ESG and Bill C-59: threats to the legacy energy industry or the great environmental hope?

ESG (environmental social and governance) edicts seemed to arrive into the business world several years ago swinging a big ax. Fossil fuel corporations, especially publicly listed companies, were forced to quickly deal with demands from not only environmental activists but inspired investors as well. The passing of provisions to Bill C-59 that severely penalize companies accused of greenwashing added another layer of pressure. Karleen Batty, Partner and Industrials & Energy Market Strategy Leader with EY specializes in guiding energy companies through the ESG maze. Recently, Karleen served as panel moderator for an Energy Disrupters conference panel held in Calgary. She and other panel members discussed how companies can successfully operate their businesses under the scrutiny of ESG. Karleen spoke with Business Edge journalist Ernest Granson during a quiet moment at the conference.

Karleen Batty, Partner and Industrials & Energy Market Strategy Leader, EY discusses ESG issues with *Business Edge's* Ernest Granson

BE: Karleen, ESG principles encompass some pretty complex concepts. For the purposes of today's interview, I'd like to focus on the environmental aspect, which, of course, has a special significance for the fossil fuel sector. In your role at EY, how do you approach the different levels of legacy companies, whether it's the C suite or the field office, when it comes to incorporating the E in ESG principles?

KB: I think this is a good question, for sure. What we're finding is that companies are needing to think of environmental governance throughout the whole organization. So, whether it is field staff or in the C suite at head office, to truly make change, it has to be embedded into the ethos of the company. It has to be one of their top priorities. What each of them are focused on as individuals might be slightly different, but it does have to be broad and sweeping for the entire organization.

BE: What would you say to those in the C suite that may be proving to have some resistance against incorporating some of those principles?

KB: I'm not sure that we're seeing a lot of resistance at the C suite anymore in the energy sector, to be honest. I think it's alive and well, but perhaps people aren't being as vocal about it as much given that Bill C-59 was just passed in June. But, I do think most are accepting at some level. It's maybe how much capital they're willing to invest into the principle and how much risk they're willing to take on around their disclosure. But most companies are thinking about it, especially at the C suite level.

BE: We know that the petroleum sector has had its challenges meeting with society's current environmental demands, but as you just mentioned, with Bill C-59, the sector has been handed a new and formidable legal requirement with the anti greenwashing provision, and that requires any company "to show adequate and proper substantiation in accordance with internationally recognized methodology when distributing that information about environmental benefit claims."

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We've seen this change has had significant effect on many energy companies. Most of them have removed any information related to the environment from their websites and social media. In your role, what's your advice to these companies in regards to this provision?

KB: Again, it's a broad question. What we're finding, is most companies are continuing with their efforts, although they have swung somewhat from trying to mitigate accusations that they are greenwashing their environmental claims to greenhushing, where the companies continue on the same trajectory that they were doing before but they're just not talking about it. That’s a bit dangerous as well, right? We believe that not only is collaboration and discussion needed, but also the flexibility to fail. We need those companies to continue on the path to shoot for big changes. If they’re not allowed the freedom to fail because they're worried about putting statements out there, then they stop talking about it, as has happened.

When you stop talking about it, you stop doing it. Part of our advice would be to not let that happen. Do what you can internally; review your policies and how you're tracking them, so that you can release statements that include numbers and have some substance to them. This helps your stakeholders to understand what you are doing. Most of all, be able to back it up.

BE: In the beginning of the summer of 2025, private citizens will be allowed to file complaints with the Competition Bureau to force these companies to prove their environmental declarations. The term “private citizens” could also include environmental activists and climate advocacy groups. Would you say that these anti-greenwashing amendments essentially designate a corporation as a guilty party, putting the onus on the company to prove that it's not guilty.

KB: I would agree there's a reverse onus because the onus now isn't on the complainant, right? The onus is on the company that has issued the statement to prove its validity but the standard to which they must prove it is uncertain. There's much uncertainty around what the Act actually means. Hopefully, there will be clarity because the penalty for not meeting it is quite onerous. Issuing an environmental statement is now a risk-based decision. Companies are asking, ‘Do we talk about what we're doing and put it out there with the risk of that penalty still looming?’ Each company will look at this differently, but what we are experiencing is that there are already fewer conversations around the issue.

