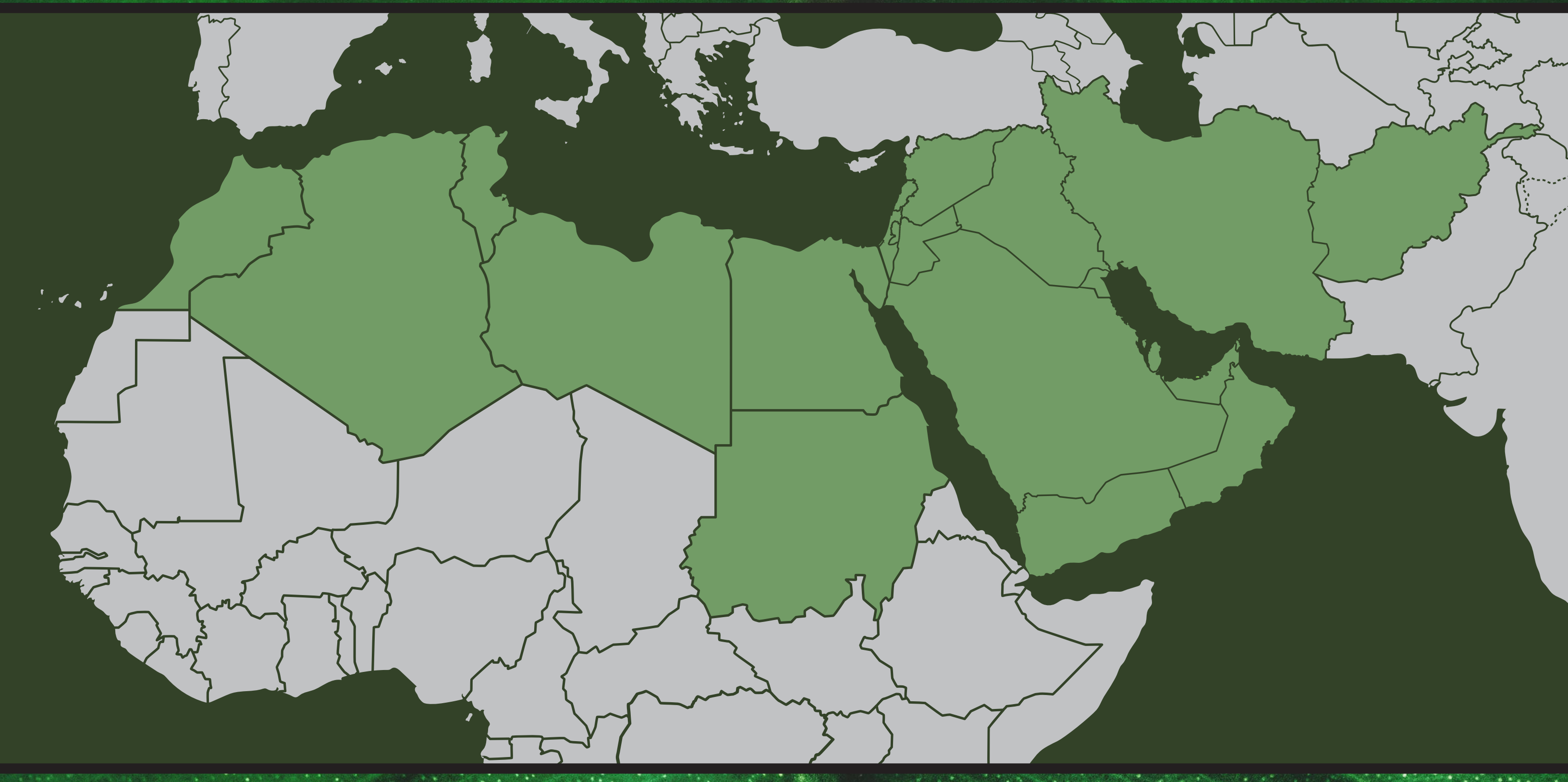
ESG LEGAL AND POLICY DEVELOPMENTS IN THE MENA AND GCC REGION

Look Back 2022 / Look Ahead 2023-2024



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This article builds on last year's regional analysis[2] and will:

(i) offer a high-level review of environmental, social and governance (**ESG**) related legal, policy and transactional developments in the MENA / GCC region in 2022-2023;

(ii) anticipate regional ESG trends that lie ahead in H2 2023-2024; and

(iii) offer practical recommendations on ESG related compliance to legal and risk professionals.

SUMMARY: 2022 IN REVIEW

- The **ESG integration trend continued** with more policy announcements and transactions in both public and private sectors (although not uniformly in the region).

  See table at the end of this paper for country-by-country analysis

- The ***'COP Effect'*[3] particularly in Egypt** – COP27 host country – reflected through various sustainable finance policies, regulations, and project announcements.

- **Strong demand for sustainable finance and renewable energy investments** from private sector and governments (mainly within the GCC, also in Egypt).

- **Growth in ESG related jobs, consultancies, awareness raising events and services** (namely in the GCC) reflecting global trends with more multinational companies (**MNCs**) and international financial institutions (**IFI's**) appointing chief sustainability officers[4].

- **Cross-border impact of laws, compliance and reporting obligations** amid international increase of climate ligation and data privacy related fines (notably in US/Europe).

MNC's and IFI's operating in the region more proactive and reactive with ESG practices and policies for entities / customers based in the region (although not uniformly).

It has also triggered similar changes for large regional companies / government entities.

