CHAPTER 5

Attractiveness of Sustainable Business and Investments: An Ethical, Legal or a Financial Issue?

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5.1 Introduction

The sustainability flag flies over almost every economic sector: from the financial sphere to the production area, the current attractiveness of sustainability issues is undeniable.

The work is the result of a joint collaboration of the authors. However, Sect. 5.1 is mainly attributable to Gabriella Iermano; Sect. 5.2 to Frank-Andreas Schittenhelm. For the remaing parts, both the co-authors take responsibility.

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But what pushes towards this new concept of making business and investments? Is taking care of the environmental, social and governance issues only due to a change in the ethical perception of investors, companies and consumers? Or is this approach also driven by legal constraints? Can financial and economic factors play a role? And what is the interplay between financial reasons and legal pressure towards sustainable growth?

These are certainly not easy questions to answer. They have been addressed at length by sociologists, lawyers and economists. However, these scholars often focus separately on only one part of the problem. A combined approach, instead, seems to be more effective and capable to lead to a better understanding of what is behind the new wave of sustainability, allowing us to address the issue in its complexity. This belief explains the interdisciplinary perspective of this contribution, having the purpose of highlighting some of the legal and financial explanations behind the success of (more or less self-declared) sustainable businesses and investments.

To this end, we first focus on the relevance that the sustainability issue is increasingly gaining both from the corporate law and from the financial law perspective, in order to assess to what extent the modern legal systems are moving towards the adoption of higher sustainability standards (Sect. 5.2).

Then, we will investigate whether compliance with these standards would just expose businesses to higher costs, or if they can result in more attractive choices also from an economic point of view (Sect. 5.3). We conclude that sustainability starts from a project perspective and make concrete proposals for a differentiated profit and risk assessment.

5.2 Legal Issues

Sustainable growth is a priority goal for the European Union's internal and external policies, as well as of the United Nations 2030 Agenda and Sustainable Development Goals. As stressed lastly in the *European Green Deal* (Racugno & Scano, 2022), in enabling the transition towards a sustainable economy the private sector capital is crucial because of the massive investments required to tackle the most pressing global challenges (Capaldo, 2020; Strampelli, 2020). Accordingly, an adequate corporate and financial legal framework plays an essential role in accelerating the transitional process towards sustainability as well (Engert et al., 2022; Fleischer, 2022).

To facilitate the channelling of private investments for the financing of sustainable enterprises and/or projects, many legal measures have been recently taken at the global (national, European and international) level. There is worldwide a clear legislative trend towards a new concept of making business and running financial investments, not (only) profit-oriented, but also more respectful of the ESG (environmental, social and governance) factors. Further, for companies and issuers of financial products at the global level, compliance with higher standards of sustainability is more and more encouraged and, in many cases, even required by the different legislators.

This new sustainability-oriented legislative wave shows, on closer inspection, a two-tier approach: on the one hand, the introduction of non-binding legal tools, that companies and issuers can voluntarily decide to adopt, and, on the other, the provision of mandatory rules, they (or at least some of them) are obliged to comply with.

5.2.1 Voluntary Legal Options

The main idea behind the option for non-mandatory rules is that the market will spontaneously move towards a new, more sustainability-oriented way of running business. In this perspective, the task of the legislator is to set up the right legal conditions for their success in order to allow more sustainable companies and products to be recognizable for their commitment, to have easier access to the market and to be more competitive (Strampelli, 2021).

Among the many others, two recent significant examples of this legislative approach are the creation of benefit corporation models and the proposal for a *Regulation on European Green Bonds*.

A. Benefit corporations

Trust in the market's spontaneous adaptation to the new sustainability standards can certainly be seen behind the introduction of the benefit corporation: a new company legal structure that can be voluntarily chosen as an alternative to the traditional (exclusively) for-profit company's forms. Introduced for the first time in Maryland, US, in 2010, the benefit corporation has spread since then in many other legal systems (Murray, 2014), also outside the US. In Europe, Italy has been the first

country to have its national model of benefit corporation (the "*società benefit*", introduced in 2015 by the Law 28 December 2015, No. 208), followed by the French "*société à mission*" (Art. 1835 of the French *Civil Code*)—which is not, however, subject to any specific rule. And similar legal structures are now present elsewhere in the world as well, such as in British Columbia, South America (Colombia, Ecuador, Peru, Argentina) and in Rwanda. Furthermore, its introduction is now under discussion in various other jurisdictions.

