

# Sustainability in the EU

## Global implications of due diligence acts

August 2024



### An approved EU-wide directive joins the global landscape of due diligence acts.

#### Source and applicability

- The European Commission’s [Corporate Sustainability Due Diligence Directive](#) (CSDDD) applies to companies worldwide that meet certain employee, revenue and/or royalty thresholds.

#### Fast facts, impacts, actions

In July 2024, the CSDDD entered into force. It establishes corporate sustainability due diligence obligations – related to adverse environmental and human rights impacts – for companies operating in the EU, including non-EU companies with significant operations in the EU. These new requirements apply not only to the operations of the company, but also to the operations of subsidiaries and business partners in a company’s chain of activities (i.e. its value chain).

- It isn’t enough to ensure an organization’s **own compliance** with obligations regarding actual and potential adverse impacts. Companies also have to take appropriate steps to ensure that **subsidiaries** and relevant business partners within the **value chain** are compliant.
- To contribute to combating climate change, companies must adopt a **transition plan** for climate change mitigation that is compatible with the EU’s climate-neutrality targets.
- There are **penalties** and **civil liability** risk for noncompliance.



Despite being a non-US directive, the CSDDD has implications for US (and other non-EU) companies. Start by assessing the obligations that may be relevant to your own company and your subsidiaries – either directly or indirectly as a part of the value chain.

This Hot Topic was updated in August 2024 to reflect the final CSDDD, which includes several concessions from the original proposal.

## Background

Complex global value chains present environmental and social risks ranging from waste management, water usage and emissions to modern slavery, human trafficking and discrimination. Companies are increasingly subject to scrutiny from consumers, shareholders and other stakeholders that are holding companies responsible for activities in their value chains. Further, governments are seeking to regulate this area with laws aiming to prevent and mitigate environmental and social risks within company value chains.

To support its [commitment](#) to becoming climate-neutral by 2050, the EU is requiring companies to change the way they produce, procure, store and distribute products and services by embedding sustainability into their corporate governance framework. One legislative tool the EU is using to achieve climate neutrality is the CSDDD, which introduces corporate due diligence obligations along global value chains – including a requirement to adopt a [transition plan](#) in line with the EU's climate neutrality objective.

The CSDDD complements other EU laws that regulate conflict minerals, deforestation and human rights. The directive applies to an [estimated](#) 6,000 EU companies and 900 non-EU companies.

## Global implications

Non-EU companies are impacted by due diligence laws in the following ways.

- **Own compliance.** Non-EU companies directly subject to such laws face compliance obligations.
- **Subsidiaries.** Non-EU companies with subsidiaries that are directly subject to such laws may need to support their subsidiaries in establishing due diligence processes and managing reporting obligations.
- **Value chain.** Non-EU companies that do business with (i.e. fall in the value chain of) companies that are subject to such laws may be asked for data, including contractual assurances over that data. Compliance with these laws requires extensive due diligence and risk management throughout a company's value chain. In addition to ensuring its own compliance, a company also has to take appropriate steps to set up and carry out due diligence measures with respect to the operations of direct and indirect business partners (i.e. related to the operations, products or services of the company) throughout the value chain. This may require embarking on new due diligence processes with business partners in the value chain and in some cases parting ways with business partners.

## Scoping applies to both EU and non-EU companies

The CSDDD applies to EU and non-EU companies or groups (i.e. a company including all its subsidiaries on a consolidated level) that meet the following criteria.

- **EU companies** (or groups) that had, in the last two consecutive financial years:
  - > €450M net global turnover (revenue), as defined by the [Accounting Directive](#), and > 1,000 average employees; or
  - > €80M net global turnover and > €22.5M royalties from franchising or licensing agreements in the EU.
- **Non-EU companies** (or groups) with significant operations in the EU that had, in two consecutive financial years (the financial year preceding the last and the financial year prior to that):
  - > €450M net turnover in the EU; or
  - > €80M net turnover in the EU and > €22.5M royalties in the EU from franchising or licensing agreements in the EU.

Non-EU companies that meet the above thresholds are in scope irrespective of whether they have subsidiaries or branches in the EU. An indicative list of non-EU companies that meet the scoping criteria is expected to be published by the European Network of Supervisory Authorities, a supervisory body that will be set up by the European Commission (EC), as directed by the CSDDD.

### Provisions for certain types of companies

Micro, small or medium-sized enterprises (SMEs) are not included in the scope of the CSDDD, but may be impacted by obligations as contractors or subcontractors to companies that are in scope.

Alternative investment funds and undertakings for collective investment in transferrable securities, as defined by EU law, are exempted from CSDDD obligations.

