and support in implementation and training
- Crisis management (e.g. environmental accidents; corporate scandals, governmental / internal investigations, dawn raids)
- Mitigation, remediation and representation should ESG risks materialise



- Advice to borrowers on the requirements and advantages of sustainable financing (i.e. green and sustainable loans and bonds)
- Assistance to borrowers and lenders with the negotiation of sustainability linked credit facility agreements and the definition of criteria (e.g. relating to diversity, reduction of greenhouse gases, evidence of compliance with external standards)
- Supporting borrowers to obtain certifications and ratings by external agencies

Our Credentials



Niederer Kraft Frey

“Clients report that the team ‘provides legal advice of extremely good quality,’ particularly highlighting the ‘good understanding of our business needs and ability to find practical solutions.’”



“The team’s strengths are its responsiveness, its in-depth legal expertise, its strategic mind and its outcome-oriented approach and high commitment.”

“... an excellent choice for all truly important matters”



“Strengths are availability, response time and technical knowledge.”

“High-end and high-quality legal firm”



WINNER
BEST SWISS FIRM
Niederer Kraft Frey

The Legal Media Group named Niederer Kraft Frey “BEST SWISS FIRM” at the Women in Business Law Awards 2020 Europe



NKF’s Litigation practice is listed in the GIR 100, an annual guide to the world’s leading cross-border investigations practices.

Our Experts

ESG Risk, Identification, Reporting & Disclosure



Deirdre Ní Annracháin
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Deirdre’s practice focuses on capital markets, M&A transactions and corporate finance. She has experience working with international and Swiss companies, investment banks and private equity firms in a range of equity, debt and M&A transactions.

ESG Risk Management



Juerg Bloch
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Juerg advises companies and their management on internal and regulatory investigations as well as in the areas of white collar crime, money laundering, crisis management, corporate governance, compliance and international judicial assistance.

Sustainable & Green Finance



Adrian Koller
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Adrian’s practice focuses on public and private M&A and on financing transactions, including complex acquisition and other structured financings. Adrian also advises on capital markets transactions and other corporate and commercial law matters.

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