ESG Professionals Network

ESG Engagement Guidebook – 56 Pro Tips!

By Carol Nolan Drake & Broc Romanek

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By Carol Nolan Drake, Carlow Consulting, LLC and Broc Romanek, ESG Professionals Network and Perkins Coie

This "ESG Engagement Guidebook" is meant to be *practical*. We're hoping its quasi-conversational nature helps you more easily consume the lessons imparted in our tips. Enjoy and please share your practice tips, your own anecdotes for next year's edition of this Guidebook!

A. Employee Engagement

1. **Treat Employee Engagement As Seriously as You do Investor Engagement** – We're placing this "employee engagement" section ahead of the "investor engagement" section intentionally because it seems like it's an afterthought too often.

   One of the best ways to get buy in from employees is to *involve* them. It's a similar strategy to talking with investors. Companies spend a lot of time and money getting their message in front of investors. Companies learn a lot from those conversations and have a better framework for developing a purposeful E&S approach.

   Employees often are an untapped resource. Companies tend to be less informed whether their employees have positive or negative feelings about the company. Yet, many employees will openly share their views with family, friends and on social media.

2. **You're Working at the Right Place** - Kudos to any company that has prepared a sustainability report that it wants to share with employees. Take a moment to appreciate that commitment. There are still too many companies that aren't thinking about ESG yet- too many other issues are taking up the oxygen now. Find the time to start- the sooner the better.

3. **Obtain Employee Feedback Before Drafting It** – Before you draft this year's report, it can help to involve employees *before* it's drafted - perhaps by using small group Zoom discussions or through an online survey tool - to help identify key areas that could be part of the report. Companies, even smaller caps, may benefit from an "Employee ESG Advisory Group."

4. **Send Employees a Link to the Report** - When the report is released, it is important to distribute it to *everyone* in the organization. You can post it on the corporate extranet (in addition to posting it publicly on the corporate website) and send an email to employees linking to it. They are one of the biggest parts of a successful E&S effort. Remember to include them in the distribution.

   It helps to keep tabs on how many employees open the email – you may need to play around with the email’s “subject line” to find out what message works best. This is just to see if the message resonated enough for them to open the report, *not* to track who read it.

5. **When Presenting the Report to Employees, Highlight the Sections That Concern Them** - A company that is creating and sharing a straightforward sustainability report with a section on its employees – as part of the “S” from a social perspective - should resonate with employees. If a company has a renewed focus on social issues due to the pandemic and the safety & health of employees, that is big news.

   When you send an email – or you otherwise distribute the report – to employees, this is the section you will want to highlight. You should recognize that employees are more apt to identify with the report if it covers the issues they care about and impact them.

6. **Work to Obtain Employee “Buy In”** – Employee “buy in” is important. Employees experience a company’s commitment every day from the “inside.” The E&S strategy should be embedded and part of a company’s culture.

7. **ESG Strategy Has to Be Authentic**[1] – This is where the rubber meets the road. The strategy should be a true reflection of the company. It absolutely has to be authentic. Otherwise, it will be difficult to obtain buy in – and any initial good will you develop could soon evaporate.

[1] Sally J. Curley, IRC, Founder and CEO, Curley Global IR, LLC and Carol Nolan Drake, J.D., CEO and Founder, Carlow Consulting, LLC, “ESG IMPLEMENTATION GUIDE: GETTING STARTED. Perspectives, guidelines, and practical tools to help companies launch environmental, social, and governance (ESG) programs and develop disclosures.” Society for Corporate Governance, July 2020. All Rights Reserved.

8. **Employees Are Disposed to Want to Buy In** - Studies show that employees are usually loyal to their companies. They want to feel that the E&S strategy resonates with them and that the strategy is indeed in alignment with their daily work experiences.

   They encounter a company's culture every day in the way they are treated, by the corporate policies that are in place, the way the company structures salaries & benefits, and the manner in which the company deals with diversity & inclusion.

9. **Employees Can Easily Spot "Puppies & Flowers"**[2] – Don't load up your report with a bunch of items that rank high on the "puppies and flowers" index. Employees (and even investors) will see through anything that does not truly represent the company's ESG strategy. Employees will not buy in to that kind of report.