> ***'COP EFFECT'***: impact of hosting the UN Climate Change Agreement Conference of the Parties (COP) being the acceleration of government policies, investments and private sector initiatives related to Net Zero and sustainability

2023-2024 PREVIEW

- **The *'COP Effect'* spreads to UAE – COP28 host country** – who also declared 2023 as its *'Year of Sustainability'*, with numerous conferences, policy consultations and projects announced by regulators, government related entities and private companies related to green economy transition.

  More is anticipated ahead of the conference in Dubai commencing 30 November 2023. COP28 is expected to attract approximately 70,000 participants including heads of state, government officials, international industry leaders, private sector representatives, academics, lawyers, consultants, experts, youth, media and other participant types. UAE's COP28 Presidency will carry into 2024 before official hand over to the next country host.

- **More focus on 'green' Islamic finance and carbon offsetting primarily through voluntary carbon markets** (still nascent but growing). **Continued demand** from private sector and governments / SWFs **for sustainable finance** with some cross regional cooperation (although not uniformly). The private sector demand is primarily from large / listed companies and not yet from **SMEs or family run businesses** (a large part of local economies) who may not realize the benefits nor have the capacity to manage sustainable finance requirements so **remain 'business as usual'**.

- **Increase focus on supply chain resilience, greenwashing litigation and data privacy risks (primarily by MNCs / IFIs in the region)** in response to the increase in international ESG litigation, supply chain diligence requirements and activism by shareholders, customers, employees, NGOs – which will impact some regional market practices.

- **Green business surge in the private sector notably in the UAE, KSA, and Egypt** with rise in *'Sustainable'*, *'Green'* and *'Eco-friendly'* labelling and marketing across range of products, services, and sectors. This will create some **reputational risks** (where 'greenwashing' occurs) in the short term given the **young demographic** and high usage of **social media** in the region.

  Litigation claims or regulatory fines are a long-term risk due to limited or no local laws / regulations to classify green labeling, standards, disclosure, marketing and reporting to verify green credentials (except for MNC's operating in the region who face ESG claims filed in EU/US over subsidiaries across their global footprint).

- **Continued growth in ESG related jobs5 in addition to recruitment specialist, dedicated job fairs[6], consultancies** (within the 'Big Four' and boutique firms), climate tech companies, data and software solutions (in UAE but also KSA, Egypt, Qatar, Bahrain). This is in response to ESG integration specifically Net Zero goals, certification and compliance often driven by international requirements but also by local market demands and the *'COP Effect'*[7].

  There is also **overlap between the green economy (*decarbonization*) and digitization trends**.

- **Data privacy laws not 'one and done'**. Guidance and supplements to existing laws issued in the region[8] plus regulatory enforcements[9] evolve indicating a regional focus on data governance and compliance as a priority in keeping with international data transfer trends and dynamic commercial demands and innovation, including digitization and artificial intelligence.

INTRODUCTION

The Middle East and North Africa (MENA) and Gulf Cooperation Council (GCC) countries have made strides in integrating stronger environmental, social and good governance (ESG)[10] practices in both public policies and private enterprise albeit moving at different rates depending on each country's own circumstances which varies widely in a region[11].

A selection of ESG related legal and regulatory announcements, and initiatives by country is listed in a table at the end of this article.

The *'COP Effect'*[12] is apparent in some countries given the back-to-back hosting of the United Nations Framework Convention on Climate Change (UNFCCC) – or Paris Agreement – Conference of the Parties 27 (COP) in Egypt (2022) and COP28 in the UAE (2023). This has instigated investments and initiatives by both public and private sectors to support the transition to carbon neutral or 'Net Zero' economies and furtherance of the Paris Agreement and UN Sustainable Development Goals (**SDGs**). **It remains to be seen to what extent this can cascade widely throughout the region due to a range of challenges.**

The Egyptian and Emirati COP Presidencies have sought to be inclusive and engage a wide range of stakeholders to represent interests of developing countries. Both hosts have been in the spotlight in their respective roles for different reasons – not unlike previous COP host countries. A highlight at COP27 was the historic agreement to establish a 'Loss and Damage Fund' to help vulnerable countries cope with the adverse impacts of climate change – although details of the delivery mechanisms and amounts are yet to be determined.

COP28 will be historic conference as the first 'Global Stock-take' on climate action pursuant to Paris Agreement Article 14[13]. The COP28 Presidency has declared its intention to be practical solutions oriented[14] to resolve global environmental challenges[15] to reach Net Zero by 2050 and the most inclusive yet[16] (especially for youth, LDCs, small island states[17] and private sector).

The UAE also declared 2023 as its *'Year of Sustainability'* and is actively mobilizing institutions such as the Ministry of Climate Change & Environment (**MOCCE**), universities[18], financial regulators, government related entities and funds like the Dubai Economic Department, ICD[19], Mubadala, ADNOC or TAQA[20] in the hydrocarbon sector to implement green frameworks, host events[21], capacity building[22] and policy consultations[23]. **There are also efforts to encourage private sector green investments[24] in innovation[25]**, energy-from-waste management and plastic recycling[26] including the region's first independent climate change accelerator.[27]

A Climate Tech Conference was held in May 2023 connecting the public sector and over 100 companies exhibiting decarbonization technologies[28] in furtherance of the COP28's strategy of leveraging climate tech and innovation to decarbonize economies[29] - which is a growing area of investment internationally in public and private sectors[30]. It has been publicly stated by government officials like the Minister of Economy that the UAE will focus on policies enabling a circular economy via a Circular Economy Council as part of its 2031 growth plan[31] and MOCCE Minister Mariam Almheiri, cited the UAE intention to test out solutions, scale up and share with other countries[32].