Despite the differences existing among the single national legislations on benefit corporations, some common features can be nonetheless clearly identified. Among these, the main character is undoubtedly the institutional combination of the traditional corporate purpose of a profit-egoistic nature with an additional benefit aim (Clark Jr. & Babson, 2012; Ferrarini & Zhu, 2021; Marasà, 2017). Further, benefit corporations take the statutory commitment to operate in a responsible, sustainable, and transparent manner towards the external stakeholders. To overcome these provisions, the shareholders must formally amend the articles of incorporation and terminate the company's status as a benefit corporation. Having the benefit aim included in the company's statute allows therefore the company to "crystallize" it over time and to untie it from the personal sensitivity of managers and/or majority shareholders towards socio-environmental issues (Iermano, 2022b).

As a further consequence, the company's directors have enlarged powers and duties. In fact, in comparison to the traditional company models, they are (not only) legitimate to (but also must) run the activity taking into consideration both the maximization of the shareholders' value and the pursuit of the specific benefit aim indicated. The statutory provision on the benefits aim thus protects the managers from liability actions based on the possible lower company's profits arising from the more sustainable way of running the business (Daccò, 2021). In fact, the benefit corporation's management system aims at balancing the interests of the shareholders with the interests of those on whom the activity may have an impact.

Finally, to ensure adequate information on the concrete pursuit of the benefit aim, the single national legislations in many cases foresee periodic report requirements and compliance statements, as well as the obligation to comply with external reference standards (third-party standard).

Some similarities with the benefit corporation can be found also in BCorps and in social enterprises. Nonetheless, both should be distinguished from the benefit corporation's model.

Many of the above-mentioned aspects of the benefit corporation recall, indeed, the conditions for the BCorp's certification (Angelici, 2018): a certification granted by the private non-profit organization BLab to all the interested companies that voluntarily commit themselves to comply with some specific requirements and to respect higher sustainability standards. From a legal perspective, however, the institutional purpose and legal form of a BCorp-certified company don't differ from the traditional (for-profit) ones.

Similarities with the benefit corporation can be also identified with the social enterprise model: enterprises whose purpose must be essentially focused on the general interest or public utility. However, even in the case where the social enterprise is incorporated as a corporation (where allowed, like in the Italian legislation), many differences exist between the two legal models (Boletto, 2022; Castellani et al., 2016; Guida, 2018). They not only concern the scope of the business sector (limited, for the social enterprises, to socially useful activities), but above all the institutional purpose (Zoppini, 2017). The benefit corporation remains, in fact, a for-profit structure, even if at the same time it aims at pursuing an additional benefit purpose. On the contrary, profit distribution is usually (at least partially) forbidden to social enterprises (see the European Parliament Resolution of 5 July 2018 with recommendations to the Commissions on a *Statute for social and solidarity-based enterprises*).

Furthermore, many countries grant them partial tax exemption and/or other fiscal privileges. On the contrary, unlike social enterprises, benefit corporations do not enjoy tax benefits or incentives of any kind (with some negligible exceptions).

It is just as true, though, that behind the concrete success that benefit corporations are experiencing worldwide also lies the perspective to consolidate their market position and to gain a competitive advantage over the other, traditional companies. The growing attention investors and consumers nowadays show to sustainability issues, indeed, certainly makes committed companies more attractive (Dorff et al., 2021). This expectation on the one hand triggers a virtuous race to the top among the different competitors, prompting them to strengthen their commitment to sustainability. On the other hand, however, it also increases the

risk of greenwashing (Caterino, 2020; Delmas et al., 2011). The declaration of a sustainable commitment often becomes, in fact, just a label that does not correspond to any real action on a concrete level.

The very negative consequences for the market (consumers, competitors, etc.), for the environment and for the community make therefore essential a strong legislative action aimed at preventing the risk of a mere façade socio-environmental ecologism and at sanctioning abuses of the benefit corporation model. Unfortunately, the existing legislations on benefit corporations do not seem particularly well versed on the point: neither in terms of preventive protection (through disclosure duties and adequate controls on them), nor in terms of sanctions applicable in the event of ascertainment of greenwashing practices. Furthermore, the legislative measures often differ from one country to another, making the model even less compatible with the globalized nature of the market and with the need for a uniform standard of protection against greenwashing at the international level.

B. Green bonds

Exposure to greenwashing risk refer also to products. This is particularly true in the financial sector. As an example, we can consider green bonds: debt securities, that are meeting with growing favour on the financial markets worldwide, designated to finance projects that contribute positively to the environment (Cheong & Choi, 2020; Cossu, 2021a, 2021b; Ehlers et al., 2020; Freeburn & Ramsay, 2020; Quirici, 2022).