10. **Measure Employee Buy In** - Conduct a thorough baseline review of what your employees are saying about the company. Consider having a third-party conduct a survey that is confidential. This helps so the employees can remain anonymous and give honest feedback. Investors typically provide honest feedback; however, employees may worry about retaliation, so an anonymity shield is important.

    Then, conduct a second survey after the publication of the report to gauge the response and buy in. Companies are skilled at looking at data and metrics to make financial decisions every day. It can be the same for determining the level of support from the employees. Companies have no problem spending large sums of money when a problem develops - why not be more proactive and check to see if the corporate perception matches the employee experience?

B. Shareholder Input

11. **Determine Who Runs Your ESG Outreach** - The optimal structure to oversee a company's ESG efforts depends upon the organization. Ideally, the ESG officer would have a strong command of the company's business

[2] Sally J. Curley, IRC, Founder and CEO, Curley Global IR, LLC and Carol Nolan Drake, J.D., CEO and Founder, Carlow Consulting, LLC, Tackling ESG: Disconnected boards face greater risk | Corporate Secretary, May 21, 2018. All Rights Reserved.

strategy and the gravitas within the organization to advance initiatives. That officer should also have the ability to coordinate with the general counsel/ corporate secretary and the investor relations team about investor engagement and proxy disclosures.[3]

This role might originate out of the General Counsel’s office, the Corporate Secretaries department, perhaps Human Resources – and some forward-thinking companies even have a stand-alone department for Corporate Social Responsibility.

12. **Be Clear Who Speaks for the Company** – It helps keep a unified voice if a spokesperson for the company in the ESG area is formally appointed (particularly if your company is publicly held, as this helps with the SEC’s Regulation FD). The CEO and CFO might not ideally suited to talk about some ESG issues if they’re not sufficiently knowledgeable about the details.

    Obviously, whomever is tapped must be fully up-to-speed on both the company's practices and the hot button issues of the particular stakeholders with whom the company engages.

13. **Ask for Input About Your ESG Strategy** - It’s okay to ask! An effective strategy requires the perspective from more than the board’s or management’s point of view. A company may be pleasantly surprised by the ideas and suggestions it receives from employees and customers.

    And the comments from investors can help a company build its strategy, or at least understand where investors see risks for a company’s long-term growth.

    It helps to be organized and formalize a process to collect feedback – a process that can be improved each year. Input from employees and customers help define the value of your ESG strategy so that you can better communicate to shareholders why it adds value for their investments in the company. Some of them can choose to invest elsewhere. Keep them engaged.

[3] Sally J. Curley, IRC, Founder and CEO, Curley Global IR, LLC and Carol Nolan Drake, J.D., CEO and Founder, Carlow Consulting, LLC, “ESG IMPLEMENTATION GUIDE: GETTING STARTED. Perspectives, guidelines, and practical tools to help companies launch environmental, social, and governance (ESG) programs and develop disclosures.” Society for Corporate Governance, July 2020. All Rights Reserved.

14. **<u>Be Sincere About Collecting Input</u>** - No one will expect that a company is going to implement every idea that an employee or investor suggests. But a company should be open-minded and not dismiss every suggestion out-of-hand. You're going through this process for a reason.

    There is no greater mistake than having an engagement where you appear to diminish the investor's viewpoints because the company views engagement as a forum to merely communicate the company policy without listening. Stay open-minded. Do your homework.

    Otherwise, that investor may find other like-minded shareholders to join them and place greater pressure on the company to seriously engage with board members. This really is all about building relationships.

15. **<u>Thank People for Their Input</u>** – Don't forget to acknowledge the suggestions you receive and express appreciation for anyone that took the time to be involved and send input. It's about common courtesy. And remember that these people are your stakeholders. They're important to you.

16. **<u>Scale Your Level of Engagement to Your Resources</u>** - Look at the resources that can be dedicated to your engagement efforts. If a small or mid-cap company has only one person that is handling investor relations and similar duties, it's important to scale the engagement effectively.

17. **<u>Build a Foundation with Peacetime Engagement</u>** – Reach out to your stakeholders as soon as the proxy season ends. Off-season engagement is easier for your shareholders – it makes it much easier to talk about longer-term initiatives and have deeper discussions without the time pressures of the proxy season weighing upon you and them. It also helps build relationships in case you need to reach out on important issues during proxy season.

