ESG and Pillar 2: Convergences and Divergences between Corporate Sustainability and Tax Compliance

The development of ESG (Environmental, Social, and Governance) criteria has profoundly transformed corporate approaches to social responsibility and sustainability.
In parallel, in the tax sphere, the adoption of "Pillar 2" by the OECD and the G20, aimed at introducing a global minimum taxation for large multinational groups, constitutes a development of extraordinary significance in international tax governance.
Although stemming from different regulatory traditions, ESG and Pillar 2 present significant points of intersection, as well as notable structural divergences.

Common Elements: The Centrality of Compliance and Social Responsibility

Both the ESG framework and the Pillar 2 mechanism place compliance at the heart of corporate strategies.
Within the ESG context, tax management is incorporated among governance variables: tax transparency, balanced tax planning, and the payment of a "fair share" of taxes have become fundamental indicators of social responsibility.
Companies are assessed not only based on their financial performance but also according to their fair contribution to the fiscal system.
In this regard, compliance with Pillar 2 is increasingly perceived not merely as a mandatory tax obligation but also as an element of Corporate Social Responsibility (CSR).
Ensuring the payment of the effective global minimum tax rate becomes an integral part of a company's image of sustainability and fairness.

Fundamental Differences: Public Enforcement vs. Competitive Enforcement

Despite these points of convergence, ESG and Pillar 2 diverge sharply at the structural level.
Pillar 2 is fully embedded in the traditional logic of tax law: enforcement is entrusted to the public financial administration, which monitors compliance, imposes sanctions, and exercises tax authority over a taxpayer conceived as potentially non-compliant.
Conversely, the ESG apparatus relies on "private" and competitive enforcement mechanisms: compliance with standards is not ensured by a public authority but rather by stakeholders — investors, customers, suppliers, and public opinion — through reputational pressures and market dynamics. In this system, compliance is incentivized more by the desire to maintain competitiveness and market attractiveness than by a direct legal obligation.

Conclusions: Two Paradigms in Comparison and the Role of the Public Regulator

The comparison between ESG and Pillar 2 highlights two different approaches to fiscal sustainability:

- ESG integrates tax management into the broader framework of corporate social responsibility, leveraging market dynamics and reputation;
- Pillar 2 imposes minimum tax requirements through authoritative and public instruments.

Nevertheless, the reciprocal influence between the two systems is destined to increase. In a global context where sustainability has become a central value, the tax compliance required by Pillar 2 can and should also be interpreted through an ESG lens, as an integral part of a new corporate ethics oriented towards fairness, transparency, and an equitable contribution to society.

Furthermore, it is crucial to observe the evolution of the role of the public regulator over the past century. Traditionally, the legislator's primary function was to guarantee free market competition, through instruments such as antitrust regulations, state aid controls, and, more recently, the regulation of foreign subsidies. Such interventions aimed to safeguard the proper functioning of market dynamics.

Today, however, we are witnessing a new phase: the regulator not only protects the market but also directly intervenes in its operating logics, promoting endogenous legal goods such as environmental sustainability, social justice, and tax transparency. Through regulatory frameworks like ESG and global initiatives such as Pillar 2, the legislator steers economic operators' behaviors towards collective interest objectives, thus overcoming the traditional dichotomy between public law and market dynamics.

In this sense, both the ESG system and the Pillar 2 framework embody a broader trend: the evolution of tax law and economic regulation towards multi-level cooperation models, wherein businesses and States share the responsibility of building a fairer, more sustainable, and more transparent economy.

1) **Private Enforcement of ESG Obligations**
   In light of Your discussion, would you agree that ESG obligations have progressively shifted the burden of enforcement from public authorities to private actors such as investors, customers, and other stakeholders? To what extent can this dynamic be interpreted as a true "privatization" of regulatory enforcement?

2) **A New Competition Based on Exogenous Goods**
   Considering the framework outlined in the article, would You argue that we are witnessing the emergence of a "new" form of competition, no longer focused solely on protecting endogenous market dynamics (such as antitrust, state aid, and foreign subsidies regulations), but rather on advancing exogenous legal goods, such as environmental protection, social rights, and ethical corporate governance?

3) **Cooperation and Shared Responsibility between Corporations and States**
   You do portray sustainability as a shared responsibility. Would you agree that the ESG framework, although initially developed within the private sector, is progressively transforming into a form of indirect regulatory cooperation, where States "nudge" the market itself to autonomously pursue public interest objectives (such as the SDGs)?

4) **Strategic Compliance and the Risk of Ethical Dilution**
   Given the risks associated with "strategic compliance" highlighted by Your paper —namely, formal adherence without substantive ethical commitment—how concrete do you believe the danger is that ESG-driven competitive enforcement might foster merely superficial sustainable behavior, ultimately undermining the core objectives of sustainable development?

5) **The Evolving Role of the Public Regulator**
   If the public regulator has shifted from merely safeguarding competition to actively engineering social and environmental values (as suggested in the paper), do you believe that, in the future, legislators will increasingly be called upon not only to regulate market dynamics but also to establish substantial ethical standards for corporate conduct?