The **UAE, Saudi Arabia, Egypt,** Kuwait, **Morocco[33], Oman[34],** and **Qatar[35] announced commitments** to increase reliance on renewable energy sources over the next three decades and strengthen regulations to attract green foreign investments to scale renewable energy projects with public private partnerships[36]. There is also investment focus within the GCC on hydrogen / green hydrogen projects[37].

Egypt, Saudi Arabia and **Bahrain** also stand out in the region with hosting various forums, issuing regulations and investments on climate risk and green economy transitions through various government institutions and sovereign funds.

Although the green economic activity in the region has historically been government funded projects or through MNCs, there is increasing activity by local or regional publicly listed or privately owned companies including some small and medium enterprises (SMEs). This can be interpreted as a 'green' business surge in some countries in the region and can be divided into financial services and other sectors.

Financial Services

The financial services sector together with sovereign investments has seen an uptick in sustainability linked transactions. A few years ago international banks and MNCs took the lead in offering sustainable finance products and services. However, the last year has witnessed increased green financing activity from national and regional banks and companies. One source reports as much as 32% growth for UAE's green and sustainable finance issuance in 2022 as compared with 2021.[38] Government related entities continue to announce 'green financing' frameworks– such as Abu Dhabi National Energy Company (TAQA) – one of the largest listed utility companies in the region.[39] The Dubai Securities and Commodities Authority (SCA) issued regulations for green bonds and sukuk (Islamic equivalent) in May 2023 enhancing previous guidelines to further encourage sustainable capital market activity on public offerings[40] as other capital market regulators in the region have done, like Morocco.

Regional banks are increasingly allocating funds aligned with SDGs[41], competing for ESG rankings[42], signing up to international commitments such as the UN Global Compact and working with private companies, advisors and consultancies to integrate sustainability[43]. Regional regulators of financial services have in the last 24 months introduced climate risk or broader ESG considerations and reporting requirements in line with international trends albeit in some cases adherence is voluntary **and approximately two thirds of the region's regulators** have not yet issued such requirements.

The Central Bank of Egypt recently mandated sustainability factors be considered in Egyptian bank lending and operations[44] to bolster emerging practices of local banks[45]. Egypt's main stock exchange launched a voluntary carbon market platform to further mobilize finance in their Net Zero transition[46] as did Saudi Arabia's main sovereign wealth fund – the PIF[47] - in the run up to or following COP27 in November 2022 (*'the COP Effect'*). The UAE has made similar commitments[48] and the Abu Dhabi financial freezone, ADGM, announced a partnership with AirCarbon Exchange to create the world's first fully regulated carbon trading exchange and carbon clearing house to be established in Abu Dhabi[49] as part of the national strategy.

Bahrain 2022	**Saudi Arabia Oct 2022**	**Egypt Nov 2022**	**UAE Nov 2022**	**Oman 2022**	**Iraq 2022–23**
Central Bank of Bahrain Climate Related Risk supervision plans and guidance	VCM platform initiatives by the Public Investment Fund	EGX VCM platform launch Central Bank of Egypt Sustainable Finance Circular	VCM platform launch between the ADGM and AirCarbon	Central Bank of Oman *'Climate Related Financial Risk Management and Green Financing'* Guidelines	Central Bank of Iraq Sustainability Guidelines (2022) ESG Performance Scorecards with IFC (2023)

Kuwait 2023	**GCC Exchange Committee Jan 2023**	**Arab Monetary Fund with World Bank March 2023**	Egypt March 2023	**UAE April 2023**
Central Bank of Kuwait Sustainable Finance Guidelines & Climate Related Financial Risks Principles	ESG Disclosure Metrics	Guidance Note on *"Sovereign Sustainable Instruments for the Arab region"*	EGX signs VCM MoU with Global Carbon Council (GCC)	Sustainable Finance Working Group public consultation: *'Principles Related to the Effective Management of Climate Related Financial Risks'*

Further examples include:

- **Central Bank of Bahrain** Climate Related Risk supervision plans and guidance[50];
- **Central Bank of Oman** *'Climate Related Financial Risk Management and Green Financing'* guidelines in December 2021 for incorporation in Oman licensed bank policies and practices during 2022;
- **Central Bank of Kuwait** circular guidelines on sustainable finance, ESG standards and forward principles for banks to consider on managing climate-related financial risks[51] and
- **Central Bank of Iraq** sustainability guidelines in Q4 2021 for voluntary consideration in 2022[52] with a further announcement in January 2023 on developing ESG performance scorecards for its banking sector in collaboration with the International Finance Corporation (IFC)[53].

In January 2023 the **GCC Exchange Committee** published a unified set of ESG Disclosure Metrics aligned with the World Federation of Exchanges and Sustainable Stock Exchanges Initiative, with categories across GHG emissions, energy usage, water usage, gender pay, employee turnover, gender diversity, data privacy, and ethics to standardise ESG disclosure across the GCC region.[54]

In March 2023 the **Arab Monetary Fund** in cooperation with World Bank Group and other private sector participants issued a Guidance Note on *"Sovereign Sustainable Instruments for the Arab region"*[55]. This guidance aims to promote awareness for ESG investing in the sovereign debt asset class and provides regional policymakers with insight to promote a supportive ecosphere for sustainable finance including the local capital markets and banking sectors.

