



# Greenwashing and Emerging Risks in ESG Disclosures

**Global Mining Group** 

March 4, 2025

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## Greenwashing and Emerging Risks in ESG Disclosures

Tuesday, March 4, 2025 Digging up legal trends in mining

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## ▼ Please note the following:

- Session Materials: the handout can be downloaded via the "Handout" tab
- Questions: please put any questions for the speakers into the "Q&A" box
- Survey: please click on the "Survey" tab to complete our survey
- **Technical Support:** if you require support, please click the "Tech Support" button at the bottom of the video window page
- Closed Captioning: to turn on closed captioning, please click the "CC" button under the video window

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#### **PANELISTS**



SILVIU
Bursanescu
Associate General Counsel, IAMGOLD



Alderson

Partner & Co-Leader, ESG and Sustainability, Fasken



Di Domenico

Partner & Co-leader,
Competition, Marketing &
Foreign Investment

ANTONIO



Valois

Partner, Capital Markets,
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Sustainability

MARIE-CHRISTINE

#### FASKEN Own tomorrow



Navigate the complexities of ESG with greater clarity.



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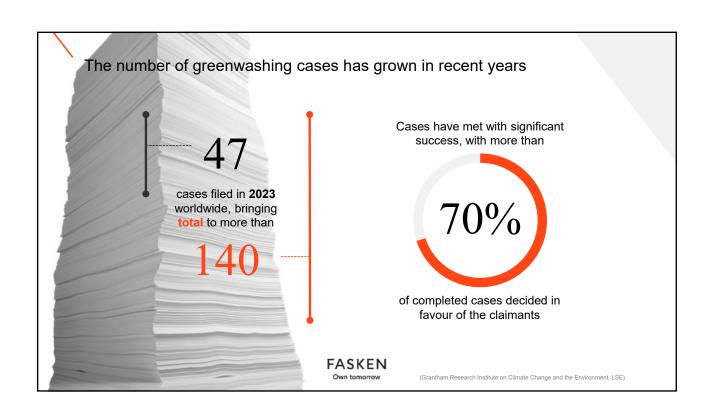
#### TODAY'S AGENDA

- 1. Greenwashing in Context
- 2. New Anti-greenwashing Provisions
- 3. Considerations for Public Companies
- 4. Targets and goals
- 5. How to Avoid Pitfalls?
- 6. Questions

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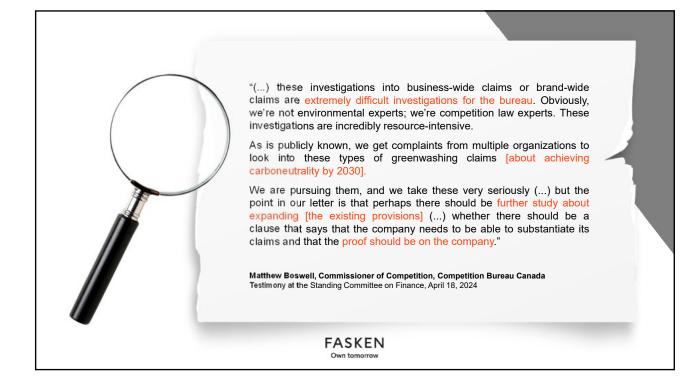


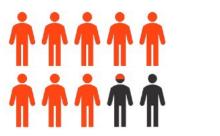












84.3%

of Canadian consumers call for stricter regulation of "green marketing" by public authorities

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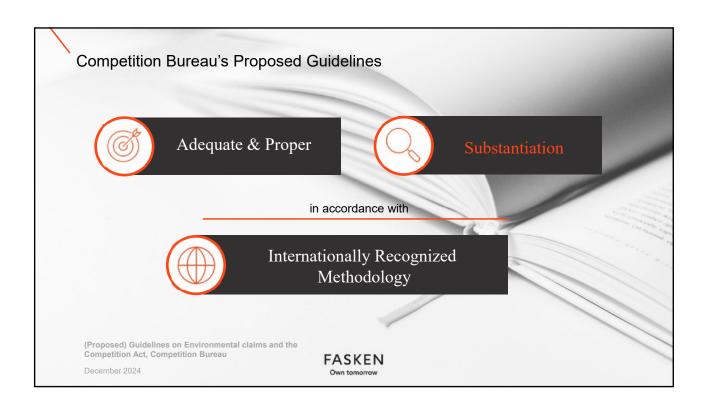
#### Greenwashing Provisions — Competition Act

74.01(1) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever...

a) (...) a representation to the public that is false or misleading in a material respect; (b.1) (...) makes a representation to the public in the form of a statement, warranty or guarantee of a product's benefits for protecting or restoring the environment or mitigating the <u>environmental</u>, <u>social and ecological causes</u> or effects of climate change that is not based on an adequate and proper test (...)

