

Our Sustainability/ESG Group in France

2024



Introduction

Today’s investors and clients are looking for ways to use their capital in a sustainable way, one focused on avoiding harm to people and the planet and creating long-term value through socially desirable activities. Financial institutions, insurance and other professionals, but also any corporate, must now find their way around a rapidly evolving landscape of environmental, social and governance (ESG) factors and assess businesses according to their ESG characteristics in order to support investors and clients who wish to make socially responsible investment decisions.

Allen & Overy in France is fully integrated to Allen & Overy’s global ESG platform operating around the world and has the subject matter expertise to guide you safely through the increasingly legal and regulatory ESG landscape. Our Sustainability/ESG Paris Group’s advice is informed by decades of collective experience in environmental, social and governance matters, and by tracking the latest developments in ESG-related regulation and litigation in France, Europe and around the world.

ESG involves complex challenges

ESG is increasingly becoming a complex form of corporate governance involving significant legal issues. As the framework becomes underpinned by legal and regulatory requirements, advice is required to head off the risks and take advantage of the opportunities this new environment presents.



Environmental	Social	Governance
– climate impacts and strategies	– health and safety	– anti-bribery and corruption
– GHG emissions and offsets	– diversity and inclusion	– anti-money laundering
– pollution and waste	– modern slavery	– executive pay
– greenwashing risks	– trafficking and child labour	– financial and corporate reporting
– land use and deforestation	– gender pay gap	– data protection and cybersecurity
– energy and renewables	– stakeholder and community engagement	– risk management and oversight
– hydrogen SAF and CCS	– duty of vigilance in the employment sphere (prevention of shadow employment)	– directors’ and officers’ duties and liabilities
– supply chain management	– relocation/displacement	
– Green technologies (data centres, telco infra)		

How can we help?

We want to prepare our clients for the next step in the Sustainability/ESG evolution – enabling them to stay one step ahead and navigate the ever-changing ESG landscape. We also see significant opportunities for those clients who are adapting to these new challenges (eg Green Finance, Renewables).

Allen & Overy in France benefits from in-depth knowledge of ESG regulation and requirements and brings together expertise in specialist practice areas such as Environmental Law, Business and Human Rights, Sustainable Finance, Corporate Governance, Employee Engagement, Data protection and cybersecurity.

Examples of A&O can support to mitigate ESG risks and capitalise on ESG opportunities:

Risk management & strategy



Public/environmental law – Social – Governance –Regulatory – Funds

- Assist in developing ESG policies and practices
- Draft ESG management plans and codes of conduct for projects and transactions
- Advise Board and C Suite on regulatory landscape and litigation risks
- Scan transactions/lending and conduct structured ESG due diligence to identify potential ESG impacts throughout value/supply chain.
- Advise on the contractual and regulatory framework for transition and Green Tech assets (energy telecommunications).

Governance



Corporate Governance

- Advise on integrating Sustainability/ESG into internal organisation (Head of CSR, D&I Manager...)
- Assist in setting up the relevant governance structure (ESG Committee...)
- Assist in the relationships and communication with shareholders, investors and other stakeholders
- Drafting CSR-linked legal documentation (Raison d'être/Société à mission)

Reporting



Public/environmental law – Corporate – Funds – Social – Regulatory

- Ensure compliance with increasingly stringent disclosure obligations (eg the Duty of Vigilance Law in France CSRD and Taxonomy in Europe).
- Assess effectiveness of responses to ESG impacts, provide metrics and analysis, and design alternative strategies.
- Draft strategic and sustainability reports, and modern slavery reports.

Litigation, Investigations and Enforcement



Litigation, White Collar Crime and Regulatory Enforcement, Public/environmental law, Social

Represent and assist our clients in all ESG related litigation, investigations, and regulatory enforcement matters, including against private plaintiffs, criminal authorities and enforcement agencies.

Sustainable finance



Capital Markets – Banking

- Advise on all aspects of sustainable finance
- be it on the capital markets side: green bonds, social bonds, sustainable bonds, sustainability-linked bonds or green derivatives and on the banking side: green loans, sustainability-linked loans and financing renewable energy projects
- Assist clients in setting up their sustainable frameworks in accordance with the relevant ICMA Principles
- Advise funds and portfolio managers on the implementation of the Sustainability-Related Finance Disclosure Regulation

Achieving your sustainable investment goals

This team can provide you with practical advice to implement ESG considerations across your investments and help you meet your sustainable investment goals. While approaches to ESG vary depending on the particular asset class and its corresponding risks and opportunities, a few high-level ESG approaches apply across equities, fixed income, private equity, hedge funds, infrastructure investment, real estate and other investments and asset classes:



- Integration: looking at investment decisions in a wider context than traditional financial analysis and including analysis of a range of risks and opportunities related to ESG drivers.
- Active ownership and voting: actively engaging with the managers and boards of directors of investee companies on business strategy and execution, including specific sustainability issues and policies.
- Negative and positive screening: incorporating an investor's principles by excluding or involving companies involved in certain activities or industries.
- Thematic: focusing on specific trends and themes such as human rights, the environment, diversity or demographics.
- Devising sustainable investments, such as social impact or green loans.
- Furthermore, our Paris team works within a global platform of A&O experts, which is unique, and covers all regions.

