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Operating in a Changing World: A Note on ESG-Related Compliance Obligations for Nigerian Companies

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Introduction

ESG — which stands for Environmental, Social and Governance — ensures that with the application of these three criteria, a company's method of operations is considered alongside its profitability[1]. ESG compliance therefore fuses ethical practices into business operations by ensuring that in addition to providing value for its investors, companies also add value to other stakeholders (e.g., the environment, employees, host communities, customers, suppliers, labour union and host governments[2]).

Key considerations within the ESG framework include[3]:

- Environmental - examining how a business performs as a steward of the environment by focusing on issues such as climate change, pollution, biodiversity, waste management and water use.
- Social – looking at how the company treats people by concentrating on employee relations, diversity, health and safety, working conditions and community relations.
- Governance – examining how a company polices itself by focusing on issues such as disclosures, transparency, board structure/diversity, anti-bribery and corruption and renumeration.

To achieve sustainable development, governments are utilising formal regulations to nudge companies and investors to increasingly incorporate ESG principles and requirements into their business practices and investment decisions[4]. The aim of this note is therefore to highlight some obligatory ESG related requirements under Nigerian law. We will first discuss briefly why ESG analysis is relevant within the Nigerian context.

1 IHS Markit and Mergermarket, 'ESG on the Rise: Making an Impact in M&A' available at <https://www.mergermarket.com/assets/Ipreo%20Q1%202019%20Newsletter_AW_FinalLR.pdf > accessed 18 March 2021.

2 Vincent George Whitelock, 'Relationship between Environmental Social Governance (ESG) Management and Performance – The Role of Collaboration in the Supply Chain' available at: < https://etd.ohiolink.edu/apexprod/rws_etd/send_file/send?accession=toledo1450087632&disposition=inline > accessed 11 March 2021.

3 See the UN Global Impact Report, 'Who Cares Wins- Connecting Financial Markets to a Changing World" available at < https://d306pr3pise04h.cloudfront.net/docs/issues_doc%2FFinancial_markets%2Fwho_cares_who_wins.pdf > accessed 18 March 2021.

4 Principles for Responsible Investment and UNEP Finance Initiative, 'Fiduciary Duty in the 21st Century' available at < https://www.unpri.org/download?ac=9792 > accessed 22 March 2021.

Why is ESG relevant in Nigeria?

Nigeria is the largest economy in Africa with a youthful and rapidly growing population, thus making it an ideal place for investment[5]. Sadly, it is a country faced with major socio-economic challenges such as corruption, infrastructure gaps, insecurity, extreme poverty, food insecurity, energy poverty, unemployment, inadequate healthcare and an ailing education system[6]. To reverse these ugly trends, a collaborative approach must be adopted by business leaders and the government to jointly take steps and introduce initiatives that will engender sustainable development in Nigeria. One way of engaging in such partnership is through the incorporation of ESG principles and activities into business operations given the linkage between the application of ESG principles and sustainable development[7]. From a business level perspective for companies operating in Nigeria, some of the recognized benefits of this cooperation, which are based on the implementation of a well-defined ESG framework are as follows[8]:

- Enhances corporate reputation and improves stakeholders' perception of the business;
- Creates a positive synergy with sector regulators and other government actors, which reduces regulatory and political risks;
- Mitigates operational risks (e.g., employee strikes, environmental disasters);
- Mitigates community disputes, which are prevalent in Nigeria, particularly in the extractive industries;
- Aids in the establishment of a social licence to operate, which is critical when operating in a developing country like Nigeria;
- Improves managerial decision-making and enhances long-term value creation;
- Enhances the ability of the company to attract, retain and motivate top talents – employees are increasingly concerned about ESG issues;
- Improves the development of Nigerian content, which is critical to sustainable development;
- Improves employee performance, resource efficiency, cost savings and productivity; and
- Facilitates access to capital.

To activate these benefits inherent in the sound understanding of the concept of ESG as a true mark of business sustainability, businesses must approach the application of ESG principles from the perspective of a cultural value that should be deeply rooted in their operations and not viewed simply as a compliance issue to be ticked off from time to time[9].

On its part, the Nigerian government should actively incorporate ESG principles into national legislation in order to nudge high quality operations from companies and thus drive the sustainable development of Nigeria. The duty of government actors to drive sustainable development is recognised in the Nigerian Constitution[10]. Chapter II of the Nigerian Constitution contains environmental, social and governance directive principles that government actors exercising legislative, executive and judicial powers are required to observe (e.g., recognition of diversity, promotion of integration, provision of social welfare, ensuring the good of the community and protection of the environment)[11]. Expectedly, these principles are slowly seeping into formal rules and regulations and in some cases as highlighted in the table below, are now couched in obligatory terms.