(b.2) (...) makes a representation to the public with respect to the benefits of a business or business activity for protecting or restoring the environment or mitigating the <a href="mailto:environmental">environmental</a> and <a href="mailto:ecological">ecological</a> causes or effects of climate change that is not based on adequate and proper substantiation in accordance with internationally recognized methodology (...)

(...) the proof of which lies on the person making the representation.



#### Tips from the Competition Bureau

#### THE DRAFT GUIDELINES ALIGN WITH SIX NON-PRESCRIPTIVE PRINCIPLES:

1

Environmental claims must be truthful and not misleading.

4

Claims must avoid exaggeration.

Source: Bureau's Deceptive Marketing Practices Digest (Volume 7, July 2024) 2.

Environmental benefits and performance claims require adequate and proper testing.

5

Claims should be clear and specific, avoiding vagueness.

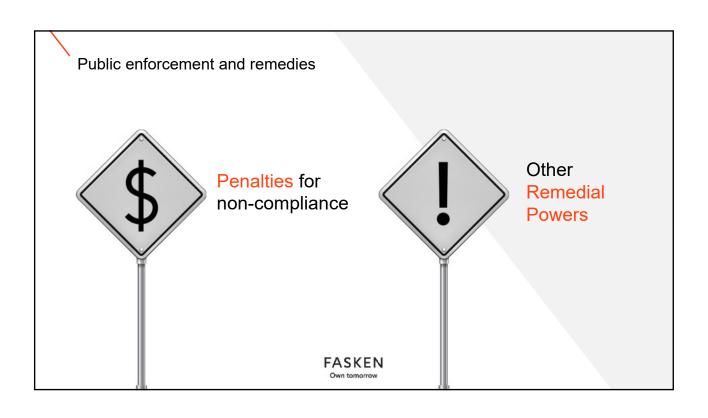
3.

Comparative claims should specify what is being compared.

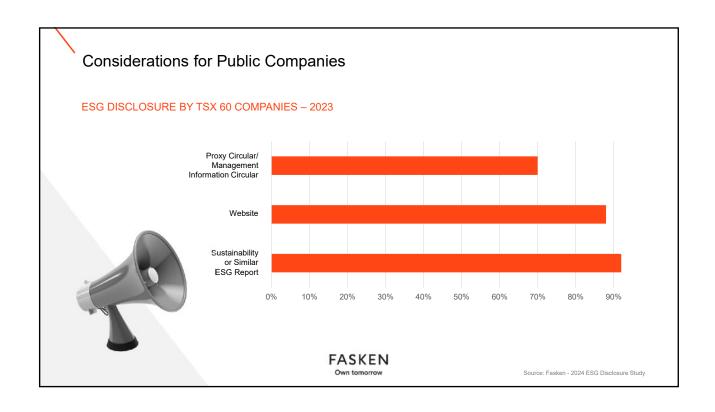
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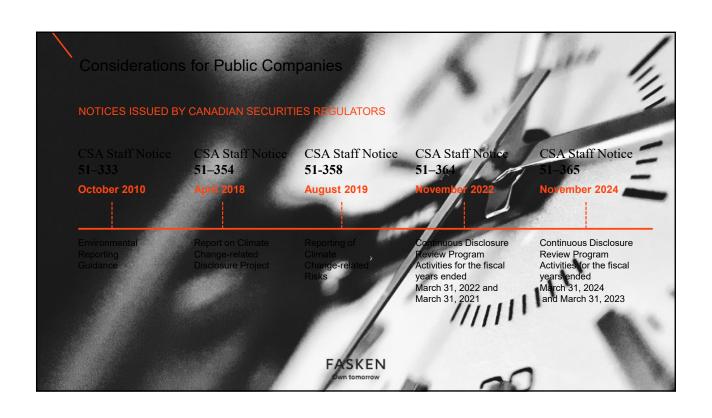
Future claims must have substantiation and a clear plan.