Also to this regard, the adoption of a non-mandatory legislative measure (the *European Green Bonds Regulation's Proposal* of 6 July 2021) has been recently envisaged. To stimulate the transparency, comparability and credibility of the green bonds and hence to help develop the green bond market, the proposed Regulation takes, in fact, a non-imposing approach and aims to realize a better legal environment to enhance the market's spontaneous demand for green financial instruments. To this end, it proposes the creation of a European common label for bonds complying with the sustainability standards identified in the Regulation; a label that can be used voluntarily by the issuers. It also foresees a system for registering and supervising the external reviewers for the EU green bonds (Cian, 2021).

Nonetheless, even before its approval, the EU Regulation's proposal raises some criticism, concerning in particular the lukewarm effectiveness of the possible actions against greenwashing (Le Galloc'h, 2016; Tröger & Steuer, 2021): actions are essentially based on preventive protection achieved through a penetrating system of disclosure and controls on the information communicated to the public (Badenhoop, 2022; Cossu, 2021b), but much less on the provision of a severe sanctioning regime (Iermano, 2022a). Against greenwashing practices, jurisprudential remedies of course still remain available (Robles, 2021) and in this regard, the first court decisions are in fact starting to appear. Two relevant examples are the decisions taken, respectively, by the German *Landgericht* Stuttgart on 31 January 2022 (on which see Iermano, 2022a) and by the Italian *Tribunale* Gorizia, on 25 November 2021 (on which see Urbani, 2022). However, rather than reassuring the efficiency of the remedies system, these decisions cast heavy shadows on the unclear legislative framework and the difficult assessment and sanctioning of greenwashing's cases.

Furthermore, the standards set up in the proposed *Regulation* are purely voluntary. Complying with the requirements set out in the *Regulation* would be only the condition for using the "*EU Green Bond*" label, but it wouldn't have any mandatory nature. It leaves therefore fully open the possibility that other financial instruments will be self-labelled as "green" (but not as *European green bonds*), even if they do not respect the minimum criteria set in the *Regulation*.

5.2.2 Mandatory Rules

Alongside the provision of legislative measures of voluntary nature (such as the above-mentioned cases of the benefit corporations' and European green bonds' legislations), the creation of a better legal environment for the development of a sustainable economy is increasingly being pursued through the introduction of mandatory rules as well.

Entrusting the effectiveness of action towards a sustainable economy only to the free choice of the market risks, in fact, not being a fully effective solution, especially because of the additional costs of voluntary compliance with higher standards of conduct. For example, even in countries that have introduced the benefit corporation's model, the large majority of companies still opt for the traditional for-profit legal structures, which are mainly only profit-oriented and leave little room for the

consideration of the environmental and/or social impact of the activities carried out.

Furthermore, if it is true that sustainability-oriented business decisions can sometimes have a positive effect in terms of marketing or risk assessment (see Sect. 3), it is also true that they usually entail higher costs for the company. Consequently, the legislative incentives towards the spontaneous adoption of a line of virtuous managerial conduct are not always effective.

In some cases, only mandatory legal prescriptions make it possible to direct the choices of managers towards solutions that are more sustainable, but also more expensive for the company. This explains, alongside the voluntary approach described in the previous paragraph, the binding approach often taken by national legislators and the EU institutions.

Among the several expressions of this different approach, worth to be mentioned are, on the one side, the change of the very definition of the company's purpose adopted in some legal systems, comprehensive not anymore only of the shareholders' value maximization, but also the stakeholders' interest; and, on the other side, two European Directives recently, respectively, adopted and proposed on corporate sustainability: the *Corporate Sustainability Reporting Directive* and the proposed *European Directive on Corporate Sustainability Due Diligence*.

A. New legal definitions of the company's Interest

Firstly, a significant change of perspective can be found worldwide in the current debate on the very notion of a company's interest. To this regard, some national legislations have even recently introduced a general obligation for the directors to act not only in the interests of the shareholders but also having regard to the interests of other stakeholders (employees, suppliers, environment, community, etc.).
This is for instance the case of Section 172 of the UK Companies Act of 2006. According to this rule, if on the one hand «A director of a company must act in the way he considers, in good faith, would be the most likely to promote the success of the company for the benefit of its members as a whole», he also must have regard, among other matters: «(a) to the likely consequences of any decision in the long term; (b) the interest of the company's employees; (c) the need to foster the company's business

relationships with suppliers, customers and others; (d) the impact of the company's operations on the community and the environment [...]».