5 Congressional Research Service, 'Nigeria: Current Issues and U.S. Policy (September 18, 2020)' available at: < https://fas.org/sgp/crs/row/RL33964.pdf > accessed 11 March 2021.

6 Ibid.

7 The World Bank Group, 'Incorporating Environmental, Social and Governance (ESG) Factors into Fixed Income Investment' available at < https://openknowledge.worldbank.org/bitstream/handle/10986/29693/125442-WP-PUBLIC.pdf?sequence=5&isAllowed=y > accessed 11 March 2021.

8 See generally: Elizabeth Pollman, 'Corporate Social Responsibility, ESG, and Compliance' available at: < https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3479723 > accessed 11 March 2021; NSE Sustainability Disclosure Guidelines; and Guy Alexander and Benson Adenuga, 'Performance beyond profit: Environmental, Social and Governance (ESG) leadership as a performance driver' available at: < https://businessday.ng/opinion/article/performance-beyond-profit-environmental-social-and-governance-esg-leadership-as-a-performance-driver/ > accessed 22 March 2021.

9 KPMG, 'ESG: A view from the top' available at: < https://assets.kpmg/content/dam/kpmg/cn/pdf/en/2018/09/esg-a-view-from-the-top.pdf > accessed 22 March 2021.

10 See s. 13 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

11 Peter Oniemola and Oyinkan Tasie, 'Engendering Constitutional Realization of Sustainable Development in Nigeria' Law and Development Review 2019.

Nigerian regulators are also giving focused attention to ESG issues. For example, the Central Bank of Nigeria in 2012 issued general and sector specific sustainable banking principles to be adopted and implemented by all banks, discount houses and development finance institutions[12]. In 2018, the Nigerian Stock Exchange (NSE) introduced the Sustainability Disclosure Guidelines aimed at integrating sustainability in listed organisations[13].

Also, the Nigerian Code of Corporate Governance issued by the Financial Reporting Council of Nigeria in 2018 requires companies to pay adequate attention to sustainability issues[14]. In 2020, the Securities and Exchange Commission (SEC) released the SEC Corporate Governance Guidelines (applicable to all public companies), which requires companies to, *inter alia*, recognize corruption as a major threat to national development and a sustainability issue for businesses in Nigeria[15].

12 See < https://www.cbn.gov.ng/out/2012/ccd/circular-nsbp.pdf. > accessed 11 March 2021.

13 See < http://www.nse.com.ng/mediacenter/pressreleases/Pages/NSE-Announces-its-Sustainability-Disclosure-Guidelines.aspx > accessed 15 March 2021.

14 NCCG, principle 26.

15 See < https://sec.gov.ng/sec-corporate-governance-guideline-and-revised-form-01/ > accessed 15 March 2021.

A New Era of Directors' 'Environmental Obligation' under Nigerian Corporate Law?

Interestingly, the recently enacted Companies and Allied Matters Act, 2020 (CAMA 2020) now imposes an 'environmental obligation' on directors of Nigerian incorporated companies by mandating directors to, in discharging their duties as directors of the company, consider the impact of the company's operations on the environment in the community where the company carries on business operations[16]. From a corporate law perspective, Nigerian law therefore requires directors to go beyond their duty to the company, its shareholders and employees[17] and also consider the wider interests of other stakeholders (i.e., the environment and host communities) that are impacted by the operations of the company. Directors of Nigerian companies are thus expected to regularly ensure that the companies on whose board they sit are conducting themselves responsibly in their relationship with their host communities and the environment.

Briefly, it is worth noting that the 'environmental obligation' imposed on directors under CAMA 2020 is different from what is contemplated and required under environmental statutes that provide for the culpability of directors and other officers of a company where the company is found to have committed an environmental offence. CAMA 2020 therefore seeks to imbue an environmental protection consciousness into the corporate governance regime of companies operating in Nigeria by making it an integral part of directors' fiduciary duty[18].

Although the question of the enforceability of this new directors' 'environmental obligation' is outside the scope of this note, it suffices to state that we are in an era of shareholder activism and it would not be unreasonable to expect that shareholders would invoke their statutory and contractual rights to expand the frontiers of the 'environmental obligation' imposed on directors and drive the practical incorporation of ESG principles into corporate practices. For public companies, another avenue that can be utilized to push ESG principles is the shareholders' association[19] - from information published by SEC, there are more than 100 shareholder associations registered with the Corporate Affairs Commission[20].