In April 2023 the **UAE Sustainable Finance Working Group**[56] held a public consultation[57] related to *'Principles Related to the Effective Management of Climate Related Financial Risks'*[58] to be applied to the financial services sector (effective date TBD)[59].

Despite the investments, product development, transactions and ESG reporting, banks in the region have faced criticism that they lack *"hard data on climate risk"*[60] and should invest more in assessing this data both for own account and on that of their clients and ahead of regulatory mandates which are already incumbent on many European banks:

> *"In October 2022, the Task Force on Climate-Related Financial Disclosure (TCFD) showed that only around 25% of all firms in the Middle East report on their exposure to climate change. That was the lowest score globally, the next lowest being Latin America at 28 % of all firms. Europe was the leader with 60%."* [61]

This critique is not unique to the region. Although some governments in the region are taking steps (as cited above) to keep with international developments and attract regional funding needs in furtherance of Paris Agreement related commitments. **More is needed to avoid greenwashing** in finance, verify carbon trading on the voluntary markets and have adequate forecasts and information on FI climate risk scenario stress testing. **This will take more time and enforcement measures are not anticipated in the short term**. However local FI's should consider **climate risk enforcement** a medium to **long term** criteria in the region **as ESG criteria mainstream as 'business as usual'** and data collection, climate risk analysis and model forecasting capabilities increase.

Non-Financial Services

A notable **increase in green and sustainability labelling in the region** (namely in the GCC) across retail/home, fashion, hotels, tourism, car hailing services, fuel, food & beverage, printing & stationary, commercial real estate, climate data and advisory / consultancies and specialist recruiters and climate tech[62] all indicate the private sector recognizes there are profits to be made by going green[63]. **Consumer demand and private sector response may also be a catalyst for change where governments are yet to implement systematic solutions** – see ReLoop recycling app by Ecyclex in UAE[64]. This is also reflected in the uptick of 'green' related jobs and consultancies – see below for further analysis on this.

The UAE has witnessed a growth in the 'green economy' and business are encouraged to get involved in COP28 and view it as a business enabler coupled with events to raise awareness[65] - (the *'COP Effect'*). In March 2023 the Dubai Chamber of Commerce Centre for Responsible Business (**CRB**) in collaboration with the SEE Institute[66] in Dubai Sustainable City hosted a half day public workshop for *"Enhancing Climate Resilience Through Upskilling and Capacity Building"*[67] that attracted over 50 participants from a range of industries who were instructed on the basics of GHG emissions tracking from an Emirati sustainability advisor[68] among other presentation by topic experts[69]. The CRB and SEE Institute continue capacity building by hosting webinars in June 2023 about sustainable finance and green investments. The Sustainable Transformation MENA Summit in June 2023[70] with both government and private sector participants and speakers reflects a continuation of this trend especially in the UAE.

The rise in awareness raising and training events such as the one cited above reflects a shift beyond financial services and MNCs with events in previous years often hosted in financial free zones like the DIFC and ADGM or by international professional advisors in the UAE. This also reflects an appeal across sectors to mainstream ESG commitments and practices mainly by large MENA corporates – for example Majid Al Futtaim's sustainability programs[71], prominent UAE real estate developer Al Dar's decarbonization plan[72], airline carriers[73], companies changing business models[74] and local consultancies tying up with international expertise to bolster green credentials[75] (*'the COP Effect'*).

A gap remains in reports on the ESG integration uptake or compliance of SMEs and family-owned businesses in the region – which make up a large portion of the economies. Therefore it can be assumed these segments still require focus and support which may eventually pass down via local banking requirements and green mandates with ESG considerations increasingly regulated within the financial services as noted above.

Irrespective of sector and segment, the growth of the green economy within the MENA / GCC region will bring new risks and opportunities in compliance which need to be explored globally and regionally.

ESG Disputes & Climate Litigation: still a horizon risk in the region

ESG risks and performance requirements usually relate to climate, biodiversity, human rights, supply chain diligence, diversity, equity and inclusion (**'DEI"**) in operations, policies and marketing or disclosures. **Internationally there is a significant increase in ESG related disputes: climate change litigation, regulatory fines related to data privacy breaches and DEI related.**

There is also a growing anti-ESG movement[76] (predominately in the USA) where a small, vocal and growing number of shareholders and lawmakers who question or oppose the ESG movement have issued laws or filed lawsuits seeking to prevent management from pursuing green strategies or pension funds from using ESG criteria in investment strategies. The reasons vary but often cite that ESG driven strategies would damage the economy and hinder shareholder returns. Others question the reliability of ESG rated data or cite concerns over anti-competition due to the trend in collaboration or large asset managers issuing directives to their portfolio of companies[77].

By some accounts environmental law suits have more than doubled since 2015 to approximately 2,000 total number global reported with about 500 of these filed between 2020-2022.[78] A recent analysis of 108 climate litigation cases in US and Europe indicates a casual (adverse) link with share price and should be considered a relevant financial risk by public and private sector alike (especially for lenders and financial services regulators)[79].

Climate-related claims generally fall within three categories, with courts increasingly ruling for claimants in furtherance of climate justice:

(i) Regulatory investigations that arise from a company's poor governance or negative impact on the environment, employees and/or supply chain workers;

(ii) Customer or shareholder claim that a company is not meeting its Net Zero or ESG statements/ marketing (i.e. mis-selling); and

(iii) Claims brought by an NGO against a government for failing to protect its citizens linking clean environment to human rights as a government obligation.