Managing ESG corporate requirements

We help clients navigate an increasingly complex web of French and EU regulations around ESG obligations for large corporations.



In France, the landmark obligation is undeniably the 2017 duty of vigilance law, which requires establishing, effectively implementing and publishing “*reasonable vigilance measures adequate to identify risks and to prevent severe impacts on human rights and fundamental freedoms, on the health and safety of individuals and on the environment*”. Understanding the requirements, the potential legal risks and integrating the best practices is something we have developed a strong expertise in.

In addition, we help clients implement structural changes into their governance, for instance by ensuring that internal risk governance systems are capable of fully understanding and mitigating ESG risks.

Achieving your sustainable finance goals

Allen & Overy has extensive experience of working with clients (lender side and borrower side) on sustainable financing, sustainability-linked financing and financing renewable projects.



A key difference between sustainable financing and sustainability-linked financing is that in sustainable financing the financing proceeds must be used to finance sustainable projects, whereas in sustainability-linked financing the interest margin and commitment fees are linked to the achievement of ESG targets. Some transactions are a combination of both concepts when the gain made by the borrower from a margin/fee reduction must be applied towards sustainable projects.

Across the sustainable financing and more nascent sustainability-linked financing, Allen & Overy can navigate you through this fast-changing market and its evolving standards.

Through our international network of lawyers we have the experience (see our key recent transactions on page 5) and resources (see our key contacts on page 7) to help our clients achieve their ESG targets.

Our experience advising on key sustainability topics

Funds

Swen Capital Partners, benchmark player in sustainable investments in infrastructure and private equity, within the structuration of several funds implementing sustainability strategies.

Several French and foreign **funds managers** on the implementation of the requirements arising out of the Disclosure Regulation (sustainability policies, prospectus disclosures, reporting, etc.).

Advising several French and **foreign institutional investors** within the framework of their investments in French and foreign funds with a strong sustainability strategy.

Advising several French **portfolio managers** and **financial advisors** on the implementation of the Disclosure Regulation.

Public/Environmental law

Pairing with our Litigation and Enforcement colleagues to represent and assist **a major oil & gas company** in the first major climate litigation in France, in relation to the obligation to set up a vigilance plan under the 2017 law. This includes assessing the risks in an international context and representing our client before the courts.

Several companies and banks regarding their French ESG policy and in particular “Vigilance Plan” obligations.

A major online marketplace regarding the implications and implementation of the CSRD.

A paper manufacturer on greenwashing risks related to the launch of a new product.

Capital markets/Banking

On the issue of green bonds and social bonds by a number of French entities, including:

A global financial institution, Caisse des Dépôts et Consignation, Covivio, CNP Assurances, BPCE, Icade, Icade Santé, La Banque Postale, SFIL, ENGIE, La Poste, Natixis, Suez, Orpéa.

Advising **Natixis** and a **multinational financial institution** in relation to the **first EuroPP issue of sustainability-linked bonds** by the French energy firm **Albioma**.

Other experience on sustainability-linked bonds through A&O offices:

Issue of sustainability-linked bonds by **CHANEL** and updates of **ENEL** and **a global retail company** to include the issue of sustainability-linked bonds under their EMTN programme and the subsequent inaugural issuances.

On a dozen sustainability-linked loans by French entities, including **ACCOR, SANOFI** and **SODEXO** (most transactions are not public).

Advising **Barings** in connection with the provision of the first ESG Unitranche financing in Europe to enable Eurazeo to acquire Utac Ceram.

Advising **the arrangers** (first and second lien) on the financing in the context of the LBO acquisition of Euro Ethnic Foods SA by PAI Partners. This financing was structured as a sustainability-linked financing meeting ESG criteria.

Social

A major aerospace and defence industrial firm to build a group policy on respect at work including anti-discrimination measures and preventing both moral and sexual harassment behaviours by securing whistleblowing procedures.

Conducting internal investigations regarding sensitive moral and sexual harassment claims, discrimination and unfair treatment allegations.

