

Regulatory Highlights – 2022

Regulation	Description
Global	
German Supply Chain Due Diligence Act	A German law that establishes obligations for companies in regard to managing their supply chains.
Norwegian Transparency Act	A Norwegian Law requiring companies to ensure due diligence with respect to human rights and decent working conditions.
European Corporate Sustainability Reporting Directive (CSRD)	A European Union directive on sustainability reporting. It requires companies to disclose information regarding opportunities and risks stemming from environmental and social issues, as well as the impact of their activities on people and the environment.
Brazil	
Decree No. 11,075/2022	Established a series of main guidelines for creating a regulated carbon market in Brazil.
Brazilian Private Insurance Authority (SUSEP) Circular No. 666/2022	Provides for sustainability-related requirements that insurance companies, open-end private pension funds (EAPCs), capitalization companies and local reinsurers must meet.
Brazilian Securities Commission (CVM) Resolution No. 175/2022	Provides for the types of investment funds that can use labels such as ESG, green, and sustainable, and also classifies carbon credits and decarbonization credits (CBios) as financial assets.

Guiding Documents

A number of entities in the Brazilian market have published ESG best practice guides.

Directives and Guidelines	Description
ANBIMA Guide to Offering ESG Bonds	A guide for financial institutions seeking to make public offerings of fixed-income ESG bonds.
B3 (Brazil Stock Exchange) Sustainability Guide	The guide seeks to disseminate information, reflections and best practices for sustainability in order to assist companies in taking a different path that ensures their longevity and creates value.
ABNT PR 2030	The Brazilian Association of Technical Norms' guide to integrating ESG principles in organizations.



Trends for 2023

Regulatory Highlights

Proposed Regulation	Description
Global	
European Parliament Directive on Corporate Sustainability Due Diligence	A proposed directive on due diligence for promoting sustainable and responsible corporate behavior, and for integrating human rights and environmental aspects into corporate governance.
European Green Deal - Regulation on deforestation-free products	A proposed directive that would ban European Union member states from importing products linked to deforestation.
OECD – Public Consultation – Guidelines for Multinational Enterprises	The OECD has invited expressions of interest from interested stakeholders in updating the OECD Guidelines for Multinational Enterprises, which set out recommendations for governments and companies seeking to ensure responsible business conduct.
U.S. Securities and Exchange Commission (SEC): 2023 Regulatory Agenda	According to the SEC's agenda, it plans to regulate how GHG emissions are disclosed, as well as restrictions on titling investment funds. It will also seek increased transparency and more regular disclosures concerning how ESG is integrated into investment strategies.
Brazil	
Bill No. 1,817/2022	Seeks to amend the Brazilian Corporations Law (Lei das S.A.), the National Environment Policy and the Brazilian Law on Public Bids and Administrative Contracts as a way of encouraging companies to adopt ESG-related best practices.
Bill No. 572/2022 - Regulatory Framework on Human Rights for Corporations	Seeks to create a national regulatory framework on business and human rights that would establish guidelines for companies to respect human rights and for the public sector to promote public policies on the topic.

Public Hearings

Organization	Subject
Brazilian Institute of Corporate Governance (IBGC)	The revision of Brazil's Code of Best Corporate Governance Practices to expressly cover ESG issues.
B3 (Brazilian Stock Exchange and Over-the-Counter Market)	The proposal of new ESG regulations for listing publicly-held companies, which includes diversity criteria for company boards and officers. The regulations would also impact policies for appointing board members, executive compensation, and company codes of conduct and management reports.

Market Trends

ESG Litigation

As the world becomes ever more aware of ESG issues, litigation concerning companies' commitments to ESG is on the rise.

Topic	Trend
Actions of the U.S. Securities and Exchange Commission (SEC)	The SEC is stepping up its efforts to tackle greenwashing, filing several administrative lawsuits against asset managers for dishonestly advertising their products as sustainable, as well as judicial lawsuits against publicly-held companies.
Climate Litigation 2.0: Board member liability	There is a rising trend in international litigation regarding the liability of board members in relation to ESG issues.
Conflicts with indigenous peoples and traditional communities	Around the world, legal disputes involving indigenous peoples and traditional communities are on the rise regarding free, prior and informed consent and redress for the negative social and environmental impacts of climate change.

Reporting

There is a growing trend toward strengthening reporting requirements for ESG performance and data consistency, which can be used to tackle greenwashing.

Publication of the new Global Reporting Initiative (GRI) Standards.	
Pressure for companies to make biodiversity-related disclosures, as well as progress in developing a framework of the Taskforce on Nature-Related Financial Disclosures (TNFD).	

Strengthened Governance of ESG Issues

There is a trend toward strengthening governance structures and mechanisms for planning and monitoring ESG issues within companies.

- Increased adoption of advisory committees to boards of directors.
- Dissemination of voting as a means to pressure boards of directors to implement ESG strategies and inclusion.

The Intersection between Human Rights and the Environment

Recognition of the intersection between human rights and the environment has been formalized at a Brazilian and international level, especially from a climate perspective.

Legal Instrument	Description
Global	
UN General Assembly Resolution A/75/L.75	The UN General Assembly has declared that every person on the planet has the right to exist in a healthy environment, formalizing this as a human right.
Brazil	
ADPF No. 708	Brazil's Federal Supreme Court (STF) recognized the supra-legal nature of environmental treaties – in particular, the Paris Agreement – as a form of human rights treaty. It also recognized that the state had constitutional obligations to protect the climate.