The impact of ESG related litigation in the MENA / GCC region predominantly impacts MNCs / international FI's due to the cross-border accountability on laws and regulations originating from US, Europe or Asia that require international companies to account for their regional footprint.

This cross-border impact may reflect in local contract terms and conditions; due diligence and screening of client / customer / supplier; internal policies and procedures that impact employees and others; and lending practices within local economies.

Publicly reported ESG related litigation initiated within or impacting the MENA / GCC region is not yet readily available for various reasons and will remain so for the medium to long term[80].

However, the **rise in the green economy in the MENA/GCC region may lead to reputational risks** and brand damage for any mis-representation in the short term especially **given the young demographic in the region** and the **high usage rates of social media platforms that could be used to 'name and shame'** for disparities or 'green-washing' that can lead to **brand damage or financial losses**.

Litigation risks or regulatory fines in the region may feature in the long term as laws and regulations related to sustainable labeling, standards, disclosure and reporting are introduced and evolve especially within the context of **consumer protection and banking regulations. Initially this would likely focus on climate / net zero commitments** ("E" pillar); gender promotion/equality ("S" pillar) and improved governance ("G" pillar) and mainly larger / publicly listed companies. ESG disputes in the region may be further explored in the article footnoted below[81].

Additional risks include determining accuracy of the data, proprietary rights of data, cost of compliance programs, and the tensions between confidentiality obligations verses disclosure obligations especially by publicly listed companies and regulated financial institutions under pressure to report scope 3 emissions, environmental or other human rights impacts.

ESG related risks and reliance on data overlap and there will be the likely increase in disputes globally. This is because **consequential decisions – including divestments, investments, cost of funding and insurance premiums as well as talent attraction and retention – will be made on raw and analyzed data** related to "E" and "S" related factors. This would be a heightened risk on ESG rating agencies, verifiers, consultants and auditors globally and in the region given the increased reliance on certifications and audits for ESG related compliance and reporting. This is also a matter for legal, risk and compliance professionals to heed as digitization and sustainability accelerate globally and regionally – both trends reliant on data.

ESG on Data Use & Digitization: imminent risk in the region

Modern business practices increasingly rely on data and digitization for gaining efficiencies, compliance, product development, marketing and personalization. These usages also present new risks. The ethical use, security and protection of data is considered within of the "S" and "G" pillars of robust ESG practices. This is high on the agenda of public and private sectors in the region aligning with public policies related to foreign investment, innovation and sustainability.

Data privacy (DP) laws, supplements to existing laws and regulatory enforcements issued in the region over the last 18 months indicate the regional focus on data governance. Therefore, company boards, businesses, lawyers and DP practitioners should consider DP compliance as dynamic and not 'one and done'.

Notable examples are **Oman's Personal Data Privacy Law 2022**[82]**; Bahrain new privacy guidance supplement to their Personal Data Protection Law 201883 and Saudi Arabia's Personal Data Protection Law 2021 updated in 2023**[84] following a consultation to address concerns from private sector enterprises to facilitate processing and cross border sharing[85].

The **Dubai International Financial Centre** (**DIFC**) held a public consultation in April/May 2023 for the purpose of updating the freezone's DP regulations to reinforce data breaches and address developments in digital communications and innovation so the DIFC can "…continuously evolve as a jurisdiction that enables digital economy through an efficient legal structure protecting consumers… and provide controls around personal data collection and use new ways, including via platforms built through digital enablement technology systems such as artificial intelligence"[86].

Further the DIFC regulator has shown it is ready to enforce it's data privacy law and publicly name and fine companies found in contravention[87] – as have a few other regulators in the GCC.

ESG Compliance: still a horizon risk in the region; also, an emerging opportunity

Data and digitization are also increasingly applied to ESG related compliance and reporting. Examples include measuring, tracking and reporting carbon emissions, verifying supply chain diligence and diversity, equity and inclusion targets – both for mandatory and voluntary commitments.

In the MENA/GCC region ESG related compliance and reporting thus far remains driven by MNCs/FI's as noted above. However, as regional governments continue to issue laws and regulations related to climate change risk and data privacy, and **given the COP Effect, ESG compliance will increasingly become a localized concern** – although not uniformly across the region.

Locally publicly listed, private family owned companies and SMEs face some challenges in the uptake of ESG related compliance due less capacity, fast pace of change, and lack of uniformity on reporting on the "S" and "G" pillars (not an issue unique to the region). Regional regulators of publicly listed companies have in the last years focussed on more "S" and "G" requirements with mandated ESG reporting, in some cases mandated female board appointment quotas[88] and also fines issued for governance breaches. However an anecdotal review of publicly available annual reports reflects some reliance on the *'comply or explain'* provisions, citing lack of resources or suitable (female) talent in non-compliance.

For ESG related compliance, organizations can rely on existing risk systems and advisors however new systems, skills and specialist roles will be required to address specific issues for both international and local entities focusing on the "E" and "S" pillars. Investments in the region are evident – albeit not uniformly – and especially within MNCs / IFI's who have the additional challenge of cross-border compliance and often more access to resources.

The drive to reach carbon neutral economies (or 'Net Zero') to meet the Paris Agreement commitments on climate change and implement the UN SDGs has fueled a demand for ESG software solutions and data as well as specialist jobs and consultancy services seen globally as well as in the MENA / GCC region to address the associated monitoring, reporting and other ESG related disclosures.