Some Mandatory ESG Related Activities

We highlight below some general ESG related activities imposed on companies operating in Nigeria. Although some of these activities may have been established without a consideration of the formal concept of ESG in mind, they nevertheless fall within the ambit of ESG consideration and are in line with ESG principles. It is important to note that the obligations highlighted in this note are in no way exhaustive as there are sector specific regulations and State level laws and regulations that provide for certain mandatory ESG related activities. Failure to perform the stated activities generally attracts sanctions, such as custodial sentence for directors/officers, fines, sealing of premises, revocation of permits/licences, forfeiture of assets *etc*. It is therefore prudent for companies operating in Nigeria to regularly conduct compliance audits and develop a comprehensive compliance matrix to keep track of mandatory practice requirements.

16 See CAMA 2020, s. 305(3).

17 Section 305(4) of recently enacted CAMA 2020.

18 David M. Ong, 'The Impact of Environmental Law on Corporate Governance: International and Comparative Perspectives' available at < http://ejil.org/pdfs/12/4/1540.pdf > accessed 15 March 2021.

19 Innocent Okwuosa and Kenneth Amaeshi, 'Responsible Investment in Nigeria' in Tessa Hebb et. al. (eds), The Routledge Handbook of Responsible Investment (Routledge 2016).

20 See list at: < https://sec.gov.ng/list-of-registered-shareholders-associations/> accessed 15 March 2021. The Corporate Affairs Commission is Nigeria's companies' house.

S/N	MANDATORY OBLIGATIONS	REFERENCE STATUTES/ REGULATIONS	COMPLIANCE REQUIREMENT
		ENVIRONMENTAL	
1	Environmental impact assessment ("**EIA**") for projects.	Environmental Impact Assessment Act (CAP E12 Laws of the Federation of Nigeria ("**LFN**") 2004) ("**EIA Act**")	Globally, the EIA is recognised as a feedforward tool for achieving sustainable development by balancing the objective of development with environmental protection. This is not different in Nigeria. The EIA Act[21] mandates that an EIA must be conducted for any project or activity that is likely to significantly affect the environment. The EIA report is required to be submitted to the National Environmental Standards and Regulations Enforcement Agency[22] ("**NESREA**" – the Federal environmental protection agency) for approval and a certificate issued.
2	Obtaining environmental permits.	NESREA (Establishment) Act, 2007[23]	NESREA is the federal environmental protection agency that enforces general environmental standards and regulations in Nigeria, with the consequent responsibility for environmental protection, biodiversity conservation and sustainable development of Nigeria's natural resources and environmental technology. To ensure that commercial and industrial activities are carried out in an environmentally safe manner to safeguard the environment, NESREA created different broad categories of environmental permits,[24] such as air quality permit[25]; waste and toxic substances permit[26], used electrical and electronic equipment permit[27]; biodiversity conservation permit[28], eco-guard certification[29]; and environmental import clearance[30]. Companies carrying on operations/activities within the scope of any of the required permits must apply for and obtain relevant permits from NESREA.
3	Prohibition of activities relating to harmful waste.	Harmful Waste (Special Criminal Provisions) Act (CAP H1 LFN 2004) ("**Harmful Waste Act**").	The Harmful Waste Act[31] criminalizes all activities relating to the purchase, sale, importation, transit, transportation, deposit or storage of harmful wastes[32] and further imposes civil liability for any damage caused.

21 EIA Act, s. 2.

22 EIA Act, ss. 6, 8 and 41. Pursuant to Section 1 of the NESREA (Establishment) Act, 2007, NESREA was designated as the Federal agency generally in charge of environmental protection matters.

23 Constituents States in Nigeria also have their environmental protection legislation and agency. In addition to compliance with the EIA Act, companies operating in those States are required to comply with the State legislation on environmental issues. In addition, NESREA has issued different mandatory environmental protection regulations that touch on different activities and in respect of various sectors (including mining; food, beverages and tobacco; textile; pharmaceuticals; telecommunications; manufacturing; and energy sectors).

24 See < https://www.nesrea.gov.ng/nesrea-annual-environmental-import-clearance/; https://www.nesrea.gov.ng/publications-downloads/permits/; and https://www.nesrea.gov.ng/eco-guard-certification/ > all accessed 16 March 2021.

