

Strategic Perspective | The ESG Ready Lawyer

Perkins Coie's Allison Handy and Gwen Williamson discuss their approach to ESG legal practice in today's challenging environment

By [Brad Rosen](#)

Legal professionals are increasingly challenged by the unprecedented growth in Environmental, Social and Governance (ESG) legal issues and concerns according to Wolters Kluwer 2022 Future Ready Lawyer Survey. Law firms are positioning themselves to respond to increasing demand for ESG expertise by establishing and growing ESG practice groups and teams.

I recently sat down with Perkins Coie partners [Allison Handy](#) and [Gwen Williamson](#), both members of the firm's ESG team and practice to learn more about their ESG-related undertakings and views about the ESG scene. Handy co-chairs the firm's Corporate and Securities Group, while Williamson's practice focuses on registered funds and advisers in the firm's Investment Management Group. During our discussion, Handy and Williamson described Perkins Coie's approach to ESG matters, its distinctive capabilities, as well as their own ESG journeys. They also shared their views on challenges presented by the emerging anti-ESG movement. Perkins Coie is a national law firm with more than 1300 lawyers in offices across the country and Asia. The interview has been edited for clarity and brevity.

How would you describe Perkins Coie's ESG practice, as the firm's capabilities in this area?

Gwen Williamson: Perkins Coie is a national firm at every level, and we touch on ESG

widely across our firm. ESG issues directly affect our traditional corporate and securities, and asset management industry clients. They also increasingly affect our clients and engagements relating to M&A, securities litigation, enforcement and the fintech industry.

Allison Handy: Sustainability is an important focus for most companies, whether you want to call it ESG or something else. Corporate leaders regularly consider "E," "S," and "G" topics, including the company's role in and impact on the environment and our social fabric, and how those issues will affect their business in the future. Moreover, the ESG movement of the last five to eight years has made companies put a lot more thought into how they govern these issues, including measuring and reporting on them.

At Perkins Coie, we have deep expertise across practice areas, in addition to those Gwen mentioned, tax, white collar defense, labor and employment, as well as our environmental, energy and resources group. Within our white collar and investigations practice, we have had a group focused on [supply chain compliance](#) for many years. Another example of one of our industry groups focused on ESG topics is our Outdoor industry group. That group has been collaborating on an annual series of [client updates on sustainability](#) across practice areas since 2020.

Tell me a bit about your own ESG journey and how you arrived to where you are today.

Gwen Williamson: A number of years ago a private fund adviser in the healthcare space approached me about developing an ESG policy. After a lot of research, we used the [SASB industry standards](#) and framework for hospitals and health care providers that were available at that time to establish an ESG investment policy and a broader sustainability policy for the firm. We also folded them into the adviser's compliance program. That was my first deep dive into ESG and it has been off and running since then. I've greatly enjoyed seeing the different ways that asset managers are approaching ESG.

Allison Handy: Corporate governance, or the "G" part of ESG, has been area key part of my practice throughout my entire career. Around 2015, I started getting questions from many of my clients about both climate-related and human capital-related risks and oversight, including governance policies, reporting obligations, and the role board directors should be playing with respect to these issues. Several broad developments since then have accelerated these discussions, including the focus on climate change, the Covid-19 pandemic, the racial equity movement, and more. Now, I'm talking about ESG issues with every client, every year.

Perkins Coie is often considered as being on cutting edge of ESG practice. What sets the firm apart and makes it unique in the ESG space especially in the politically charged environment we find ourselves in?

Gwen Williamson: We dig deep with our clients to understand their ESG issues from all perspectives, to identify and address regulatory and compliance risk as well as business risk. There are so many loaded issues at play when we talk about ESG investing today, and being based in Washington, DC, I'm able to closely track that pulse and related regulatory movement.

Something that I think has gotten lost in a lot of the recent political rhetoric around ESG investing is that pursuit of economic interest is still the primary focus of most ESG strategies out there. Or, in the SEC's terminology, most do not seek to make any particular ESG "impact".

Allison Handy: To help our clients make sense of the constantly-changing landscape of ESG issues, we assess the implications of ESG-related developments and identify practical takeaways. We bring a business-minded approach to these issues, asking what we and our clients can be doing now to prepare for new and proposed regulations and the evolving marketplace.

Another thing that sets Perkins Coie apart is the broad mix of practice areas that we have as compared to many firms our size. Our political law group can advise on major policy statements and lobbying activities. We also have a strong environmental, energy and resources group that has worked with energy companies for many years and can advise companies in other industries that are starting to think about greenhouse gas emission data collection and related matters. Similarly, we have very strong capabilities in labor and employment, where we work closely with clients on pay equity and racial equity litigation and audits.

We're also a very team-focused, collegial firm. We recognize the importance of relying on our partners across practice groups to provide the best guidance and business-minded advice we can for our clients. That is just something that's in our firm's DNA.

We are currently seeing a growing anti-ESG movement coming from many quarters that seeks to thwart or undermine ESG initiatives. Can you speak to this challenging environment and how it might impact your work and your advice to clients?

Gwen Williamson: Well, people certainly do have differing views about ESG investing! We absolutely keep up with pro- and anti-ESG trends and the effects they can have on our clients' businesses. But we focus more on the evolving legal and regulatory landscape. We keep our advice pinned to the facts and the specific legal and regulatory concerns at hand. In the registered funds and advisers space, we are waiting for the SEC's next move. There was an April 2021 SEC risk alert on ESG investing, a set of ESG-related SEC rule proposals and several enforcement actions in 2022, and more recently, ESG-related rulemaking from the DOL. We've worked with clients to make sure they comply with the SEC guidance and understand what steps they'd need to take to comply with the SEC rules if they were adopted as proposed. Implementation of the final rules, once adopted by the SEC, will be made more challenging if other pending SEC rule proposals are adopted in the same time frame.

Allison Handy: From a company perspective, there are a lot of stakeholders to consider and it is not simply a matter of turning an ESG focus on and off. The growing momentum around ESG over the last five to eight years has led companies to put a lot more thought into measuring and reporting on a variety of initiatives: from environmental footprint, to enterprise risk management, to employee well-being and DEI efforts.

I do not believe the recent anti-ESG campaigns will cause companies to say "oh, forget it, we're not doing ESG anymore." Companies have been thinking about their risks and opportunities related to the environment and the communities in which they work for a long time. While the anti-ESG campaigns may slow the pace of ESG rulemaking for a time, I do not expect a sudden about-face in corporate behavior. The political winds shift from year to year, but I don't think there is going to be a mass undoing of the progress made in the ESG space in recent years.

Much is being said about the recently enacted Inflation Reduction Act (IRA) as possibly the most consequential climate legislation ever passed in the U.S. Do you have any view on this new law and whether it will be the game changer some say it is?

Allison Handy: The IRA was undoubtedly sweeping legislation with the potential to spur investment in many climate-related projects. But I think it will be some time before we see all of the results. There are significant opportunities for tax credits and funding related to renewable energy, electric vehicles, and carbon capture, to name a few. But there are also many questions to be answered before companies can take advantage of all of these opportunities. As is often the case, it will be up to regulatory agencies, like the U.S. Treasury, to interpret the law and provide guidance and regulations for companies to follow.

Learn more about Perkins Coie's ESG practice [here](#). The firm's [Public Chatter blog](#) covers current ESG issues of note.

You can read the section on how [ESG accelerates demand on legal departments and law firms](#), which is excerpted from the [Wolters Kluwer 2022 Future Ready Lawyer Survey](#).