Rise in 'Green' Jobs and Consultancies: a regional trend

Both internationally and within the region, **more jobs referring to *'sustainability' 'climate'*, *'ESG'*, *'Net Zero'*, and *'CSR'* in title indicates growth in the green job market** and more resource allocation. Executive remuneration and performance KPI's increasingly link to ESG related factors[89]. This reflects the human capital required to comply with a green economy and surge in measuring, reporting and disclosing to comply with laws, regulations and industry standards across sectors. **The trend is also evident in the region – especially within UAE and Saudi Arabia**.[90]

The broadening of financial reporting methodologies to include climate risk, biodiversity and human capital – example being the IFRS Foundation's International Sustainability Standards Board (ISSB) Sustainability Standards – will require established roles within finance and audit functions to reskill and adapt. The proposed **EU Corporate Sustainability Due Diligence Directive** is another example of the trend in how companies would need to integrate ESG factors across their operations, subsidiaries and value chains and **can impact the MENA / GCC region similar to the impact of the EU Directive on Data Privacy 2018 had on data privacy in past years – including creating new jobs and consultancy roles**[91].

Global consultancies, risk and legal professionals continue to create specialist practice areas (or acquire smaller boutiques) to boost their capabilities to meet business demand on assessing emissions, decarbonising and ESG reporting – among other related services[92]. **Specialist consultancies are offering sustainability software solutions[93] and establishing hubs in the region** – such as BCG's launch in September 2022 of a Climate & Sustainability Hub in the GCC[94].

In addition to the private sector response, a few **governments in the region are also investing in and promoting 'green job' programs**[95] in line with international initiatives such as the Green Jobs for Youth Pact, launched by ILO and UNEP at COP27.[96]

It is predicted that the green job and consultancy market – including auditing, verification and rating agencies – will continue to grow in line with obligations to comply with sustainability standards both internationally and within the MENA/GCC region[97]. **In the transition to green economies and responsible business, the role of lawyers, risk and compliance professionals will be even more critical to ensure legal and regulatory compliance.**

ROLE AND OPPORTUNITIES FOR LAWYERS, RISK AND COMPLIANCE PROFESSIONALS

The role and opportunities for lawyers, risk and compliance professionals will require both utilizing current skills and systems as well as adapting to new risks, issues, skills and systems as ESG factors in business and government policies gains prominence in the global context and in some of the region's economies. **The surge in ESG related laws, regulations, industry standards and voluntary commitments will affect operations, property management, procurement, financing, marketing, employment and recruitment policies across all sectors due to pressure from governments, investors, employees and customers including in the MENA/GCC region**[98].

Effective ESG integration that is results driven is not just a one person or team responsibility; nor is it an action item only discussed by the C-suite. It can stand alone as independent roles/teams but should also integrate to ensure effectiveness in operations, product or service delivery, regulatory/legal compliance and risk management. This is true for both international and local companies – albeit the size and approach may differ.

Actions and issues to consider broadly fall into the following categories:

(i) **Corporate governance and enterprise risk management** – enhance current systems or create new ones to account for issues related to climate change / GHG emissions tracking, reduction and reporting; responsible use of data/data ethics especially in context of machine learning / AI; enhanced supply chain diligence; employee policies and 'diversity, equity & inclusion' related' expectations.

This should be led by both board expectations but also follow laws, regulations and policies (current and expected). Be familiar with the standards that apply broadly and specifically to your client's sector (i.e. UN Global Compact; UN Principles for Responsible Business; UN Human Right Guiding Principles; OECD Guidelines for Responsible Business / MNCs; Science Based Targets; TCFD/TNFD; GRI, ISSB and SASB standards; LMA or ICMA Green financing principles; FEAT[99] Principles for Artificial Intelligence) – in addition to mandatory laws (local/international).

(ii) **Reporting, disclosure and marketing** (mandatory and voluntary) – the in-house advisor is a critical stakeholder in reviewing reports and marketing material to ensure accuracy, consistency and reliability. The advisor is usually in a position to connect the dots within their organization due to the breadth of teams and issues they come across so they can also advise on systems and collaboration between geographies, subsidiaries and functions.

Early involvement is ideal for example in setting or applying ESG targets and measures because overstated or vague targets can be as risky as none. The trend is for more compliance and reporting obligations – not less – and the challenge will be in finding interoperability as requirements may diverge before they converge (if at all).

Companies may wish to rely more on marketing green credentials to gain customers / mandates as the green economy expands. Legal advice reduces the risk of mis-reporting / mis-marketing that can lead to fines, reputational damage or litigation of 'green' or 'blue' washing.

(iii) **Contracts** – ESG considerations can feature across a range of contract and terms for specifying obligations related to example: GHG emissions, data privacy and ethics, labour conditions, setting clear and meaningful KPI's on performance targets in a sustainable finance product. Legal advice will ensure responsibilities on Net Zero or other sustainability issues are clearly written with risks, obligations and costs allocated for operations, tracking and reporting within confidentiality and consent requirements especially when third parties are involved (i.e. tracking scope 3 emissions, ensuring FEAT principles in AI services).

(iv) **Disputes / Litigation / Competition risks** – adequate consultation with legal, compliance and risks advisors minimize risks related to disputes, regulatory fines and adverse media amid new forums for filing claims (i.e. National Contact Point[100]), new platforms used for adverse media and reputational damage (i.e. social media) and new issues that require an ESG lens (i.e. DEI, supply chain risks, data privacy and ethics, machine learning and AI). These considerations are especially challenging for MNCs group entity subsidies navigating cross-border compliance, challenges and competing interests – including anti-ESG, anti-trust/competition[101] and just transition considerations[102].