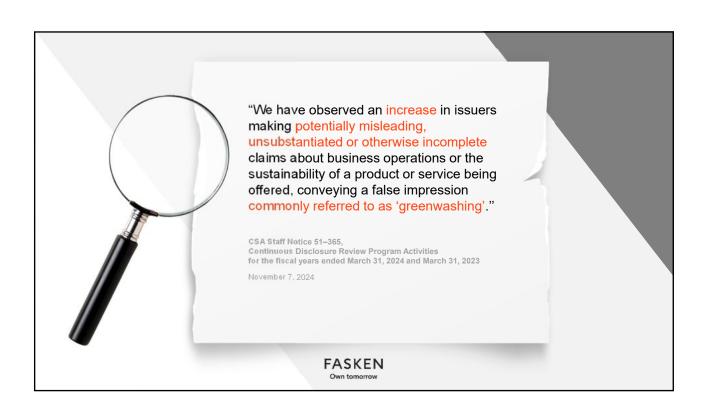
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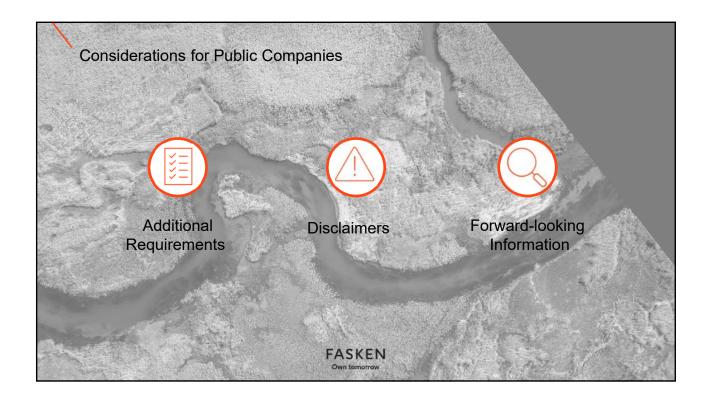




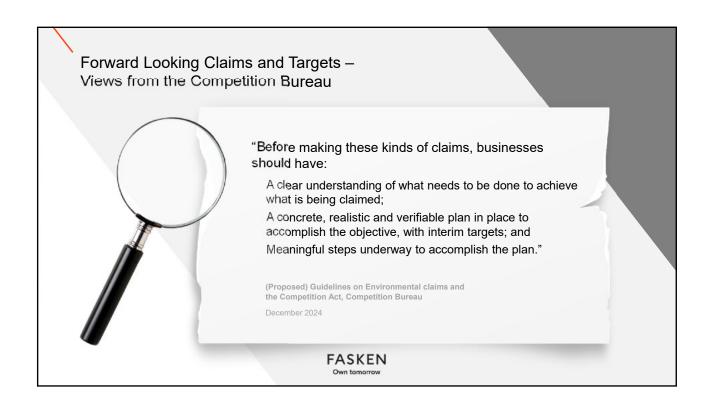




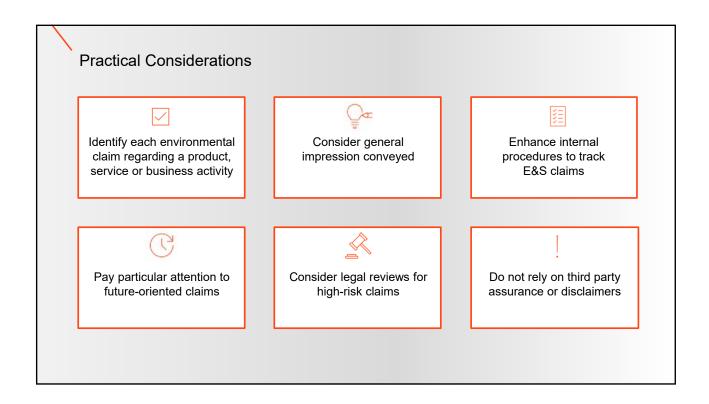
















## Survey and CPD QR Codes

Survey – It only takes a minute!