The example of the UK Companies Act has been followed also in other company law reforms, as for instance the ones realized in India in 2013 and in France in 2018. Referring to the first one, Section 166 of the *Indian Companies Act* 2013 foresees in fact that the company directors not only «shall act in good faith in order to promote the objects of the company for the benefits of its members as a whole», but they also have to act «in the best interests of the company, its employees, the shareholders, the community and for the protection of the environment». Further, also according to French legislation, the company must not only pursue the shareholder's interest, but it must also be run taking into consideration the social and environmental impact of its activity («*La société est gerée dans son intérêt social et en prenant en considération les enjeux sociaux et environmentaux de son activité*»: Art. 1833 of the French *Civil Code*, modified in 2019 by the *Loi PACTE*).

It is worth to be noticed that the above-mentioned company's legal definitions still don't match that of the benefit corporation. Unlike the latter, the former still foresees, in fact, the profit distribution among the shareholders as an exclusive institutional purpose. Further, the benefit corporation is subject to special legislation, concerning the scope of directors' duties and obligations, a specific benefit aim, reporting obligations and compliance with higher standards of conduct. But the main difference can be seen in the binding character of the new criteria introduced by Section 172 UK Companies Act, Art. 1833 French Civil Code, etc., for all the companies incorporated in the country concerned—and not only for the more virtuous ones (unlike the benefit corporation). Rather than rely exclusively on the voluntary choice for an optional corporate model (such as the benefit corporation), the legislators have thus in these cases preferred to impose that—regardless of the socio-environmental sensitivity of managers and shareholders—all companies should (and not simply could) pay attention to the external impact of their business activity, other than to the profit.

B. European directives on corporate sustainability

Some interventions recently proposed or adopted by the EU legislator on corporate law are in line with this mandatory approach as

well. Two very representative examples are the recent *Corporate Sustainability Reporting Directive* (Directive EU 2022/2464) entered into force on 5 January 2023, and the proposal for a *Directive on a corporate sustainability due diligence* approved on 23 February 2022.

The first one imposes to all large and listed companies specific disclosure duties on the social and environmental risks they face through the publication of regular reports. In particular, it requires them to disclose information on the risks and opportunities arising from social and environmental issues, and on the external impact of their activities. In this way, investors, civil society, organizations, consumers and other stakeholders would be put in condition to better evaluate the sustainability performance of companies (Solimene, 2022).
The second one starts, instead, from the assumption that European companies, including the largest ones, could find it difficult to identify and mitigate the risks in their value chains linked to respect for human rights or environmental impacts (Stella Richter Jr., 2022). Therefore, the proposed Directive aims to foster a companies' sustainable and responsible behaviour, imposing the larger European companies to conduct due diligence in order to identify and prevent environmental and human rights risks and making possible, in this way, also to collect more data available on human rights and environmental adverse impacts.

In both cases, the path chosen by the legislator is that of imposing standards, parameters and fulfilments, on the evident assumption that the market mechanisms alone are not satisfactory to spontaneously direct companies towards more sustainable rules of conduct. Legislative incentives are therefore considered as not sufficient but must be accompanied by mandatory prescriptions.

Will these new set of voluntary rules and compliance duties be enough to enhance the process towards a sustainable economy? Or should companies also find an intrinsic, financial motivation to become more sustainable?

5.3 Financial Issues

From a financial perspective, there are two aspects. On the one hand, it is true for voluntary sustainability measures that companies will only commit to them, at least in the long term, if concrete benefits arise. These can be higher sales or profitability on the one hand, and concrete cost savings on the other. If neither is the case, companies will only accept these voluntary offers to a limited extent. In particular, it is to be feared that the company will be forced to forego such measures in the face of competition.

On the other hand, there are mandatory legal measures. Although those lead to the desired positive effect in terms of sustainability for the companies concerned, they can mean corresponding additional costs for the company. If these costs can be passed on to the customer (at least for the most part), this is not a fundamental problem. However, national regulations always harbour the risk that home-country companies will be disadvantaged in global competition.

The criticism already expressed by the first commentators on the solutions adopted or proposed by the EU legislator with the above-mentioned directives raises doubts that go into that direction. Statutory regulations always carry the risk of overregulation and escalating costs for bureaucracy or required measures. Indeed, globalization has led to companies competing on a worldwide scale. Strict sustainability laws can lead to companies not remaining competitive, “greenwashing” their products and image (de Freitas Netto et al., 2020), or simply migrating to other countries.

