Diversity expectations of clients
The role of finance (securities and banking) lawyers in their firm to cope

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Women on Boards Directive

- With the adoption of Directive (EU) 2022/2381 in November 2022, commonly referred to as the ‘Women on Boards Directive’, the EU legislator intends to establish minimum requirements in the form of binding measures to improve the gender composition of boards throughout the EU and, thus, to rectify existing imbalances. Transposition deadly is end of 2024 for Member States.
- However, its provisions only apply to listed companies with at least 250 employees, which are regarded as ‘role models’ due to their size and economic importance.
- To point out economic benefits, the EU legislator also acknowledges that the ***presence of women on boards improves corporate governance, as team performance and the quality of decision-making are enhanced by a more diverse and collective mind-set incorporating a wider range of perspectives***
- *Target - Article 5* **Objectives with regard to gender balance on boards**
  - ***Member States shall ensure that listed companies are subject to either of the following objectives, to be reached by 30 June 2026:***

a) members of the underrepresented sex hold at least 40 % of non-executive director positions;

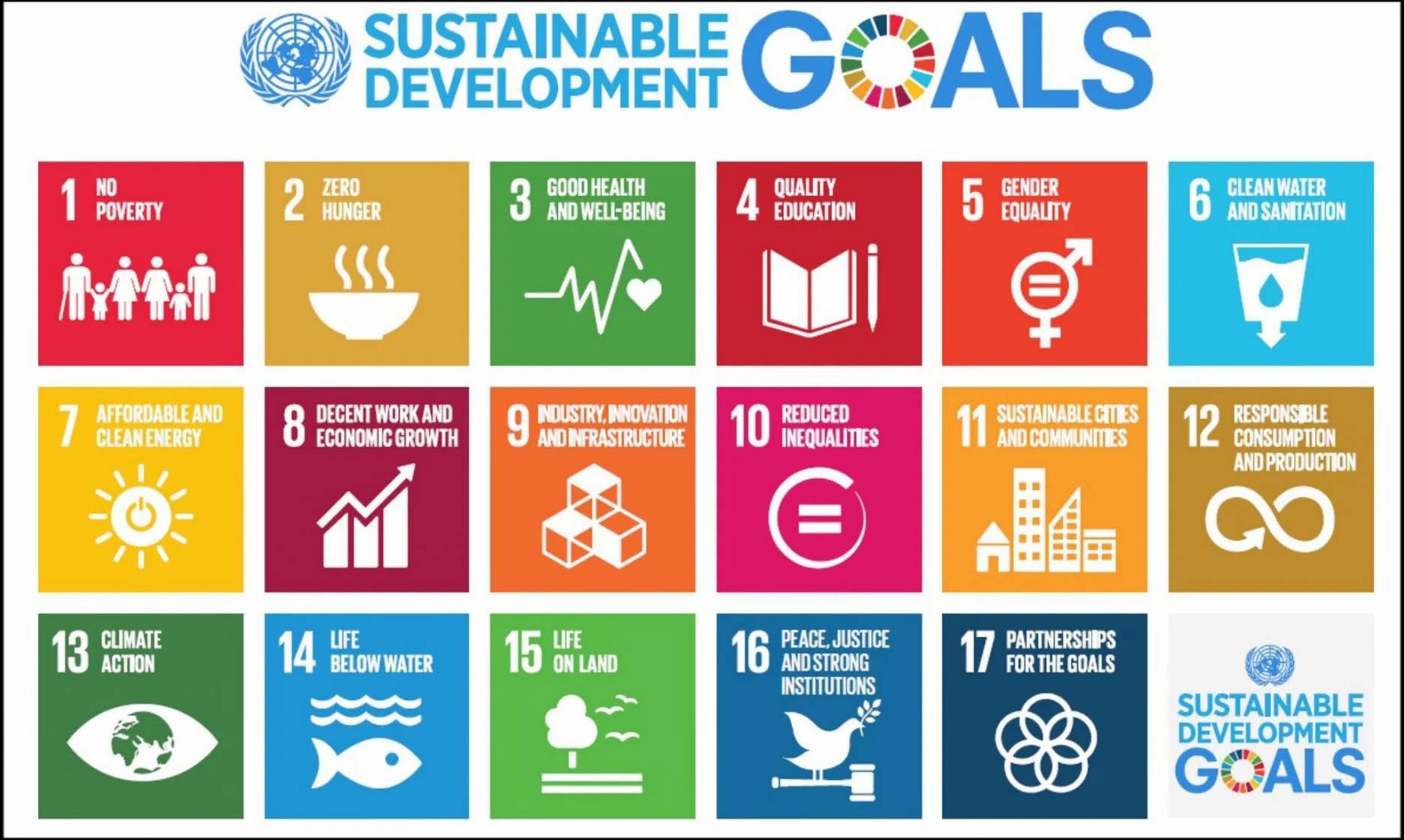
b) members of the underrepresented sex hold at least 33 % of all director positions, including both executive and non-executive directors.