    Ideally, off-season engagement commences in late August and runs towards the end of the calendar year. After that, the proxy season gets into full swing again. And before late August, your investors will be decompressing after the crazed proxy season from the spring. Remember many of those investors have to deal with Japan's proxy season – which is concentrated at the end of June – when the US proxy season takes a bit of a break. And then those funds with 1940 Act obligations have to prepare and file their Form N-PXs – a summary of their voting decisions - with the SEC.

So, most investors appreciate a little bit of a breather before they dig in for the next season.

18. **<u>The Best Time to Engage Is When There is a Message</u> -** The best time to engage is when the company has something to **say** to investors, to **ask** investors or to **show** to investors. Some investors will make it clear to you that they don't want to hear boilerplate talking points from you unless you have something new to say or they have an issue to discuss with you. Listen to them if they say that to you.

    Well, normally listen to them if they say that, however, explain why you are calling. If the company's circumstances are such that they have a need to contact an investor – for example, they don't want to surprise the investor when they file their proxy statement – it's okay to press the investor to calendar a call or meeting. But be smart about this. Don't waste their time if you do land that elusive meeting. Be prepared to explain why you wanted to talk with them.

19. **<u>No Surprises for the Proxy Season</u>** – Prudential's Peggy Foran talks about her motto which is "No surprises." Meaning that when her company's proxy is filed with the SEC, there shouldn't be anything in there that comes as a surprise to major shareholders.

    Her engagement efforts have informed shareholders what they want to know about ESG developments (to the extent it's not "material" information under the federal securities law – if it is, then that can't be discussed until the information is disclosed in a SEC filing. See the discussion about Regulation FD at the end of this Guidebook).

20. **<u>Don't Wait Til It's Too Late</u>** – As we said, investors are busy during the heart of proxy season - so that is not an optimal time to schedule a discussion. But if there is something that needs to be said or updated during the busy time, then reach out after you have filed your proxy statement with the SEC.

    And be aware of the SEC's solicitation rules. Stick to what's already been filed, or file additional solicitating materials if you need to supplement your proxy in order to talk to investors. Investors may have already voted if you wait too long to reach out.

21. **Quality Beats Quantity When It Comes to Engagement** - More conversations aren't always "better" conversations. The quality of the engagement is more important than the number of them that you have.

22. **Don't Fall In Love With a Set Number** – It's common for people to say that they talk to their Top 25 – or Top 50 – shareholders. Or stakeholders.

    But have those kinds of numbers in your mind as a rule of thumb. Again, quality beats quantity. You might not get around to some shareholders further on down the list because other engagements were unexpectedly time-consuming. And remember that institutional investors own so many companies that they might not appear in your top 100 investors. They are influential so develop relationships with them.

23. **Don't Just Contact the Big Ones**– Of course, you will reach out to the Company's largest investors. But as you look further down your list, there are shareholders/stakeholders beyond your initial target list that may be as important to engage with due to special circumstances.

    Also, definitely engage with investors that are leaders in ESG or in the investment community. They may have a smaller investment; however, they have outsized influence. Don't turn down reasonable requests to engage with you. Keep an open mind, an open door and be flexible.

24. **Adjust Engagement Efforts on the Fly** - If you have something particularly tricky to discuss, you may want to drill down further into your largest investor and stakeholder lists than you might have otherwise. You might want to tier your engagement in order to work your way toward the more challenging conversations.

    You may be drilling into a list that is more than 50 investors and stakeholders deep rather than 25 - probably with the help of an expert. If it's about an item on the agenda for the annual shareholder meeting, you may want help from a proxy solicitor. If it's more about straight E&S engagement, it may be that you need an expert ESG advisor.

25. **Don't Forget Your Retail Investors** - A common mistake is for companies to solely focus ESG engagement on large investors. Retail investors and stakeholders are important, too. Some of your retail investors may have been with you since the beginning and are extremely loyal. They need to hear from you, too. They may stay with you during a proxy battle.

    Beyond investors, you should consider a mix of employees, stakeholders, investors, the organizations involved in your company's sector, proxy advisors, even non-profit leaders in the community. These parties should all be part of an effective outreach program.