Law Society of British Columbia

The session has been loaded with the LSBC and is titled "PDAC - Greenwashing and Emerging Risks in ESG Disclosures – March 4, 2025".

Ontario and/or Quebec CPD Certificate

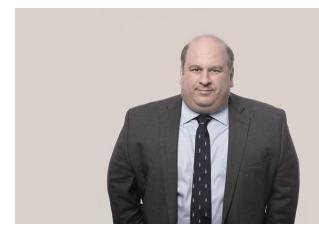






## Biographies





## Kai Alderson\*

PARTNER | CO-LEADER, ESG AND SUSTAINABILITY

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\*Law Corporation

#### **Areas of Expertise**

Indigenous Legal Matters | Corporate Social Responsibility | Corporate/Commercial | Anti-Bribery and Corruption | ESG and Sustainability | Oil and Gas | Energy and Climate | Power | Renewable Energy | Climate Change and Carbon Markets | Automotive | Technology, Media and Telecommunications | Climate Tech | Plastics | Greenwashing and Climate Litigation

#### **Education**

2007, LLB, University of British Columbia 1998, Ph. D., International Relations, Rhodes Scholarship, Oxford University

#### **Jurisdiction**

British Columbia, 2008

#### Language

English

Kai Alderson is an energy and natural resources lawyer in Vancouver. Utilities, energy companies and other natural resource clients seek out his practical advice on complex asset acquisitions and dispositions, project development and other challenging commercial matters. Kai is a trusted advisor, providing strategic advice to project proponents on environmental, regulatory and Indigenous legal matters.

Energy and natural resource companies rely on Kai's practical approach, whether he is assisting them on a challenging regulatory matter or a complex transaction. Kai is a problem-solver who helps clients achieve successful commercial outcomes while building constructive, long-term relationships.

#### Corporate/Commercial Law

Clients benefit from the breadth of Kai's business law experience. He regularly advises companies on share and asset purchases, business structuring, limited partnerships and joint ventures. He also provides practical and creative advice on long-term project agreements, project financings and other project-related commercial and operating matters, including procurement.

#### **Indigenous Legal Matters**

With broad experience in engaging Indigenous groups on project-related consultation activities, Kai is able to negotiate and draft Impact Benefit Agreements and other commercial agreements and develop Indigenous





procurement initiatives. This includes building win-win joint business ventures between industry and Indigenous entrepreneurs.

#### **Environmental Law**

Kai assists on all manner of complex environmental matters, from assessing and allocating environmental liabilities in commercial transactions, to the environmental assessment and permitting of major infrastructure, energy and other natural resource projects. Kai also regularly helps clients resolve contaminated sites disputes and engage regulators in respect of environmental compliance matters, from spill reporting to cost-effectively meeting permit conditions.

#### **Carbon Markets and emissions trading**

Kai advises on greenhouse gas reporting requirements and the purchase and sale of carbon offsets, renewable energy certificates and other environmental commodities. He also regularly consults on the impact of provincial, federal and regional greenhouse gas reduction initiatives.

#### Rankings and Awards

- The Best Lawyers in Canada 2025 Recognized in Natural Resources in Vancouver
- Chambers Canada 2023-2025 Recognized nationwide in Aboriginal Law
- The Legal 500 Canada 2023-2025 Recognized nationwide as a Leading Individual in Indigenous Law
- The Best Lawyers in Canada 2022-2025 Recognized in Energy Law in Vancouver
- Lexpert 2024 Recognized in the Canadian Legal Lexpert Directory in Environmental Law and Environmental, Social & Governance (ESG)
- Chambers Global 2024 Recognized nationwide in Canada in Aboriginal Law
- Lexpert 2020-2024 Recognized in the Canadian Legal Lexpert Directory in Aboriginal Law
- · Lexpert 2022 Recognized in the Canadian Legal Lexpert Directory in Environmental Law
- Lexpert 2021 Recognized in the 2021 Lexpert Special Edition Energy
- Lexpert 2020 Recognized in the Canadian Legal Lexpert Directory in Energy (Electricity)

#### Memberships and Affiliations

- Law Society of British Columbia
- Canadian Bar Association



#### Silviu Bursanescu, Associate General Counsel, IAMGOLD



Silviu Bursanescu is a seasoned corporate commercial lawyer with 15+ years of in-house and law firm experience in both national legal systems (common law and civil law). He currently acts as Associate General Counsel for IAMGOLD Corporation, a mid-tier gold producer headquartered in Toronto, Ontario (TSX: IMG; TYSE: IAG) with activities in Canada, West Africa and South America. As part of his role, Silviu sits on the Board of Directors of IAMGOLD Essakane S.A., the largest gold producer in Burkina Faso. Prior board experience includes French, Senegalese and Malian entities of the group.