(v) **Horizon Risk Scanning** – when it comes to ESG issues, if you are not ahead then you risk falling behind due to the fast pace of change. What is considered acceptable today may be a reputational risk or illegal soon after. This risk should not be discounted in the MENA / GCC region especially given the high number of MNCs operating and more expected due to government policies encouraging foreign direct investments and young populations attracting businesses. Also the regional government tend to quick implementation when there is leadership commitment as seen in Egypt, Saudi Arabia and the UAE over the last 24 months.

(vi) **Pro-Active advice** – It is increasingly becoming a comply or lose eco-system where a business that does not adhere to ESG factors may not get mandates or business due to changing customer preference and procurement requirements. Pro-active advising can sound like 'is this right? Do we want to be known for this?' 'will the business model thrive or stagnate amid ESG trends?'.

Anticipate trends in policy and public spending, as what products may be banned (i.e. single use containers) and follow litigation trends enables issue spotting for both proactive purposes (i.e. to assist in product / service development, access to cheaper cost of funds, insurance premiums and investments) or for taking precautionary steps to protect a business (i.e. divestment, changing suppliers, meeting tender or RFP requirements).

(vii) **Educate & Train stakeholders / self** – to adequately address the preceding responsibilities, on-going training and education of the advisor and stakeholders is essential. Events and presentations, FAQs, templates, guidance, and playbooks can be useful to keep aware and ensure compliance in operations, labeling, reporting, contracting, and external collaboration on sustainability forums.

There are also professional or industry bodies and campaigns to join however watch for conflicts of interest, data privacy, anti-trust and competition risks[103]. Just because it relates to ESG or sustainability does not mean precautions are not applicable. Although this may not be an immediate concern for local companies in the MENA/GCC region, it would be relevant to MNCs / IFI's in the region.

UPDATES BY COUNTRY[104] (2022/2023)

Country	Climate Change and Net Zero Commitments	Sustainable Finance Voluntary Carbon Markets (VCM)	Social laws / policies	Governance
Bahrain	Central Bank of Bahrain Climate Related Risk supervision plans[105] and guidance[106] Sustainability Forum on Climate Change[107]	National Bank of Bahrain ranks first in ESG performance across all sectors in region according to Refinitiv ESG Scoring[108]	Supplement to the Personal Data Protection Law No 30 of 2018 issued March 2022[109]	
Egypt	UNFCCC COP27 Presidency (2022/23) Hosts to UN COP27 conference on Climate Change in November 2022 National Strategy for Climate Change 2050 Nexus on Water, Food and Energy	Central Bank circular Nov 2022to FI's imposing sustainable finance requirements by July 2023 Stock exchange announcements November 2022	Personal Data Protection Law 2020 - executive regulations anticipated soon.[110]	Amendment to the Executive Regulations to Law 72 of 2017 on Compliance with the conditions of environment protection and pollution prevention (by Prime Minister's Resolution No. 4426 of 2022)
Iraq		EU-Iraq Joint Declaration on sustainable development, green transition, governance, regional connectivity and sustainable finance[111]		ESG Performance Scorecard for Banking Sector – in cooperation with the IFC[112]
Israel	Joint clean energy with UAE and Jordan[113]			
Jordan	Baynouna Solar Energy Park opens as Jordan's largest clean energy project[114]	Investment Environment Law 21of 2022	IPersonal Data Privacy Law update draft released by the Parliament in April 2023 (initiated in 2022)[115]	

Country	Climate Change and Net Zero Commitments	Sustainable Finance Voluntary Carbon Markets (VCM)	Social laws / policies	Governance
KSA	Saudi Green Initiative Council for Sustainable Economies Transformation[116]	Public Investment Fund (PIF) regional voluntary carbon market trading platform[117] PIF investment in sustainable agriculture and fishing[118] Al Rajhi Bank $1bn Shariah-compliant sustainable financing[119] & sukuk (bond) in accordance to its SF framework[120]	Personal Data Privacy Law amendment 2023[121]	Governance, Performance, Risk & Compliance 2023 Summit (GPRC) -co host (with UAE)[122]
Kuwait		Central Bank of Kuwait Guidelines on Sustainable Financing and ESG Standards for effective Management and Supervision of Climate Related Financial Risks[123]		
Libya[124]	Minister of Oil and Gas Mohammed Oun video con participation in a high-level international panel discussion on the future of ustainable energy on the sidelines of the Nigeria International Energy Summit April 2023.[125]			United Nations Sustainable Development Cooperation Framework to guide its collective work in support of Libya's implementation of the 2030 Agenda and the SDGs for the years 2023 to 2025.[126]
Morocco	Moroccan Agency for Sustainable Energy (MASEN) and Ministry of Energy Transition & Sustainable Development announce commitments to expand renewables capacity by 2030[127]	Development of Green sustainable finance framework with EBRD and Bank of Africa[128] *(building on an existing regulatory framework for green bonds by the Moroccan Capital Market Authority)*		