26. **You May Need to Engage With the Proxy Advisors** – For public companies, proxy advisors are hired by most major investors to provide voting analysis, research and recommendations based on proxy voting guidelines. In the US, there are two main proxy advisors that are utilized: ISS (Institutional Shareholder Services) and Glass Lewis. There are numerous other proxy advisors outside the US.

    Sometimes companies will engage with proxy advisors to help them understand what the boards and senior management are planning, or considering. To better inform the proxy advisors and perhaps persuade them to support the proposals the company places on its annual shareholder meeting ballot, you should know how they view these issues. You need to know the proxy advisor policies – and processes – about your issues and be ready to explain why they should give you consideration. Ignorance won't be tolerated.

    Note though that the proxy advisors will fairly inquire how much you have engaged with your investors on the issue at hand – so be prepared to explain how deep your shareholder engagements have already been on this topic. See our separate Guidebook about communicating with ISS.

27. **Ensure You Know Who Is Responsible for ESG Issues Within the Investors' Organizations** - Most companies know their largest investors - but they may just know the contacts who are responsible for investment decisions, or whomever is responsible for non-ESG voting decisions.

    But responsibilities are changing rapidly. ESG issues may be handled by specific people in these organizations. Find out who the right contact is and ask for a meeting. It helps to send a suggested agenda when requesting the engagement and ask your contact to invite others that may be interested in participating.

If you are in touch with those responsible for voting decisions, do you know if they have their own guidelines, as well as which proxy advisors they follow? Do you know whether they are able to deviate from those advisory recommendations? There are gray areas in voting, and you want the benefit of the doubt.

Asking how they make voting decisions is fair game, and you should always ask if there is anyone else at their firm that you should speak to about the voting decisions. Be prepared that they may not disclose their votes until the annual meeting. For example, does the investor have a "proxy committee" or its equivalent – and who serves on that committee? At the 4:39 mark of this video, PJT Camberview's Bob McCormick does a great job explaining how the voting at an investor firm can vary quite a bit.

28. **Don't Be Afraid to *Initiate* Shareholder Engagement** – If you sense that some investors may have an interest in your ESG strategies, be proactive. Conduct the outreach first. Don't wait for investors to call you.

29. **Do Your Homework *Before* You Engage With Investors** - Most investors have no difficulty providing feedback to a company. But to best understand their feedback, do your homework.

    It is imperative that you research their voting and governance policies - and understand why these investors are interested in particular ESG issues and why they're so interested in your company. If you come into an engagement unknowledgeable, you may cause investors to question your seriousness of engaging with them.

30. **Do Your *Post*-Proxy Season Homework, too** - After the proxy season, one of your priorities should be to look at the votes cast by investors at your annual shareholder (AGM) meeting. Are there indications that investors weren't happy about the votes on ESG-related issues for which you might have implemented changes in an effort to improve? This is the best time to engage before the next proxy season gears up.

Also look how your peers fared on the proxy items on their ballots. You want to evaluate if there are emerging issues in your sector.

31. **<u>Tailor Your Deck</u>** - A vanilla PowerPoint presentation will be disappointing to most investors. For example, in the environmental category, an investor may want to know that a company has an environmental management policy with a focus on reducing a company's carbon footprint or addressing the risks of a low-carbon transition.

And if you have adopted carbon goals, include them. Within the social category, an investor may ask about the company's commitment to diversity and inclusion, and the health and safety of employees and customers during the pandemic.

If you can, keep the deck short. If your business is not well-understood, the deck inevitably will be longer – there may need to be a raft of information explaining what the company does and how the company fits within its industry.

The goal of the deck is to invite dialogue. For some well-known companies, a one-pager is all that is necessary. Some companies like it to be longer - a half dozen slides or so – providing information that might not be covered during the meeting, but with content an investor can refer to after the meeting. Too much content doesn't invite dialogue. It can be a turn-off.

Tailor it to what the investor cares most about this time around. Tailor it to the meeting agenda, which should be set up in advance. Include the objective of the meeting – and the company's strategy - right up front. Your contact likely follows thousands of companies, so an intro slide about your strategy and performance will be appreciated.

