

Moral Money ESG investing

A dire warning for stakeholder capitalism

The latest news on sustainability: new research exposes the shortfalls of stakeholderism; CFA Institute bolsters EU ESG standards; and a Republican victory will not kill green energy



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Welcome to Moral Money. Today we have:

- *Airlines stick to pre-pandemic plans on going green*
- *Harvard Law professor examines the history of stakeholder capitalism*
- *CFA Institute looks to bolster EU ESG standards*
- *How will the upcoming US election affect clean energy?*

The insidious downside of 'stakeholderism'

Stakeholder-centric capitalism may be the hot new trend in the corporate world, but the concept traces its roots back much further than last year's [headline-grabbing statement](#) from the Business Roundtable. In fact, the US already tried a version of “stakeholderism” back in the 1980s when it introduced “constituency statutes” which allowed companies to consider how an acquisition might negatively affect people and communities as they defended themselves against corporate raiders.

Given the myriad global catastrophes that have led to this new wave of stakeholder capitalism, it is safe to surmise that “constituency statutes” did not achieve everything they set out to. **Lucian Bebchuk**, a Harvard Law professor, has looked more deeply into the issue and has a sobering message.

In [new research](#) released this week, Mr Bebchuk — along with **Kobi Kastiel** of Tel Aviv University and **Roberto Tallarita** of Harvard Law School — found “constituency statutes” to have been an abject failure for stakeholders. “Corporate leaders made very little use of their power to negotiate for stakeholder protections,” they wrote. “Furthermore, in the cases in which some protections were included, they were practically inconsequential or cosmetic.”

Why did this happen? Mr Bebchuk argues it was because corporate leaders had little incentive to protect stakeholders “beyond what would serve shareholder value”.

Some readers might dismiss this argument, given that Mr Bebchuk has been a longtime critic of the stakeholder movement (so much so that in the last decade Mr Bebchuk has repeatedly clashed with stakeholder champions such as Marty Lipton). But Mr Bebchuk’s research is thought-provoking, even (or especially) if you are a diehard fan of stakeholder ideas.

This should be a stark warning for today’s stakeholder movement. “The evidence we present indicates that stakeholderism should be expected to fail to deliver, as constituency statutes did; stakeholderism therefore should not be supported, even by those who deeply care about stakeholders,” the professors wrote.

Indeed, things appear to be playing out largely as Mr Bebchuk might expect. With this week marking the one-year anniversary of the BRT statement, the Financial Times did a [deep dive](#) into what has actually changed and found little evidence of a stakeholder revolution taking hold. Instead, some have argued that it appears the companies signing the statement have been more concerned with “encouraging a ‘toothless’ shareholder rights regime which made it hard to hold boards to account for their stakeholder pledges”.

As Mr Bebhuk warned at the top of his paper in a quote attributed to philosopher **George Santayana**: “Those who cannot remember the past are condemned to repeat it.” The real question may be whether or not repeating the past was actually the goal all along. (*Billy Nauman*)

CFA Institute aims to clear up ESG disclosures

With Europe taking the lead in the environmental, social and governance (ESG) labelling battles while the US lags behind, how will things play out globally? The CFA Institute this week provided a potential equaliser, unveiling a preliminary proposal for standards the organisation says will bring “order” to disclosure chaos.

The organisation published a [consultation paper](#) on Wednesday offering a first look at an ESG disclosure standard designed to fulfil a similar purpose to its [Global Investment Performance Standards](#) — performance reporting standards that enable investors to compare data between funds.

Under the CFA Institute’s proposal, asset managers would identify whether their funds had any of six “ESG-related features”. Those features map to common sustainable investment styles, like funds that integrate ESG factors into their risk analysis, follow themes like social justice or water management, or engage portfolio companies.

Managers can pick which funds to apply the standard to, and independent examiners will ensure those products have the disclosed features.

The CFA Institute’s aim is to streamline the “plethora” of standards for issuing companies and financial reporting to provide a useful tool that investors can use to evaluate funds across the world, CFA Institute CEO **Marg Franklin** told *Moral Money*.

The standard is meant to align with — but not duplicate — other ESG regulations, such as the EU’s Sustainable Finance Disclosure Regulation and the European SRI (socially responsible investment) Transparency Code, according to the consultation paper.

The organisation’s standard will also fill gaps in the US, where Securities and Exchange Commission officials have [questioned](#) the usefulness of sustainability metrics and the Department of Labor is seeking to limit ESG investments in retirement plans.