25 This category covers atmospheric emissions, vehicular emissions, open burning, refrigeration and air conditioning equipment, and noise.

26 This category covers waste generation, restricted chemicals, sludge disposal and effluent discharge.

27 This category covers handling, import and export of used electrical and electronic equipment permit.

28 This category regulates issues on access to genetic resources.

29 NESREA issues this certification to facilities in the pre-construction and construction phases to ensure that the activities during those phases are conducted in line with relevant environmental standards and regulations.

30 This certification process is deployed by NESREA to ensure that chemicals, electrical/electronic equipment, industrial equipment, motor vehicle auto parts and other designated items and equipment imported into Nigeria are compliant with relevant standards and regulations, and that banned and restricted chemicals, equipment and wastes are kept out of Nigeria.

31 Harmful Waste Act, ss. 1 and 12.

32 Harmful waste is defined by the Harmful Waste Act to include any injurious, poisonous, toxic or noxious substance.

S/N	MANDATORY OBLIGATIONS	REFERENCE STATUTES/ REGULATIONS	COMPLIANCE REQUIREMENT
4	Licensing of activities affecting water sources, and water uses.	Water Resources Act (CAP W2 LFN 2004) ("**WRA**") and Water Use and Licence Regulations, 2016 ("**WU Regs**.").	By the WRA[33] and the WU Regs.[34], certain activities affecting water sources and water uses are regulated and licences are required to be obtained from the Minister of Water Resources in respect of those activities and water uses. By controlling activities involving water sources and the utilisation of water, a key aim of the government is to ensure that water resources are protected by maintaining their environmental integrity and are also deployed in a sustainable manner for economic and social development.
SOCIAL			
5	Protecting the health and safety of employees.	The Factories Act, (CAP F1 LFN 2004) ("**FA**") and the Employees Compensation Act, 2010 ("**ECA**").	Nigeria is committed to ensuring the health and safety of persons at work. The referenced laws require companies to put in place adequate processes, procedures, policies, and/or structures to ensure the protection of the health and safety of employees and for payment of compensation. The FA specifies mandatory practices for factories to guarantee the health, safety, and welfare of employees through the provision of a safe work environment. For examples, issues such as cleanliness, overcrowding, ventilation, lighting, sanitary conveniences, safety of machineries, provision of drinking water and washing facilities, first aid, and provision of protective clothing and appliances[35]. The ECA, on its part, specifies rules to ensure that employees or their dependants are adequately compensated for any death, injury, disease, or disability arising out of or in the course of employment. The ECA requires every employer to contribute a minimum of 1% (one *per cent*) of its total monthly payroll or an amount assessed by the National Social Insurance Trust Fund ("**NSITF**") into the Employees' Compensation Fund ("**ECF**")[36], although the NSITF can review the assessment rate for each (sub)-class of industry, sector or workplace[37]. The monies in the ECF are used to, *inter alia*, compensate employees (or their dependants) for any death, injury, disease, or disability arising from or in the course of employment, provide rehabilitation to employees with work related disabilities, support occupational accidents and hazards prevention activities and promote workplace safety and health[38].