Don't be afraid to cut & paste graphics or short disclosures from your proxy statement or ESG report. Most investors don't have time to review all your filings before the engagement, so a quick one-stop shopping approach can be a great tool to frame the engagement.

32. **<u>Train Your Engagement Team</u>** - Once your short deck is ready to go, do a dry run with your engagement team. Assign roles, and figure out how to communicate with each other during the engagement, if needed. And please make sure the team is diverse.

33. **Don’t Have a Canned Approach to Investor Engagement** -You should you use different approaches for investors and stakeholders. They don’t have to be wildly divergent approaches. Offer to let the investor have time on the agenda - and tailor each engagement to that investor’s interests. It requires some homework to learn what issues are important to each investor.

Slightly different approaches can make the outreach much more successful. This isn’t the time for a cookie-cutter approach. Investors will see right through that.

Of course, companies should know their investor base. Some of them are institutional investors, who tend to be long-term investors. Others are retail investors who have slowly added shares over time and tend to be loyal. Others may have short-term objectives. Keep them close.

34. **Virtual ESG Roadshows Can Be Robust Online** - Today’s roadshow is vastly different due to the vast use of online meeting portals these days. Road shows can be virtual, and, in some ways, it provides more opportunities to make the customized presentations more robust.

One reason is because they can include company representatives and board members that might not have been able to travel otherwise. We have found that there are less interruptions in a virtual environment, assuming the technology works well, and the discussions are as detailed as before.

35. **Have the Right People Running the ESG Roadshow** - The people representing the company during an ESG roadshow should be the people who are the ones most associated with the ESG program.

The CEO may be the most visible - but if the company has a chief sustainability officer, he or she might be a better fit. Within the virtual environment, a CEO and/or board members can join a call and participate as they are needed depending on the agenda.

36. **Kick the Tires Before Launching a New ESG Policy** - If the company is considering a new ESG policy, it’s a good practice to reach out to investors prior to adoption. Seek feedback by arranging some calls. Incorporate the ideas that fit the company’s approach and thank them for the suggestions.

37. **<u>Don't Waste Time During Engagement Meetings</u>** - We all have the same 24 hours in a day, and it is important to maximize the time you have for an engagement effectively. That means you need to have the right people on the call, have a pre-established agenda, leave ample time for questions & discussion - so that you can really listen to what is being said. It should not be a one-way messaging campaign.

   Let me say that again to drive home the point. Be prepared to be an active listener. You want the feedback. You do if you're sincere about engagement. Don't merely attempt to follow a script you had in mind beforehand.

38. **<u>Take Good Notes & Report Your Engagements to the Board</u>** – It's important to have a record of each investor's perspectives and comments during the engagement. Take careful notes who you talked to and what they say.

   Investors will want to know if you will be reporting a summary of your engagements to the board and will highlight the key issues raised. It will help you as you prepare the engagement summary for the proxy statement. An engagement tracker can be an invaluable tool for keeping your contacts updated, preparing the engagement reports and prepping for the next year's engagements.

39. **<u>If Many Investors Ask the Same Thing, Address It in the Report & Proxy</u>** - During your engagement efforts, if you keep hearing the same questions over & over again, consider addressing that topic(s) by making useful disclosures in the next ESG report and in the next proxy statement.

   Be creative and consider how to best make that information publicly available. Think about graphics and charts to tell the story.

40. **<u>It's Critical to Follow-Up</u>** – Follow-up is so important. If a company representative says that they will send the final report when it is ready for distribution, make sure it is sent as promised. If an investor asked to speak to a particular director or committee chair and the representative said that they would set up the conversation, make sure it happens.

   Nothing burns bridges more than promises that are not kept. And it's the same for investors. Investors also need to follow-up. If an investor said that they can't disclose the proxy votes until the day of the meeting, then the investor should follow-up after the meeting and discuss their reasons why the votes were cast a certain way.

41. **Formalize the Follow-Up Process** - Once you understand the concerns of your investors, the difficult decision is what to do about them. Merely meeting with investors normally doesn't cut it. There needs to be follow-up and follow-through.

Formalize this process by creating a calendar that allows investors plenty of time to provide input and also allows the appropriate persons within the company to fully process all the inputs, propose changes and slot time on the appropriate board committee and board meeting calendars.