Over the years, Silviu has been involved in the negotiation of complex Canadian and international transactions (shares / assets acquisitions and divestitures), construction and expansion projects (including in Canada and West Africa), exploration, disclosure and reporting, claim resolution (including construction claims, labour and employment, regulatory affairs, etc.), relations with Governments, First Nations and local communities, global supply chain, human rights, sustainability, privacy and data protection. He supports the Côté Gold Mine near Sudbury, Ontario, the third gold deposit in Canada by size, that reached commercial production in Q3 2024, as well as the company's other operations and expansion projects in Canada, West Africa and South America. He also sits as a member of the Foundation for Natural Resources and Energy Law (FNREL), on the Corporate Counsel Committee and International Institute Mining Committee that is planning the next international conference scheduled to be held in April 2025 in Lima, Peru.

Prior to joining IAMGOLD, Silviu worked for Bombardier Inc. in Montréal, Québec from 2018 to 2020 in the Business Aircraft division, including on major expansion projects in the UAE, Singapore and Australia, aftermarket initiatives and major defense projects. Previously, he acted as Senior Legal Counsel for Québecor Media Inc. during the 2013-2018 period, and as Associate for Fasken LLP from 2008 to 2013 (including on a case that was heard by the Supreme Court of Canada).





## Antonio Di Domenico\*

PARTNER | CO-LEADER, COMPETITION, MARKETING & FOREIGN INVESTMENT

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\*practising through a professional corporation

#### **Areas of Expertise**

Cartels & Criminal Investigations | Alternative Dispute
Resolution | Corporate Social Responsibility | Corporate
Governance | White Collar Defence and Investigations |
Competition, Marketing & Foreign Investment | Anti-Bribery
and Corruption | Class Actions | Litigation and Dispute
Resolution | National Security and Defence Law |
Competition Litigation, including Class Actions | Commercial
Litigation | Life Sciences | Financial Services | Health |
Agribusiness, Food & Beverage | Automotive | Plastics |
Greenwashing and Climate Litigation | Asia Pacific |
Canada | China | United States

#### **Education**

2005, LLB, Osgoode Hall Law School at York University2002, BA, (Hons) Summa Cum Laude, York University

#### **Jurisdiction**

Ontario, 2006

#### Languages

English | Italian

Tony is a Partner and Co-Leader of the firm's Competition, Marketing and Foreign Investment Group. As former counsel to Canada's Commissioner of Competition (Department of Justice Canada) and having served as counsel in many of Canada's most significant competition matters, Tony is widely recognized as one of Canada's leading practitioners in competition law and litigation.

Tony is recognized by numerous national and international legal directories, including *Chambers, Who's Who Legal, Global Competition Review, Best Lawyers, Legal 500, Benchmark Litigation, Thomson Reuters* and *Lexpert.* Clients note that Tony is "extremely capable", "an absolute pleasure to work with", "always full of energy", "extremely responsive" "has a practical, pragmatic approach to litigation and advisory matters", "has a strong international presence", and "has outstanding knowledge of the Canadian Competition Bureau and its processes" (*Chambers* and *Who's Who Legal*).

Tony represents and counsels clients in domestic and multi-jurisdictional competition matters, including mergers, criminal cartel matters, advertising, marketing and consumer protection practices, abuse of dominance and other reviewable practices. Tony represents parties in criminal and civil investigations, litigated proceedings before Canada's Competition Tribunal and class action litigation. Tony has extensive trial and appellate experience, having appeared as counsel before Canada's Competition Tribunal, all levels of court in Ontario, the Federal Court of Canada, the Federal Court of Appeal and the Supreme Court of Canada. Tony is particularly experienced





with the application of competition laws to the high technology, life sciences, food and agribusiness, financial institutions, transportation and ESG.

