ESG Disclosure and Greenwashing in Thailand

An Analysis of ESG Regulatory Shortcomings and Surrounding Contexts

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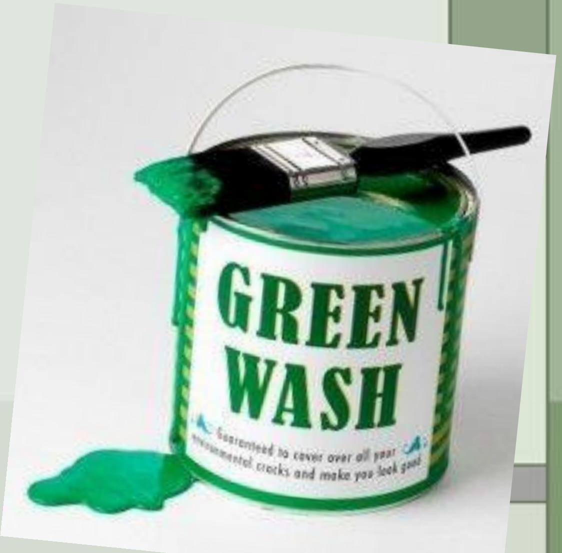
Greenwashing

- Overstating environmental benefits
- Highlighting positive aspects while omitting harmful impacts
- Misleading information
- Disrupting a level playing field
- Can undermine confidence in ESG investments



How to address greenwashing?

- Regulatory framework
- Corporate responsibility measures
- i.e. Mandatory sustainability reporting, independent audits, and penalties for false claims

ESG Disclosure

- The EU *Corporate Sustainability Reporting* Directive
- The US Securities and Exchange Commission's (SEC) *Proposed Rule on Climate-Related Disclosures*

→ the critical role of standardized ESG disclosures in enhancing market efficiency and promoting sustainable business practices

ESG Disclosure

- **The Global Reporting Initiative (GRI)**
  - Focusing on how the company's operations affect stakeholders, society, and the environment.
  - Information on key sustainability topics, such as carbon emissions, biodiversity impact, labor practices, supply chain transparency, and ethical governance.
  - Aligns with other international sustainability standards, such as the United Nations Global Compact (UNGC) and the Sustainable Development Goals (SDGs), further reinforcing its role in advancing responsible business practices.

ESG Disclosure

- **The Sustainability Accounting Standards Board (SASB)**
  - Industry-specific disclosure guidelines
  - Focusing on financially material ESG factors, helping investors evaluate corporate sustainability risks.
- **The Task Force on Climate-related Financial Disclosures (TCFD)**
  - Promotes climate-related risk reporting
  - Provides recommendations on governance, strategy, risk management, and metrics to enhance corporate resilience to climate-related risks.
  - Information related to carbon footprint reduction strategies, transition plans to low-carbon economies, and climate-related risk assessments.

ESG Disclosure

- Standardisation
- Comparability
- Independent third-party verification
- Regulatory oversight / Voluntary-based?
- **Influence of market forces**

Thailand’s ESG Environment

- Enhancement and Conservation of National Environmental Act B.E. 2535 (1992)
- Toxic Substances Control Act B.E. 2535 (1992)
- Mid 2010s : Introduction of ESG regulations in Thailand
- Thai Security Exchange Commission: ESG Disclosure Requirements
- Bank of Thailand
    - SDGs
    - Green Finance
    - ‘Thailand Taxonomy’

Problems of ESG Disclosure in Thailand

- **Lack of a Functional Regulatory Framework**
- **Lack of Legal Responsibility for Companies and Directors**
  - Corporate veil-piercing doctrine is applied in a narrow and specific manner, primarily under the Consumer Case Procedure Act B.E. 2551 (2008)
  - Section 44 allows the courts to hold shareholders, partners, or controlling persons personally liable when a juristic person (such as a company) is found to have been incorporated or operated in bad faith, engaged in deceitful behavior against consumers, or embezzled property while lacking sufficient assets to meet its obligations.

Problems of ESG Disclosure in Thailand

- **Lack of Standardized Metrics**
  - A 2022 survey by Deloitte revealed that while many organizations utilize frameworks like the Global Reporting Initiative (GRI) for ESG reporting, a significant portion rely on internally developed Key Performance Indicators (KPIs). Notably, 19% of respondents indicated the absence of any data collection template for ESG information.

Problems of ESG Disclosure in Thailand

- **Statutory Gaps**
  - No specific legislation criminalizing or penalizing false or misleading ESG claims
- **Enforcement Discrepancies**
- **Limited Market Forces for ESG**

Thailand’s limited market forces for ESG

- 95% of Thai consumers acknowledge being affected by climate change.
- Only 58% choose sustainable products.
- An average willingness to pay just 11.7% more.

(Source: PwC Thailand. “Thai Consumers Recognize Climate Change Impact but Price Sensitivity Limits Sustainable Purchases.” *PwC Thailand*, August 30, 2024.)

→ Price sensitivity and economic considerations often outweigh environmental concerns

Thailand’s limited market forces for ESG

- 86% of Thai consumers are keen to become more responsible, with top environmental concerns including waste management and recycling programs (50%), promotion of natural and renewable resources (46%), and reducing air and water pollution (43%).
- However, only 39% of Thai consumers believe their individual actions can make a positive impact, indicating a desire for collective, government-led change.

(Source: Visa. “86% of Thai Consumers Are Keen to Become More Responsible: Visa Study.” Visa Thailand, March 14, 2024.)

Challenges and Opportunities for Reform: Thailand as a Case Study for Developing Economies

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- Absence of explicit legal provisions addressing greenwashing.
- Lack of official standardization of ESG disclosure
- Fragmented enforcement mechanisms.
- Public awareness and stakeholder engagement
- Accountability of greenwashing companies

Challenges and Opportunities for Reform: Thailand as a Case Study for Developing Economies

From all these reasons,
the western disclosure regime
might not work effectively to
address greenwashing in Thailand.