42. **Ensure Follow-Up Plans Meets Stakeholder Needs** - Once the company decides to make changes (if it indeed decides to do so), run them by the investors or stakeholders who raised concerns to ensure that the changes satisfy them, or they understand why the company reached its decision – before announcing new/modified plans.

This is particularly necessary if the proposed changes don't squarely address their concerns and you need to explain to them why the company went a different direction. As with any human interaction, showing respect, building trust and being transparent when communicating can help quite a bit - even if complete alignment is not possible.

43. **Don't Let Your Relationships Get Stale** **–** Relationships are really the heart and soul of engagement. They are built up over time and with real, genuine effort.

Each year put time on the calendar to reach out throughout the year. They don't have to be time-wasting connections. It can as be simple as an email to follow up and check in.

And follow the comings & goings of your contacts. There is a lot of turnover on the stewardship and ESG teams of institutional investors these days. If one of your engagement contacts switches firms, reach out with a note of congrats and ask if they will be following your company in their new role.

It's helpful to do this before the crush of a new proxy season. If not burdensome, conversations once or twice a year can be great ways to build relationships between companies and investors. And those relationships can pay off when issues arise.

44. <u>Get Out & About</u> – If you have an opportunity to connect with investors and stakeholders at a virtual or live conference or other forum, jump at the chance. Your efforts will pay off ... and then some. Engagement is all about relationships. Registering and attending conferences and events (even virtual) that they are attending is important.

45. <u>How Investors Assess Whether ESG Is Authentic</u> - Investors have several ways to assess if a company truly has an authentic approach to ESG. If a company has ESG policies that it publishes outside of the organization, issues a ESG report, has provided resources and budgeted dollars for a sustainability officer or similar position, that all helps discern whether there is an authentic approach.[4]

Investors will also want to engage with company representatives and see if the responses track what investors may have been noticed in the media or in discussions with other investors.

Companies leave clues for investors that go beyond outright statements and policies. Social media usage by employees and customers can be a good way for investors to assess if the policies, media statements, interviews by C-suite officers really match what is going on in the workplace. Cameras and videos sometimes document situations involving employees and customers and go viral. That kind of exposure tests a company's response to its own policies.

46. <u>How Investors May Rely on Rater Information</u> - The reports from ESG raters can be full of good information. Most investors don't buy them all - so they need to select the reports that are the most effective to cover their portfolios.

It's important for company representatives to read these research reports within the context of their own experience. If the report contains an error,

[4] Sally J. Curley, IRC, Founder and CEO, Curley Global IR, LLC and Carol Nolan Drake, J.D., CEO and Founder, Carlow Consulting, LLC, "ESG IMPLEMENTATION GUIDE: GETTING STARTED. Perspectives, guidelines, and practical tools to help companies launch environmental, social, and governance (ESG) programs and develop disclosures." Society for Corporate Governance, July 2020. All Rights Reserved.

reach out to the rater and ask for a correction. If the reports aren't telling your story, look more closely how your data, policies and financial information are publicly disclosed and be sure it's accessible to raters.

47. **Engagement Is More Than Just Reviewing the *Rater's* Report-** Investors may read these reports, however, their engagement is based on more than one report. That's just a preliminary step in the engagement process. They will have their own financial reports, guidelines and metrics to consider.

48. **Engagement Is More Than Just Reviewing the *Company's* Report** – Having an ESG report out there is a start but reports are written with data available at that time - so there is a natural time lag with the information in the rater reports and what investors will read in the public domain.

    The reports are created with up-to-date information, but companies will have ongoing activities that may not make it into one of the early ESG reports. It is important to reach out to update the information for the next report. Investors need to do homework, too, if they have the resources in between proxy seasons.

49. **Biggest *Tell* Whether ESG Strategy is Part of the Culture** - One of the biggest tells whether an ESG strategy is real is whether the strategy can be explained by the company representative without relying solely on a PowerPoint slide or written materials. You should have the "elevator" speech ready to go and learn it.

    As we mentioned several times in this Guidebook, it's absolutely critical that a company's ESG strategy be part of the company's culture– without that, engagement around ESG will always be a challenge.

50. **Questions Mostly Likely to Be Asked During Engagement** – "Reportable, repeatable and auditable" is a phrase coined by Sally J. Curley and Carol Nolan Drake regularly. [5] Here are some common questions which are asked during engagement:

    - Can the company representative state the strategy and explain it?