Tony returned to Fasken in 2016 after serving as counsel to Canada's Commissioner of Competition for a two year term. In this role, Tony directly advised the Commissioner on many of the Competition Bureau's high-profile cases. Tony represented the Commissioner in complaints and investigations, enforcement matters, the review of mergers, major litigated proceedings and the negotiation of remedies and orders. Tony also secured numerous production orders/subpoenas on behalf of the Commissioner and advised on Competition Bureau enforcement guidelines and competition policy matters.

Tony is a sought-after trainer, speaker and writer on competition issues. He is the author of the leading legal treatise, Competition Enforcement and Litigation in Canada (Emond Publishing) which has been cited variously by Courts in Canada. Tony is an adjunct law professor at Osgoode Hall Law School in Toronto, where he teaches competition law and trial advocacy. Tony is a non-governmental adviser to the International Competition Network, a network of the world's competition authorities that promotes effective global antitrust enforcement. Tony is active in the leadership of the Canadian Bar Association's National Competition Law Section, currently serving on the Section's Executive, the Competition Tribunal Liaison Committee and having served as Chair of the Mergers and Criminal Matters Committees. Tony is also active in the leadership of the American Bar Association's Section of Antitrust Law, currently serving as a Co-Chair of the Section's Committee Operations Committee and having served as Co-Chair of the Consumer Protection Committee. Tony is also active with the leadership of the International Bar Association's Antitrust Committee, currently serving on the Unilateral Conduct and Behavioural Issues Working Group. Tony is a past chair of the Ontario Bar Association's Class Action Section and a past member on the Bench and Bar Class Action Liaison Committee in the Province of Ontario. Tony has discussed competition issues with the Globe & Mail, the National Post and the Washington Post, among other media outlets.

Tony's community work includes serving on the board of directors of York University, the Italian Chamber of Commerce of Ontario and the Hockey Association for the Developmentally Challenged.

#### Rankings and Awards

- Lexpert 500 Cross Border Directory (formerly ALM 500) 2024-2025 Recognized in Competition Law
- The Best Lawyers in Canada 2021-2025 Recognized in Advertising and Marketing Law in Toronto
- Chambers Canada 2020-2025 Recognized nationwide in Competition/Antitrust: Litigators
- The Best Lawyers in Canada 2020-2025 Recognized in Competition/Antitrust Law in Toronto
- The Best Lawyers in Canada 2019-2025 Recognized in Class Action Litigation in Toronto
- The Legal 500 Canada 2018-2025 Recognized nationwide as a Leading Individual in Competition and Antitrust



- Thomson Reuters stand-out lawyers 2024 Recognized as a Thomson Reuters Stand-out Lawyer (formerly known as Acritas Star™ lawyer)
- Lexpert 2020-2024 Recognized in the Canadian Legal Lexpert Directory as Most Frequently Recommended in Competition Law
- Benchmark Litigation Canada 2020-2024 Recognized in Ontario as a Future Star
- Chambers Global 2020-2024 Recognized nationwide in Canada in Competition/Antitrust: Litigators
- Lexpert 2019-2024 Recognized in the Canadian Legal Lexpert Directory in Advertising & Marketing Law
- Lexology Index 2017-2024 Recognized as Recommended in Competition
- Lexpert 2021 Recognized in the Canadian Legal Lexpert Directory in Class Actions
- Benchmark Litigation Canada 2019 Named in Benchmark Litigation Canada
- Benchmark Litigation 2018 As "Future Star" in Ontario
- Benchmark Litigation 2018 Benchmark Litigation's 40 & Under Hot List
- Canadian Legal Lexpert Directory 2018 Canadian Legal Lexpert Directory for Competition Law
- Lexpert 2017 2017 Lexpert Rising Stars: Leading Lawyers Under 40
- Who's Who Legal: Competition 2017 Future Leaders
- Benchmark Canada 2017 As "Future Star" in both Ontario and Canada
- Osgoode Hall Law School Dean's Gold Key
- Osgoode Hall Law School Dean's Fellow
- York University's Highest Academic Honour Murray G. Ross Award
- Italian Chamber of Commerce of Ontario 14th Annual Business Excellence Awards
- Italian Chamber of Commerce of Ontario As a leading Italian-Canadian under the age of 40
- Fraser Milner Casgrain LLP Prize Academic excellence and leadership
- Torkin Manes Cohen and Arbus LLP Prize Academic excellence and community service
- Osgoode Hall Law School Top Quintile Designation as an Exceptional Negotiator