Little different aspects 1/3

- Since the 1992 UN Climate Change Treaty, based on a common firm political decision of 198 nations playing decessive factor in world economics, **sustainability became a major business driver principle** by setting the aim of stabilizing greenhouse gas concentration to limit global warming and prevent dangerous climate change.
- Since then depending on where we are at the world we have to face different expectations to build and consequently finance businesses in an environmentally sustainable manner in line with the above mentioned environmental goals, guarded by developing metrics to measure.
- Since 2000 the UN’s Global Reporting Initiative paves the road to the US and Europe to develop non-financial, so called sustainability reporting/disclosure requirements to at least public businesses.
- Beyond environmentally sustainable goals also since 2000 the UN’s Global Compact (UNGC) initiative requires businesses to commit to adjust their activity to 10 general principles on human rights, labour, environmental and anti-corruption with the aim:
  - to improve the social impact of the activity of businesses by causing the least harm possible beyond nature to the human world and
  - to improve their governance transparency to be able to verify the above environmental and social goals
- By now at least 170 countries joined voluntarily with at least 13,000 corporations the UNGC.

Little different aspects 2/3

- You can ask why do we talk again about ESG? Because in 2004 IFC (International Finance Corporation) together with the Swiss Government issued a study under the title "Who Cares, Wins" in which it was first summarized how the above factors can be integrated better in the course of sustainability investments and finance. That study used by the way first the term „ESG”.
- UN engaged Freshfields in 2005 to prepare a worldwide report, known as Investing for Sustainability Impact, which actually proposed that the ESG sustainability factors be applied by financial intermediaries and asset managers in the course of assessing investments.
- As a consequence the UN in 2006 issued at the New York stock exchange the Principles of Responsible Investment which set 6 principles for institutional investors to integrate on a voluntary basis ESG factors in their investment analysis and decision making.
- To put all this in practice the UN in 2015 developped 17 sustainability development goals (SDG). Out of these:
  - number 5 is gender equality, and
  - number 10 is reducing unequality


SUSTAINABLE DEVELOPMENT GOALS
1 NO POVERTY
2 ZERO HUNGER
3 GOOD HEALTH AND WELL-BEING
4 QUALITY EDUCATION
5 GENDER EQUALITY
6 CLEAN WATER AND SANITATION
7 AFFORDABLE AND CLEAN ENERGY
8 DECENT WORK AND ECONOMIC GROWTH
9 INDUSTRY, INNOVATION AND INFRASTRUCTURE
10 REDUCED INEQUALITIES
11 SUSTAINABLE CITIES AND COMMUNITIES
12 RESPONSIBLE CONSUMPTION AND PRODUCTION
13 CLIMATE ACTION
14 LIFE BELOW WATER
15 LIFE ON LAND
16 PEACE, JUSTICE AND STRONG INSTITUTIONS
17 PARTNERSHIPS FOR THE GOALS
SUSTAINABLE DEVELOPMENT GOALS

Questions

1. Who and what is/was the driver in your corporation / law firm to introduce diversity policies, if any?
2. What diversity programs your corporation or law firm has and who or which department within your corporation or law firm is responsible to create, implement and monitor compliance?
3. Can you measure the actual benefits of such programs and can you give some examples? E.g. better talent management, improvement of communication.
4. When and what is the expectation of your clients to demonstrate on your diversity and more broadly sustainability practices and policies?
5. Do you have a practice of regular diversity and sustainability reporting?
6. What can be the consequence of lack of sustainability policies and practices, or what can be the consequence of stating policies and practices which are not complied with. Have you actually came across any “social or green-washing”?
7. Can we expect more serious civil and potentially criminal liability for non complying with diversity or more broadly sustainability policies?