[5] Sally J. Curley, IRC, Founder and CEO, Curley Global IR, LLC and Carol Nolan Drake, J.D., CEO and Founder, Carlow Consulting, LLC, "ESG IMPLEMENTATION GUIDE: GETTING STARTED. Perspectives, guidelines, and practical tools to help companies launch environmental, social, and governance (ESG) programs and develop disclosures." Society for Corporate Governance, July 2020. All Rights Reserved.

- What are the measures & metrics?
- How will the company know it’s working? Or not?
- How long will the company wait before checking?
- Who is in charge of the review? And how high up in the organization did the report go for review? Will the CEO and board see it?
- If risks were identified in drafting the ESG strategy, how will the company address these risks?
- Does the strategy appear to tie to the company’s business purpose and culture?

If the ESG strategy has been in place for at least a year, the company should be able to measure its baseline effectiveness and make adjustments, as necessary. The ESG plan should be flexible in the face of changing circumstances.

51. <u>Investors Are Busy But Website Overview Often Not Enough</u> - Large investors are juggling portfolios that include thousands of companies. Their time is limited, and they want to see disclosures that are easy to find on a company’s website or social media platforms. An overview won’t be enough if they want disclosures on certain topics like climate risk. Please don’t bury important disclosures pages deep on the corporate website. (Please see #52)

52. <u>Post Content in an Easy Way for Investors and Stakeholders to Access</u> – Some investors keep track of how easy - or *hard* - it is to find ESG information on a company’s website. If the content is buried in the site map and not displayed prominently under the “Investors” tab, it makes investors wonder why the company didn’t want to feature that content. Make it easy to find.

53. <u>If You Have New Content That Particular Investors Might Like to See, Send It</u> - Investors generally request engagement on a case-by-case basis as they screen for ESG issues relative to their own criteria - that is, the investor’s investment plan and corporate governance strategies. It’s refreshing when a company initiates the outreach and shares newly released, *public* information.

54. <u>Engagement Requires Accurate Facts</u> - As investors more frequently rely on ESG information in their investment and voting decisions, sound data practices will help satisfy market expectations for accuracy. It could also help reduce the company’s litigation risks.

A corporate message should always be accurate. Don’t plagiarize from other ESG reports just because that other disclosure sounds good. It has to tie to what your company is doing.

55. <u>Know How Reg FD Works</u> –If your company is considering running proposed changes by shareholders before publicly announcing them, also consider the elephant in the room: the SEC’s Regulation FD.

To avoid a Regulation FD violation, the key is to not share material nonpublic information. “Materiality” is the key concept here and it can be tough to know what is considered material. Typically, anything to do with the company’s financials or information that would inform an investor whether to invest or not- like earnings targets – probably pushes the envelope and shouldn’t be shared until publicly available.

In most cases, practitioners are comfortable that ESG modifications don't generally pose Reg FD concerns. The bigger concern is that in the midst of a conversation about ESG, a question is asked about financial performance - thus raising the specter of a potential Regulation FD problem. ESG has moved to being a factor in materiality.

Spokespersons are usually well-versed how Reg FD is applied in practice, so they don't inadvertently say something that triggers a Reg FD violation. Fresh compliance training and reminders are always a good idea (involving securities counsel and including Rule 10b-5 concerns). Onboarding and debriefing new spokespersons are helpful exercises.

One technique to consider is to have an outside advisor run scenarios by the investors on a “no-name” basis.

56. <u>Getting Feedback After You Release Your ESG Report</u> – A lot of the pointers in this Guidebook relate to investor engagement in the context of the proxy season and annual shareholder meetings. For public companies, proxy season engagement and E&S engagement have melded into one discussion. Some of these pointers also apply to private companies and non-profits boards.

<u>About the "ESG Professionals Network":</u> The “ESG PN” is a leading association that elevates the ESG profession by fostering community among its members; helping to ensure that companies are doing the “right thing” in their strategies, implementation & reporting; and facilitating the ability of members to share

practical guidance, gain access to cutting-edge research and network with like-minded people. For further information, please visit ESGProfessionalsNetwork.com.