#### Memberships and Affiliations

- Canadian Bar Association, National Competition Law Section
- Chair, Criminal Matters Committee
- Member, Competition Litigation, Mergers, Reviewable Matters/Unilateral and Marketing Practices Committees
- American Bar Association, Section of Antitrust Law
- · Vice-Chair, Consumer Protection Committee
- Editor, Consumer Protection Committee's International Consumer Development Updates
- Member, Cartel and Criminal Practice Committee
- Co-Chair, American Bar Association Criminal Justice Section Regional Sub-Committee (Canada) on White Collar Crime
- Ontario Bar Association
- · Vice-Chair, Class Action Section
- · Member, Civil Litigation Section
- The Advocates' Society
- Chair, Young Advocates' Standing Committee (past)
- Co-Chair, Class Actions Practice Group (past)
- Member, Board Standing Committees (Education and Operations, Governance and Finance Committees)
  (past)
- Task Forces (Paperless Trials Manuals, Communications with Testifying Experts)
- Co-Chair, Fall Forum 2012 Conference (past)
- Adjunct Professor, Osgoode Hall Law School/Osgoode Professional Development
- Lawyer As Negotiator (course focused on dispute resolution and negotiation theory and practice)
- Intensive Trial Advocacy Workshop (intensive trial advocacy course for lawyers)
- Defence Research Institute
- Toronto Lawyers' Association



- Italian Chamber of Commerce of Ontario
- Chair, under-40 Division (past)
- Canadian Italian Advocates Organization
- Director, Board of Directors (past)





## Marie-Christine Valois

PARTNER

#### Montréal

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#### **Areas of Expertise**

Mergers & Acquisitions | Capital Markets | ESG and Sustainability | Private M&A | Corporate/Commercial | Private Equity | Technology, Media and Telecommunications

#### Education

2022, Certificate, ESG, Climate Risk & The Law, Osgoode Hall Law School at York University

2013, LLB, Université de Montréal

2013, Certificate, International Commercial Law, University of Kent, Canterbury

2005, BAA, Communication, Concordia University

#### **Jurisdiction**

Québec, 2014

#### Languages

French | English

Marie-Christine Valois is a member of the Corporate/Commercial group in the Montréal office. She practises primarily in the areas of mergers and acquisitions and other transactions involving public and private corporations, such as initial public offerings, bought deal financing and going-private transactions.

In addition to transactional matters, Marie-Christine's practice focuses on general corporate governance as well as sustainability and ESG issues (environment, social, governance).

Marie-Christine advises Canadian companies (operating in Canada and abroad) on how best to manage ESG risks and disclosures, particularly the risk of human rights violations, linked to their operations and supply chains, including disclosure obligations under *Canada's new Fighting Against Forced Labour and Child Labour in Supply Chains Act*.

As regards corporate governance matters, Marie-Christine has extensive experience in managing legal issues related to corporate affairs, corporate governance, governance structures and governance best practices as well as advising public and private companies on strategic transactions or crisis events.





As Lead Partner – publications and external profile, Capital Markets Practice Group (Québec), Marie-Christine is involved in several of the firm's outreach initiatives, in addition to serving on the Capital Markets, Mergers and Acquisitions Editorial Board.

Marie-Christine was a journalist for national media for several years before becoming a lawyer.

#### Rankings and Awards

 The Best Lawyers in Canada 2024-2025 Recognized as Lawyers of the Year in Mergers and Acquisitions Law in Montreal

#### Memberships and Affiliations

- Member of the Young Chamber of Commerce of Montréal
- Member of the Québec Bar
- Member of the Montreal Bar
- Member of the Young Bar Association of Montréal
- Member of the Canadian Bar Association

Fasken is a leading international law firm with more than 950 lawyers and 10 offices on three continents. Clients rely on us for practical and innovative legal services.

We provide results-driven strategies to solve the most complex business and litigation challenges.



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