5.3.1 Assessment of Sustainable Investments

Unfortunately, the current discussion on stronger regulations loses sight of the fact that sustainability can bring economic benefits that go beyond some marketing effects and government subsidies (Gasior et al., 2016). However, this usually requires a differentiated and more comprehensive view of investment decisions. In addition to a pure return and profit perspective, the issue of risk plays a key role (Gasior & Schittenhelm, 2012; Schittenhelm, 2014). The main benefit of sustainable management lies in the improvement of the risk-return profile. However, this improvement in the risk position tends to pay off in the long term. ESG funds emphasize the advantage of sustainable investments, and a lot of research focuses on whether sustainability increases the profitability of

companies. Most findings here concentrate on a company level examining company performance measures such as return on equity or share price development (Ernst, 2021; Whelan et al., 2021).

Even though a company perspective can be helpful to promote sustainable behaviour and increase awareness of sustainability in general, it must be stated that the effect on individual projects is very much limited. For the most, companies still apply simple cash flow analysis for assessing projects (for the theory see for example Arnold & Lewis, 2019). Financial consequences of an investment are thereby expressed in terms of future cash flows. The idea is that those cash flows generate a certain minimum return to fulfil the expectations of shareholders and creditors. The minimum return is expressed as the weighted average cost of capital (WACC). Investment criteria such as net present value *NPV* and internal rate of return *IRR* evaluate whether the investment reaches the minimum required return. In case of different investment alternatives, the investment with the highest *NPV* or *IRR* will be chosen. In principle, this approach leads to a preference for riskier investments in the absence of hurdle rate adjustments. This is because risky investments should, at least in expectation, lead to higher cash flows.

As a consequence, sustainable investments are often rejected and considered as economically non-viable. In addition, there are other reasons why sustainable projects are widely disadvantaged:

- Risk assessment for an individual project is often limited to general qualitative statements. Quantifying risk is rather difficult and complex and therefore avoided. The missing risk quantification leads to a strong return orientation within the decision process (Ragotzky et al., 2020).
- There can be a difference between the company perspective and the investor perspective while assessing investments. The reasons are different time horizons, different parameter evaluations or even different models applied (Ragotzky et al., 2020).
- An unprofitable project can still lead to short-term positive mispricing of a company's value. Obviously, if the capital market is not aware of possible risks, those are not considered (Schittenhelm, 2014).

5.3.2 Risk Measures

The first important step for a more differentiated view of profitability lies in strengthening a company's risk management (Lam, 2003), by establishing an Enterprise Risk Management (ERM) system, which ensures the organizational framework within the company for dealing appropriately with risk. Corresponding corporate governance codes are also aimed at this (for example Deutscher Corporate Governance Kodex, 2022). On an operating level, an ERM system helps to assess risk and provides viable risk measures. When evaluating sustainability measures, we rather expect to reduce risk and therefore, risks arising from non-sustainable behaviour are of particular importance. These could be, for example, the following aspects:

Reputational risks can result in a loss of customers to the competition. Low sales and thus declining profitability are the result. High employee turnover is another risk that can be traced back to corresponding unsustainable behaviour. Triggers can be poor working conditions, low wages and insufficient social security. The loss of qualified employees makes losses in the company's product and service quality likely. The two points mentioned above can also lead to a deterioration in the company's access to possible financing, thus increasing capital costs. Finally, there are possible penalties or restrictions on doing business to be considered (Schittenhelm, 2022). Sustainable investments help to reduce these risks and can be seen as a form of insurance. There are different measures that can help to get a more complete consideration of the effect of such sustainable investments.

A. Hurdle rate adjustment

If risk is reduced by a sustainable measure, the cost of capital and hence the discount rate for the *NPV* calculation decreases. Consequently, the hurdle rate for an *IRR* consideration is also reduced. In fact, a reduction of discount rates leads to an increase in the *NPV* for such simple cash flow streams.

A glance at classical measurement approaches for the cost of equity show that such a positive effect will hardly find its way into the calculation. The most widely used theoretical approach using CAPM and SML

are rather backward orientated (Arnold & Lewis, 2019) so a manual individual adjustment of the hurdle rate (discount rate) seems to be most appropriate (Chava, 2014; Gormsen & Huber, 2022).