A designated EU subsidiary may fulfill the CSDDD obligations on behalf of an ultimate parent company when certain conditions are met – e.g. the ultimate parent applies to the supervisory authority for exemption on the basis that its main activity is the holding of shares in operational subsidiaries.

### Due diligence obligations cover the value chain

The CSDDD introduces due diligence obligations for companies related to actual and potential adverse human rights and environmental impacts, with respect to their own operations, the operations of their subsidiaries, and operations carried out by direct and indirect business partners throughout their value chain (i.e. chain of activities).

The value chain includes upstream activities related to the production of goods or the provision of services (e.g. the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of products and the development of the product or service) and downstream activities related to products only (e.g. the distribution, transport and storage of a product) – excluding the disposal of product. The exclusion of activities of a company’s downstream business partners related to the provision of services by that company is particularly relevant for regulated financial undertakings (e.g. credit institutions, insurance companies) in scope of the CSDDD.

Companies are required to conduct risk-based human rights and environmental due diligence by complying with the following obligations.

<b>Identify and assess</b> ◆	<ul style="list-style-type: none"> <li>• Take appropriate measures to identify and assess actual and potential adverse impacts considering relevant risk factors – e.g. severity, likelihood.</li> <li>• Where it is not feasible to prevent, mitigate, end or minimize all identified adverse impacts at the same time, prioritize the prevention and ending of actual and potential adverse impacts based on severity and likelihood.</li> </ul>
<b>Prevent, cease or minimize</b> ◆	<ul style="list-style-type: none"> <li>• Prevent and mitigate potential adverse impacts with appropriate measures – e.g. prevention action plans, contractual assurances.</li> <li>• End or minimize the extent of actual adverse impacts by taking appropriate measures (e.g. corrective action plan when the adverse impact cannot be immediately ended) that are proportionate to the severity of the adverse impact and to the company’s implication in the adverse impact.</li> </ul>
<b>Monitor</b> ◆	<ul style="list-style-type: none"> <li>• Assess the adequacy and effectiveness of the above due diligence measures at least every 12 months.</li> </ul>
<b>Remediate</b> ◆	<ul style="list-style-type: none"> <li>• Provide remediation for actual adverse impacts when the company has caused or jointly caused such impacts.</li> </ul>

<b>Policies, risk management systems</b>	<ul style="list-style-type: none"> <li>• Integrate due diligence into all relevant policies and risk management systems.</li> <li>• Have in place a due diligence policy that ensures risk-based due diligence.</li> <li>• Review and, where necessary, update the due diligence policy at least every 24 months.</li> </ul>
<b>Complaints procedure</b>	<ul style="list-style-type: none"> <li>• Establish and maintain a fair, publicly available, accessible, predictable and transparent procedure for dealing with complaints regarding actual or potential adverse impacts.</li> </ul>
<b>Transition plan</b>	<ul style="list-style-type: none"> <li>• Adopt, put into effect and update, at least every 12 months, a transition plan for climate change mitigation.</li> <li>• Aim to ensure that the business model and strategy of the company are compatible with the transition to a sustainable economy and the limiting of global warming to 1.5 degrees Celsius in line with the Paris Agreement and the EU's climate neutrality objective.</li> </ul>
<b>Report</b>	<ul style="list-style-type: none"> <li>• Publish on its website, an annual statement reporting on the above due diligence obligations. Reporting guidance is forthcoming (see <a href="#">Next steps</a>).</li> </ul>

◆ Indicates a requirement to consult with stakeholders – e.g. employees, trade unions, consumers – as part of meeting the obligation.

The above due diligence obligations are informed by the United Nations' Guiding Principles on Business and Human Rights (UNGPs) and the Organization for Economic Cooperation and Development's (OECD's) Guidelines for Multinational Enterprises.

### Certain exemptions are available

- In-scope parent companies may fulfil certain due diligence obligations on behalf of their subsidiaries, as long as certain conditions are met – e.g. the subsidiary abides by its parent company's due diligence policy.
- Companies that prepare sustainability reporting in accordance with the Corporate Sustainability Reporting Directive (CSRD) are exempt from the reporting obligation within the CSDDD – i.e. companies are still required to comply with the non-reporting related obligations in the CSDDD.
- Companies that report a transition plan in accordance with the CSRD are deemed to have complied with the CSDDD obligation to adopt a transition plan, but are still required to meet the CSDDD obligation to put the CSDDD compliant transition plan into effect and update it every 12 months. It is expected that future [guidance](#) will further clarify the transition plan obligations.



Companies should consider incorporating CSDDD obligations into their CSRD implementation – as CSDDD obligations may be more extensive. For example, while the CSRD requires disclosure of a company's adopted transition plan, the CSDDD has more specific requirements regarding the type of transition plan that must be adopted.