A logistics company regarding potential significant criminal and financial sanctions for concealed work of its subcontractors following an inspection by the Labour Authorities.

A large French insurance broker in a litigation following an inspection by the French social security authorities, questioning the business model relying on independent contractors, on the grounds of concealed work.

A dozen large French and multinational businesses on Covid related health and safety issues in the workplace.

Several industrial businesses in France in responding to labour authorities' inspections or employee representatives' rights of alert following major incidents on site.

French listed companies on the appointment and compensation packages of CEOs and Managing Directors, including references to ESG criteria.

Multinationals in monitoring and reporting on the gender pay gap in France.

Litigation, White-Collar Crime and Regulatory Enforcement

One of the world's leading manufacturers of building materials facing criminal charges based on the endangerment of employees in Syria and allegations of terrorist financing.

The CEO of an airline company prosecuted for causing a plane crash due to unsuitable working conditions for pilots.

A major financial institution accused by NGOs of having aided and abetted severe violations of human rights and environmental damage, through financings granted to one of the world's largest commodities producers and marketers.

Assisting and representing one of the world's leading food services companies in pre-litigation talks with French trade unions, revolving around their duty to set up a vigilance plan under the 2017 French law imposing a duty of vigilance on large multinational companies.

Conducting several in-depth cross-border internal investigations on behalf of **one of the largest EU banks**, following internal whistleblowings relating to allegations of discrimination, professional misconduct and regulatory breaches.

Your key contacts in Paris

We have an in-depth knowledge of ESG matters, which enables us to offer a whole range of tailored services to our clients in France and abroad.

Banking & Finance



Driss Bererhi

Partner

Tel +33 1 40 06 53 25

driss.bererhi@allenoverly.com



Julien Roux

Partner

Tel +33 1 40 06 53 70

julien.roux@allenoverly.com

Digital



Laurie-Anne Ancenys

Counsel

Tel +33 1 40 06 53 42

laurie-anne.ancenys@allenoverly.com

Environment/Public Law



Romaric Lazerges

Partner

Tel +33 1 40 06 53 44

romaric.lazerges@allenoverly.com



Arthur Sauzay

Partner

Tel +33 1 40 06 50 90

arthur.sauzay@allenoverly.com

Equity Capital Markets / Governance



Olivier Thebault

Partner

Tel +33 1 40 06 53 74

olivier.thebault@allenoverly.com

International Capital Markets



Hervé Ekué

Partner

Tel +33 1 40 06 53 59

herve.ekue@allenoverly.com



Antoine Sarailier

Partner

Tel +33 1 40 06 53 58

antoine.sarailier@allenoverly.com



Julien Sébastien

Partner

Tel +33 1 40 06 53 51

julien.sebastien@allenoverly.com



Benjamin Lacourt

Counsel

Tel +33 1 40 06 55 30

benjamin.lacourt@allenoverly.com



Soline Louvigny

Counsel

Tel +33 1 40 06 50 79

soline.louvigny@allenoverly.com



Lorraine Miramond

Senior Associate

Tel +33 1 40 06 50 46

lorraine.miramond@allenoverly.com

Litigation, White-Collar Crime and Regulatory Enforcement



Dan Benguigui

Partner

Tel +33 1 40 06 53 17

dan.benguigui@allenoverly.com



Denis Chemla

Partner

Tel +33 1 40 06 53 03

denis.chemla@allenoverly.com



Hippolyte Marquetty

Partner

Tel +33 1 40 06 53 98

hippolyte.marquetty@allenoverly.com



Paul Fortin

Counsel

Tel +33 1 40 06 53 50

paul.fortin@allenoverly.com



Marine Gourlet
Senior Associate
Tel +33 1 40 06 53 47
marine.gourlet@allenovery.com



Julie Lombard-Veysset
Senior Associate
Tel +33 1 40 06 53 79
julie.lombard-veysset@allenovery.com

Regulatory



Mia Dassas
Partner
Tel +33 1 40 06 53 64
mia.dassas@allenovery.com



Delphine Marchand
Knowledge Counsel
Tel +33 1 40 06 55 20
delphine.marchand@allenovery.com

Social



Claire Tournieux
Partner
Tel +33 1 40 06 53 37
claire.tournieux@allenovery.com

For more information, please contact:

Paris

Allen & Overy LLP
32 rue François 1er
75008 Paris
France

Tel +33 1 40 06 54 00
Fax +33 1 40 06 54 54

Global presence

Allen & Overy is an international legal practice with approximately 5,800 people, including some 590 partners, working in more than 40 offices worldwide. A current list of Allen & Overy offices is available at [allenoverly.com/global/global_coverage](https://www.allenoverly.com/global/global_coverage).

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