33 WRA, ss. 9 and 10.

34 WU Regs., regs. 4 and 5.

35 FA, parts II – V.

36 ECA, ss. 33(1) and 56.

37 ECA, s. 33(2).

38 ECA, s. 58(a)(b)(d).

S/N	MANDATORY OBLIGATIONS	REFERENCE STATUTES/ REGULATIONS	COMPLIANCE REQUIREMENT
6	Enhancing access to affordable housing for employees.	The National Housing Fund Act, (CAP N45 LFN 2004)[39] ("**NHFA**").	The NHFA established the National Housing Fund to, among others, ensure that Nigerians have access to houses at affordable prices[40]. Within the context of employment, the NHFA requires every employer who has in its employment a Nigerian worker earning a basic salary of at least N3,000 (three thousand Naira), to deduct 2.5% (two point five percent) of the basic monthly salary of that employee as the employee's contribution to the National Housing Fund and remit the same to the Federal Mortgage Bank of Nigeria[41]. Employees that contribute to the National Housing Fund can, through a mortgage institution, access housing loans with fixed interest rates to build, purchase or renovate houses[42]. Employees that do not obtain housing loans are eligible to a refund of their contribution when they attain 60 years, or retire from employment and become incapable of continuing with their contribution obligation[43]. Although the financial obligation is ultimately placed on the employees, companies should endeavour to comply with this deduction obligation (after consultation and discussion with their employees) to aid their employees to secure affordable housing.
7	Provision of health insurance for employees.	National Health Insurance Scheme Act (CAP N42 LFN 2004) ("**NHISA**").	The National Health Insurance Scheme ("**NHIS**") was established under the NHISA with the aim of ensuring that Nigerians have access to good healthcare services at an affordable cost[44]. Under the formal sector programme of the scheme, organised private sector employers and employees under the NHIS are generally required to participate in a social health insurance programme, further to which the health care of employees is paid for from funds created by pooling contributions of employees and employers[45]. The employer is required to register itself and its employees under the NHIS and remit the contributions to a designated health maintenance organisation.[46] Currently, the contribution to be made by private sector members of the scheme is 15% (fifteen *per cent*) of basic salary or 5% (five *per cent*) of the consolidated salary based on the following ratio: employer contributes 10% (ten *per cent*) of basic salary or 3.5% (three point five *per cent*) of consolidated salary, while the employee contributes 5% (five *per cent*) of basic salary or 1.5% (one point five *per cent*) of consolidated salary.[47]

39 It is important to note that the President withheld its assent to the National Housing Fund Bill, 2019, which was passed by the National Assembly.

40 NHFA, ss. 1 and 2.

41 NHFA, s. 9.

42 NHFA, s. 14 and 16(2).

43 NHFA, s. 17.

44 NHISA, ss. 1 and 5.

45 NHISA, s. 16; 2012 NHIS Operational Guidelines, para 1.1.1; and 2020 NHIS Membership Handbook, para. 3.0.

46 NHISA, s. 17; 2020 NHIS Membership Handbook, para. 5.0.

47 2020 Membership Handbook, para. 3.2.

S/N	MANDATORY OBLIGATIONS	REFERENCE STATUTES/ REGULATIONS	COMPLIANCE REQUIREMENT
8	Pension contribution.	Pension Reform Act, 2014 ("**PRA**").	With respect to pension, the PRA created a contributory pension scheme ("**CPS**") applicable to all employers with 3 (three) or more employees[48]. Under the CPS, employers are required to deduct at least 8% (eight *per cent*) of the sum of each employee's basic salary, housing allowance and transport allowance monthly ("**Monthly Emoluments**") and pay the same into the employee's retirement savings account ("**RSA**") on a monthly basis[49]. Employers are also required to contribute at least 10% (ten *per cent*) of the employee's Monthly Emoluments into the employee's RSA monthly[50]. The CPS, among other objectives, aims to protect retirees (and their dependants) from a bleak financial future by ensuring that they are paid retirement benefits regularly from the amounts credited to their RSA[51].
9	Maintenance of life insurance for employees.	PRA	Under the PRA, there is also a mandatory requirement for employers with a minimum of 3 (three) employees to maintain a group life insurance policy in favour of each employee for a minimum of 3 (three) times the annual total emolument of the employee for the provision of cover to the insured against death[52].
10	Development and training of Nigerians	Industrial Training Fund Act (CAP I9 LFN 2004) (as amended) ("**ITFA**")	As a way of ensuring that the private and public sectors have access to indigenously trained manpower, the Industrial Training Fund ("**ITF**") was established pursuant to the ITFA[53]. The aims of the ITF include promotion of skills acquisition in industry and commerce and provision of technical and entrepreneurial trainings[54]. No doubt, the provision of indigenously trained manpower sufficient to meet the needs of the economy is a *sine qua non* for the actualisation of sustainable development. To fund these developmental and training objectives, every employer with 5 (five) or more employees in its establishment or having less than 5 (five) employees but with a turnover of N50,000,000 (fifty million Naira) and above per annum, is required to contribute 1% (one *per cent*) of its total annual payroll to the ITF[55]. Employers are also imposed with a duty to train their indigenous staff and accept students for industrial attachment purposes[56]. As an incentive to encourage employer-initiated training programmes, an employer may be entitled to 50% (fifty *per cent*) refund of the contributions made by it (the employer) if adequate and documented training courses were provided to the employees in accordance with the ITF's reimbursement schemes[57].

48 PRA, ss. 2 and 3. Although section 2(2) of the PRA specifies that all employers with *15 (fifteen)* or more employees; however, following a notice issued by the National Pension Commission (the agency responsible for administering the PRA) in September 2014, it was clarified that the PRA applies to employers with 3 (three) or more employees.