BE: Do you feel that these companies are finding their environmental efforts are now fading from the view of the public, that maybe the public isn't realizing the considerable effort and expense that has been exerted? In your experience, are they worried about this?

KB: I think part of the reason for why the law was enacted in the first place was to regain some trust around statements that were being released. But I wouldn’t say a lot of our clients are worried about it because they are doing the right things, and are trying to make a difference. The energy sector is a brilliant ecosystem of people who have pivoted and changed. We have great engineers and great people who do make changes and the sector has been tackling these issues for a long time. Whether it has been making changes quickly enough and with enough transparency is a different question. We could debate that, for sure. Unfortunately, the way that this law is written, it has resulted in greenhushing which is quite upsetting.

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BE: Let's talk about some of the methods that you may discuss with your client companies, for instance, using data to achieve measurable outcomes in sustainability efforts. Tell us about those tools and maybe some successful examples.

KB: There are so many tools out there it's almost overwhelming. The amount of data that companies collect is massive, so part of the issue is getting access to that and making sure it's accurate and reported accurately. We definitely have, at our fingertips, any number of important tools. But I would suggest that the tool isn't as important as the governance around it. What’s crucial is the process you’re using to measure and report the data and the governance around that. What is also extremely useful is to have third parties come in to validate that the numbers are accurate and the company is abiding by them.

BE: Can you use that kind of data for the other two components of ESG, for social and for governance. Are you able to use data for something that could be nebulous such as governance?

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KB: You're touching on a very important part of this area and that is to say, not everything can be measured with a number. However, you can have different data points. For instance, how are you engaging with communities, how many different partnerships or strategic stakeholders are you engaging with? It might be hard to measure the strength of that relationship, but there are indications or qualitative factors that you can consider which can form part of the data you're gathering. Tracking of that data is essential to make sure the company is on the right track, to make sure it is progressing towards its goal. It’s important to point out that many of those factors can be outside of the company's control too. They're working in an ecosystem that includes suppliers, customers, governments and members of society that is outside of their control.

BE: Can success incorporating ESG be measured in, let's say, the financial success of a company? We can see that ESG, of course, contributes to the good of society, but in the past, any business model had to adhere to the concept of being successfully financial for itself and also for its investors. Have you seen success in employing the ESG components in this business sense?

KB: The crux of your question is that, capital markets, by their very nature, are short term and looking for quick returns. So, are they valuing the right behaviors or the right actions that companies are taking? If Bill C-59 is a concern for businesses because of the greenwashing provisions, it's important to point out that the federal government has also included within Bill C-59 the introduction of some ITCs (Clean Technology Investment Tax Credit). The intention is to put in place incentives to help with improving the economics of complying with ESG objectives.

Developing new technologies is very capital intensive and we don’t have a lot of certainty 20 to 30 years down the road, so companies are being asked to take large capital risk without certainty for economic returns.

There's a role to be played for our governments, federal and provincial, to help mitigate some of that risk that their stakeholders, their shareholders and we, as society, are asking them to take because as you said, it's the right thing to do. I think we're at that inflection point with some of our larger capital projects right there.

BE: Are you seeing a noticeable transition in industry to accepting and implementing the ESG principles because there has been some considerable pushback when it comes to even some investors who, at first, demanded strict compliance with ESG principles.

KB: There was, of course, some concern about the effects of strictly applying ESG simply because of the economics, but these companies practice ESG principles at a corporate level. The issue for them is that to have broad, sweeping emissions reduction it requires large capital investment. We need to get to a point in our system where we're balancing the risk and the reward when we're asking companies to take that big leap. But there's also a timeline component. Things can't happen overnight. These enormous, complicated projects take a long time to get approval, to confirm certainty around the economics, and then to get partnerships in place because more and more strategic partnerships are being formed than ever before.

Securing the necessary governance around that required capital, building the projects and bringing them online will take years and years. And they’ll be with us for years and years. Despite this formidable process, there are many companies and individuals that are taking it seriously, engaging in the right behaviors, and driving the right way. But this isn't done overnight, as most people would like to see. Those companies and individuals aren’t just talking about it, they're doing it.

BE: It's a complex dance, for sure. Karleen, thank-you for dropping by and providing perspective to this very contentious issue. ■