Corporate social responsibility

13.03.2025 2 min read

Authors

Fernanda Pereira Carneiro

Related areas

Corporate and M&A

Topics

Corporate and M&A ESG BMA Review

Traditionally, economic models have been developed on the premise of an abundance of available resources, and have prioritized financial returns. In recent years, however, there has been a growing awareness of the economic and financial impacts of environmental, social and governance (ESG) risks and climate change, which have opened up new views on the need to adapt business models to incorporate sustainable practices.

From the investors' perspective, the adoption of ESG practices by securities issuers can be an important consideration in process of deciding where to allocate their funds. And for issuers, the demand for ESG awareness has become an incentive to start looking for business models that can generating social impact and add competitive value.

In Brazil, the Brazilian Securities and Exchange Commission (CVM) has been exercising its regulatory jurisdiction to encourage the adoption of sustainable practices, including (i) CVM Resolution 59/2021, which provides that certain issuers must disclose ESG indicators in their Reference Forms, (ii) CVM Resolution 175/2022, which establishes disclosure obligations for investments funds whose names refer to ESG factors, and (iii) CVM Resolution 193/2023, which gives publicly-traded companies, investment funds and securitization companies the option to prepare and disclose sustainability-related financial information according to the international standard issued by the International Sustainability Standards Board (ISSB). This last regulation was an international milestone, with Brazil being the first country to adopt the ISSB standard for disclosure of sustainability-related information. Although filing sustainability-related information is optional until the 2026 financial year, according to a report by the Institute of Independent Accountants of Brazil (IBRACON) dated August 28, 2024, 86% of the companies listed on the IBrX 100 B3 filed a sustainability report for the financial year 2023 – an indicator of real market acceptance.

Despite the significant progress that has been made, there are still considerable challenges, especially with respect to transparency, investor confidence, and the comparability of sustainability-related financial information based on clear, standardized indicators and metrics.

To date, no additional legal obligations have been imposed on companies' management other than those already provided for in Law 6404/1976 (the Brazilian Corporations Law) and applicable regulations. Instead, management is required to adapt, in compliance with their existing duties of diligence, loyalty and information, which have gained new scope in the light of ESG practices. Management's duties remain obligations of means, not of result, so if a member of management has in good faith, diligently, and with a view to the company's interests, they cannot be held responsible.

The importance of ESG practices in the corporate context arises not only from the need to comply with Law 6.404/1976, but also – indeed mainly – from increasingly strong international demand. The preference is now for companies that adopt sustainable practices, reflecting a paradigm shift in which financial performance is intrinsically linked to environmental and social responsibility.

>>> This content is part of BMA Review #86. Click here for more.

› PROFESSIONALS

Professionals who combine legal insight and market perspective

Fernanda Pereira Carneiro