

# ESG: Focus on the “S” and the “G” - legal and regulatory issues

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# What is ESG?



## ENVIRONMENT

Climate change  
Natural resources  
Waste  
Water  
Energy  
Pollution  
Deforestation  
Greenhouse gas emissions



## SOCIAL

Human rights  
Slavery  
Health and safety  
DE&I  
Privacy and data  
protection  
Procurement  
CSR



## GOVERNANCE

Remuneration  
DE&I  
Internal controls  
Board structure  
Ownership  
Ethics and culture  
Bribery and corruption

# Key drivers behind ESG

## Continuously evolving

### Regulatory

- Disclosure Regulation
- Taxonomy Regulation
- Low Carbon Benchmarks Regulation
- MiFID2 amendments

### Commercial

- Risk management
- Risk mitigation
- Engagement and stewardship
- Corporate governance
- Talent

### Moral/ethical

- Social conscious investors
- Staff concerns
- Investor-driven

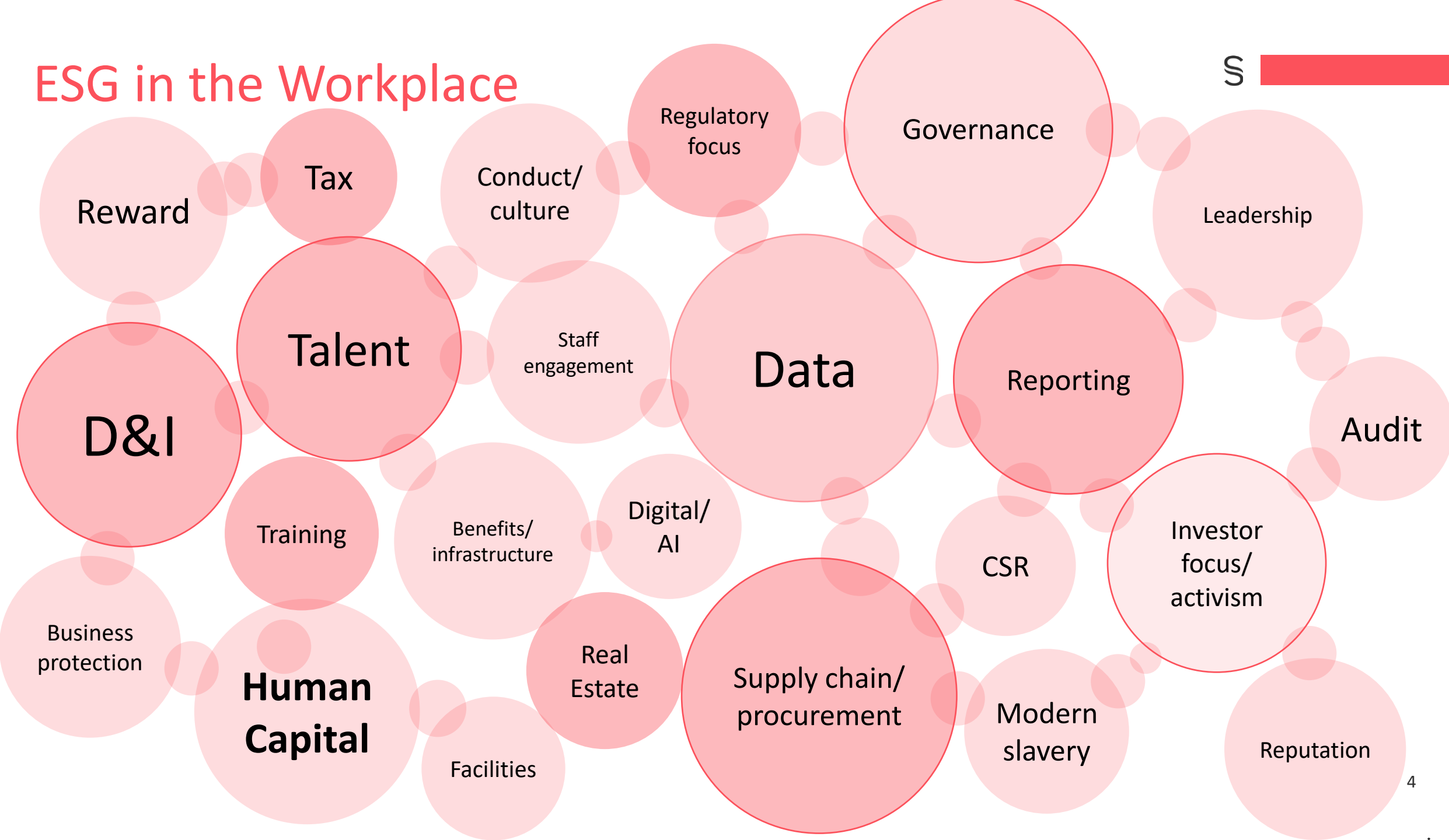
### Reputational/conduct risk

- ESG footprint
- Multi-divisional risk
- Enforcement risk
- Investor activism

### Leadership focus

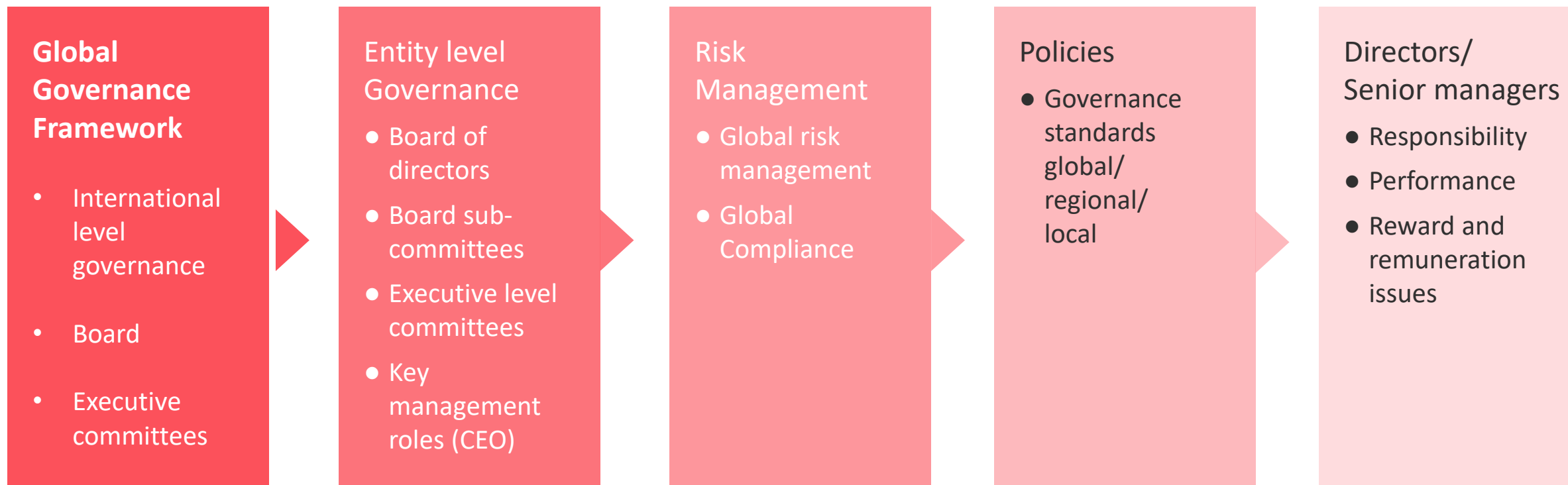
- FS evolution of SMFs (climate change, DEI)
- Remuneration
- Governance
- Evidence
- ESG as a business priority

# ESG in the Workplace



# Governance: Framework

## Typical structure



# Directors' Duties under Companies Act 2006

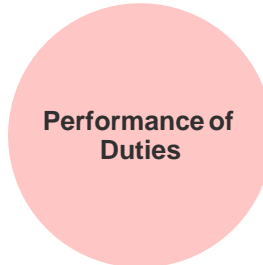


# UK Corporate Governance Code – ESG

## practical considerations

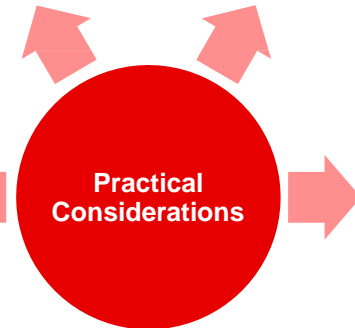
### Practical Considerations for Directors

- Take account of impact on stakeholders in any decisions. Confidentiality obligations owed to the Company



- Review Board packs and allocate sufficient time to review
- Raise points of concern, participate, and challenge
- Be aware of what you approve and sign
- NEDs should avoid taking on executive functions

- D&O insurance
- Indemnities
- Waivers of conflicts of interest
- Ongoing legal advice



- Awareness of regulator's scrutiny
- Increasing role of regulators and propensity to examine business activities
- Actions/ obligations if a material issue is reported to the Board



- Importance of a paper trail
- Accurate minutes without excessive detail
- Attendance at Board meetings
- Evidence of challenge and decisions

# Governance

## Risk

1

Conflicts of interest across business units (e.g. private bank and investment banking)

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2

Product governance

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3

Record-keeping



## Mitigate

- Integrate ESG into the business decision-making process
- Compliance oversight
- Training
- Robust product approval process
- Identify and manage conflicts of interest
- Evidence of :
  - effective management oversight of product governance;
  - and
  - internal policies providing sufficient challenge
- Internal controls: product design and distribution
- Co-operate with the regulator