Country	Climate Change and Net Zero Commitments	Sustainable Finance Voluntary Carbon Markets (VCM)	Social laws / policies	Governance
Oman	Government announcements on more commitments towards renewable energy projects[129] Jindal Group Green Steel Target 2027[130] Focus on Hydrogen – i.e. HydrOM Law to regulate charg-ing of Electric Vehicles	Central Bank of Oman (CBO) Climate Related Financial Risk Management and Green Financing Regulation for all licensed banks and finance/leasing companies issued in Dec 2021 requiring actions in 2022 RFP to finance and build 1GW Solar Plant as part of its clean energy transition[132]		CBO signs MoU with the Oman Environmental Services Holding Co to cooperate on ESG, Eco-Innovations and green finance[133] CBO risk forum May 2023 agenda includes climate related financial and ESG risks[134] Public events to discuss capital mar-kets regulation of green financing with lessons learned from Moroccan CMA[135]
Qatar	Qatar first solar project came online 2022 and have more committed for 2025 National Climate Change Action Plan (NCCAP) launched, and a Ministry of Environment and Climate Change was established pursuant Emiri Resolution No. (57) of 2021 determining the Ministries Competencies.	Qatar first green fund launch[136] and green bonds plans[137]	QFC Update to Data Privacy Law in line with GDPR enforced from June 2022[138]	Qatar Exchange ESG disclosure requirements remain non mandatory despite some public reporting in 2021 that it may be mandatory in 2022
Sudan[139]	Government publishes first official National Determined Contribution (NDCs) plan[140] Carbon Think call for local volunteers in Dec 2022	Central Bank of Sudan 2023 Policy goals refer to financial inclusion/ green finance[141]		

Country	Climate Change and Net Zero Commitments	Sustainable Finance Voluntary Carbon Markets (VCM)	Social laws / policies	Governance
UAE	UNFCCC COP28 Presidency (2023/24) Hosts to UN COP28 conference on Climate Change Nov/ Dec 2023 2023 Year of Sustainability declaration Voluntary Carbon Off-set exchange / market[142] Ministry of Climate Change and Environment Ministerial Decision on phasing out single use plastics/ containers[143] Ministry of Climate & Environment Climate Responsible Companies Pledge[144] and UAE Green Business Toolkit[145] UAE Circular Economy Council creation to focus on policies on manufacturing, food, infrastructure and transport[146] Public / Private sector aluminium recycling coalition[147] Abu Dhabi National Energy Company (TAQA) new Green Finance Framework to support its ESG strategy,[148]	'Principles Related to the Effective Management of Climate Related Financial Risks to be applied to the financial services sector.[155] [should climate risk frameworks go in Governance column? Securities & Commodities Authority (SCA) Regulatory Framework for Green and Sustainability -Linked Bonds and Sukuk[156] Taqa Green Finance Framework[157] Abu Dhabi Sustainability Week and related sub events on Sustainable Finance and Energy Including awarding of Zayed Sustainability Prizes worth $3m – new category Dubai SFWG – Road to COP28 conferences, reports, thought leadership between private sector FI's and all of the main UAE FI regulators[158]	Artificial Intelligence – UAE Cabinet directs for assessment of safe use of AI / ChatGPT DIFC Data Protection Regulations – Update consultation in April 2023 (that covers Personal Data Processed Through Digital Enablement Technology Systems including responsible artificial intelligence[159]	RegLab – Tesla autonomous car use-case Dubai AI Office / Ethics guidance The UAE Cabinet approved a policy to study safe and efficient use of AI technology including ChatGPT in government work.[160] FI Regulator joint guidance on responsible use of enabling technology Governance, Performance, Risk & Compliance 2023 Summit (GPRC) -co host (with KSA)[161] International initiative of law enforcement for climate[162]

Country	Climate Change and Net Zero Commitments	Sustainable Finance Voluntary Carbon Markets (VCM)	Social laws / policies	Governance
UAE	Energy and food security and supply chains Integrated waste management[149] Abu Dhabi Waste-to-Energy Power Project RFP with target operations 2026[150] Climate Change Accelerator[151] Commitment for oil and gas to zero-out methane emissions by 2030[152] RTA Dubai Public Transport Net Zero Emissions Transport by 2050 Plan[153]			
Regional	Arab Monetary Fund Guidance on Sovereign Sustainable Instruments for Arab Region 2023 in coordination with the World Bank and other private sector partners[163] Oman Central Bank and Union of Arab Banks Risk Forum for Risk Management in Banks and FI's May 2023 forum agenda includes climate related financial risks and ESG[164] The GCC Exchange Committee published a unified set of ESG Disclosure Metrics in January 2023 aligned with the World Federation of Exchanges and Sustainable Stock Exchanges Initiative, and comprise categories across GHG emissions, energy usage, water usage, gender pay, employee turnover, gender diversity, data privacy, and ethics to standardize ESG disclosure across the GCC region. The committee includes Abu Dhabi Securities Exchange, Bahrain Bourse, Boursa Kuwait, Qatar Stock Exchange, Muscat Stock Exchange, Saudi Exchange and Dubai Financial Market.[165] Joint clean energy and desalination initiative between Jordan, UAE and Israel[166] Moroccan and Oman Capital Market Authorities joint seminar to knowledge transfer and discuss Morocco's experience in green financing / bonds.[167] Hawkamah Governance Institute (UAE/ DIFC)[168] – ongoing programs, training and events to raise awareness, develop policies and capacity for healthy corporate governance including women in leadership, board certifications and ESG issues (including for private / family enterprises) – *Example events: February 2023: "ESG: What Boards Need to be Doing"[169]; "ESG/Sustainability Strategy Development"[170] (May 2023); "Build you 2023 ESG Roadmap Ahead of COP28"[171] (May 2023); "Risk and Responsible Business Practices"[172] (May 2023); "ESG Sustainability Disclosure and Reporting"[173] (October 2023)*			

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