B. Separation of the sustainability measure

Sustainability measures that require an investment to protect against future damage or penalties can be interpreted as insurance. The original investment represents an insurance premium. And, as for other classical insurances, the usefulness of this "sustainability" insurance should be done separately, by estimating expected insurance benefits and comparing them with the paid insurance premium. Several difficulties are to be faced in this context. Obviously, the occurrence probabilities and insurance benefits. But also an adjustment of the discount rate could be justified.

C. Scenario Analysis

Scenario Analysis is a commonly proposed tool for assessing projects (Wengert & Schittenhelm, 2013). Scenarios need to be appropriate and require an estimation of the occurrence probability. Approaches define a small number of specific scenarios and allocate an occurrence probability, for example by using decision tree analysis. An alternative are Monte Carlo simulations (Wengert & Schittenhelm, 2013). Here, one assumes specific distributions for one or more parameters of the model. Random numbers, which are generated based on those distributions, create a large number of scenarios, then.

The assessment of scenarios can be done in a two-dimensional way. The first dimension is return orientated, either by calculating the expected value of *NPV*s or the expected value of *IRR*s. The second dimension should be risk orientated. The most obvious risk measure is shortfall probabilities in our context (Wengert & Schittenhelm, 2013). A shortfall probability describes the probability of not achieving a predefined goal z. For project assessments, this goal can be easily defined as a case with an *NPV* of at least 0 or an *IRR* of at least the hurdle rate. Often higher returns come together with higher risk and decision-makers have to decide upon their risk appetite. For the acceptance of a project, companies should define a maximum permissible level of shortfalls (Wengert &

Schittenhelm, 2013). If this level is exceeded, projects are rejected even if the expected *NPV* is positive.

5.3.3 Obstacles

To sum up, investment decisions are often based on incorrect hypotheses and a lack of consideration of negative consequences (risks). Even though no one can foresee the future this should lead to an increased effort in making investment decisions. Risk assessment plays an important role in this context. Because of specific challenges such as low occurrence probabilities, extreme long-term nature, lack of data and perceived arbitrariness in the assessment process the establishment of an ERM system is crucial and helps to reduce the lack of knowledge in a company (Lam, 2003).

The ERM system initially serves to create a heightened awareness of risk aspects within the company. To this end, it provides an organizational framework and integrates risk management into all corporate processes (Lam, 2003; Wengert & Schittenhelm, 2013). In addition, the operational risk management process regulates the identification, assessment, control and reporting of risks. Nonetheless, two key problems remain (Schittenhelm, 2014):

- Activities might be misvalued in the short term and someone takes profit out of it. In fact, management and existing shareholders might benefit from short-term positive share price developments by receiving bonus payments or simply by selling shares in time.
- Non-sustainable activities can increase the value of the company, which basically means that companies increase their value at the expense of others. This might happen for example through extensive use of cheap resources, natural resources available for free or at minimal cost or exploitation of labour.

This closes the circle and leads back to the legal framework that must serve to prevent such incentives. It remains to strike a balance between rules and economic incentives that preserves the competitiveness of companies but still acts in the spirit of sustainability.

5.4 Conclusions

The need for sustainable behaviour is beyond question. From an ethical perspective, we should take that for granted, unfortunately, reality proves us wrong. Still, there exist many obstacles to acting sustainably. In our article, we discuss how legislators and regulators have changed dynamically the business environment over the last few years. Being aware of the benefits but also the limitations of this top-down approach, we conclude that companies need an intrinsic interest. A successful transformation of the current business world into a more sustainable one must be accompanied by a more comprehensive assessment of profitability, which includes a profound awareness and assessment of risk aspects.

Even though risk assessment has always been an important part in theoretical profitability measurement, it is often completely neglected in practice. As a first step, the implementation of an ERM system in a company helps to ensure the transparency of investment decisions and a continuous improvement of risk assessment tools. However, this requirement that also arises from different corporate governance codes is still on a very abstract, superficial level. Only concrete proposals for the risk assessment on the project level insure a behavioural change. Even though risk measurement remains difficult, creating awareness helps to break down a one-sided view of returns. This is not to be confused with a nice-to-have investment calculation in favour of sustainable measures but a more profound assessment.

The expansion of an ERM system in the company does not necessarily lead to an exclusively sustainable behaviour. However, a systematic examination of the consequences and risks of one's own activities can also bring long-term benefits. Obviously, even under the consideration of risk aspects, not all desirable measures will turn out to be profitable, so legal restrictions and prohibitions will also be necessary in the future. It becomes apparent that legal and economic aspects cannot be considered separately. Where there are limits to one, the other must step in to create substantial progress towards greater sustainability.

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