49 PRA, s. 4.

50 PRA, s. 4.

51 PRA, ss. 7 and 8.

52 PRA, s. 4(5); and 2020 Revised Guidelines on Group Life Insurance Policy for Employees.

53 ITFA, s. 1.

54 ITFA, s. 3.

55 ITFA, s. 6.

56 ITFA, s. 8.

57 ITFA, s. 7.

S/N	MANDATORY OBLIGATIONS	REFERENCE STATUTES/ REGULATIONS	COMPLIANCE REQUIREMENT
11	Consumer protection practices	The Federal Competition and Consumer Protection Act, 2018 ("FCCP Act")	The FCCP Act was enacted to, among other things, protect and promote the interests and welfare of consumers, and contribute to the sustainable development of the Nigerian economy[58]. The FCCP Act applies to all undertakings and commercial activities within or having effect within Nigeria[59] and it places obligations on manufacturers, importers, distributors and suppliers of goods and services. Such obligations include the duty to label goods properly and the duty to withdraw hazardous goods from the market[60]. In addition, The FCCP Act contains provisions that protect the rights of a consumer; such rights include the right to be given information in plain and understandable language[61], the right to disclosure of prices of goods and services[62], the right to fair dealings[63] and the right to safe, good quality goods[64].
		GOVERNANCE	
12	Corporate practices.	Nigerian Code of Corporate Governance, 2018 ("**NCCG**")	The NCCG mandatorily applies to all public companies, private companies that are holding companies of public companies or other regulated entities, concessioned or privatized companies, and regulated private companies[65]. The NCCG contains a total of 28 (twenty-eight) broad corporate governance principles (that focus on boards of directors and officers of the board; assurance; relationship with shareholders; business conduct and ethics; sustainability; and transparency), with recommended practices under each principle. With respect to practices that align with the principles espoused in relation to "Governance", principle 26 of the NCCG expressly requires companies to pay adequate attention to sustainability issues, including environmental, social, occupational, and community health and safety issues. To do this, the NCCG recommends the establishment of policies and practices regarding the social, ethical, safety, working conditions, health, environmental and anti-corruption responsibilities of the company. The board of directors is required to monitor the implementation of these policies and report on the extent of compliance with the same. Further, other corporate practices required of Nigerian companies include promotion of board diversity[66]; regular corporate governance evaluation[67]; fair, responsible and transparent remuneration[68]; implementation of sound audit, risk management and whistle-blowing frameworks[69]; and regular shareholder engagement[70].

58 FCCP Act, s. 1.

59 FCCP Act, s. 2.

60 FCCP Act, ss.134 and 135.

61 FCCP Act, s.114.

62 FCCP Act, s.115.

63 FCCP Act, s.124.

64 FCCP Act, s.131.

65 See Regulation on the Adoption and Compliance with Nigerian Code of Corporate Governance, 2018, reg. 1.

66 NCCG, principle 2.

67 NCCG, principle 15.

68 NCCG, principle 16.

69 NCCG, principles 17, 18, 19 and 20.

70 NCCG, principle 21.

S/N	MANDATORY OBLIGATIONS	REFERENCE STATUTES/ REGULATIONS	COMPLIANCE REQUIREMENT
13	ESG disclosures	NCCG and NSE Sustainability Disclosure Guidelines, 2019.	Regarding ESG disclosures, the recommended practices under the NCCG include the inclusion of a corporate governance report (with clear information on governance issues as well as environmental and social risks and opportunities)[71]; and a statement by the board on the company's ESG activities in the annual report of the company[72]. For entities listed on the NSE, the NSE through the NSE Sustainability Disclosure Guidelines, 2019, requires listed entities to adopt sustainability reporting.

Conclusion

Admittedly, the government is chiefly responsible for the actualisation of sustainable development; however, if we are to make progress in this journey, businesses must partner with the government by fully embracing their societal responsibilities. Businesses should therefore go beyond the obligatory ESG related activities contained in formal rules and regulations and voluntarily incorporate ESG principles and practices as a key part of their corporate culture. There are varied benefits to be derived by companies that adopt this approach. As declared by the UN Global Impact "Who Cares Wins"[73].

71 NCCG, paras. 28.1 and 28.1.

72 NCCG, para. 28.8.

73 See the UN Global Impact Report, 'Who Cares Wins- Connecting Financial Markets to a Changing World' available at < https://d306pr3pise04h.cloudfront.net/docs/issues_doc%2FFinancial_markets%2Fwho_cares_who_wins.pdf > accessed 18 March 2021.

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