### Penalties and civil liability for noncompliance

Member States will establish rules on effective, proportionate and dissuasive penalties, including maximum pecuniary penalties of at least 5% of global net turnover.

In relation to civil liability, Member States are required to ensure through national law that a company can be held liable for damage caused to a natural or legal person due to the company's failure (whether intentionally or negligently) to prevent or mitigate potential adverse impacts, or end or minimize the extent of actual adverse impacts.

The CSDDD obligations are regulated by the relevant Member States.

- For EU-based companies, that is the Member State in which the company has its registered office.
- For non-EU based companies, that is the Member State in which the company has a branch. If a non-EU company does not have a branch in any Member State, or has branches located in different Member States, it is regulated by the Member State in which it generated the highest **net turnover** in the EU in the financial year preceding the last.

## Effective dates

Following a phased introduction, the largest companies (based on the **scoping criteria** for the financial years described above) implement non-reporting related CSDDD obligations first.

	Compliance with non-reporting related due diligence obligations <sup>1</sup>	Reporting on due diligence obligations <sup>2</sup>
EU companies with net global turnover > €1.5B and > 5,000 average employees	July 26, 2027	2029
Non-EU companies with net turnover > €1.5B in the EU	July 26, 2027	2029
Other EU companies with net global turnover > €900M and > 3,000 average employees	July 26, 2028	2030
Other Non-EU companies with net turnover > €900M in the EU	July 26, 2028	2030
All other companies within scope	July 26, 2029	2030
<b>Notes:</b> <ol style="list-style-type: none"> <li>1. Indicates the dates by which companies have to comply with the non-reporting related due diligence obligations.</li> <li>2. Indicates the year in which companies have to report on their due diligence obligations – e.g. EU companies with net global turnover exceeding €1.5B and &gt; 5,000 average employees have to report on their 2028 due diligence obligations in 2029.</li> </ol>		

## Next steps

**Transposition.** The CSDDD was published in the Official Journal of the EU and entered into force in July 2024. Member States (which will enforce the CSDDD) have until July 26, 2026 to transpose the CSDDD into national law. During the transposition into national law, Member States have the ability to make revisions that go above and beyond the CSDDD as drawn up (e.g. expanding the scope).

**Reporting.** By March 31, 2027, the EC will establish the CSDDD report content and criteria, which is expected to align with similar reporting criteria in the CSRD.

**Guidance.** By July 26, 2027, the EC will issue guidelines to support companies in fulfilling due diligence obligations in a practical manner – including general guidelines, guidelines for specific adverse impacts, and practical guidance on the transition plan.

**Assessments.** A CSDDD review provision directs the EC to make the following assessments.

- By July 26, 2026, assess the need for additional due diligence requirements for regulated financial undertakings related to the provision of financial services and investment activities.
- By July 26, 2030, assess the effectiveness of certain implementation matters, including whether a scoping approach specific to high-risk sectors (defined in the proposal as including, for example, textiles, agriculture, extraction of minerals) should be introduced and whether the value chain definition, which was broader in the proposal, should be revised.

## Interactions with other EU legislation

The CSDDD is just one component of several sustainability-related regulations under the European Green Deal that include reporting obligations. For additional information, see our [European Green Deal Policy Guide](#).

The CSDDD complements EU legislation including, but not limited to, the following.

CSRD	EU Taxonomy	Carbon Border Adjustment Mechanism (CBAM)
<p>As discussed above, the CSDDD <a href="#">reporting obligation</a> can be covered by reporting under the CSRD, and the CSDDD's obligation to adopt a <a href="#">transition plan</a> complements the CSRD's transition plan reporting obligation.</p> <p>Further, to meet the reporting requirements of the CSRD, companies will likely have to set up information collection processes, which is closely related to identifying adverse impacts under the CSDDD.</p>	<p>The detailed information required by the CSDDD is intended to complement the EU Taxonomy's common language for sustainable economic activities.</p> <p>For example, companies with taxonomy-aligned activities need to comply with the EU Taxonomy's minimum safeguards – which include reference to due diligence processes that companies should implement to ensure alignment with the <a href="#">OECD Guidelines and UNGP</a> – i.e. the same guidelines that inform the CSDDD obligations.</p>	<p>The CSDDD complements the EU's 'Fit for 55' Package – specifically, by supporting the transformation of production processes needed to achieve <a href="#">climate neutrality</a> by 2050.</p> <p>This transformation extends to non-EU value chains of EU companies through the CBAM, which imposes a carbon adjustment price for select imported products not subject to the carbon price from the EU Emissions Trading System.</p>
<p>Read more: <a href="#">Impact of EU sustainability reporting on US companies</a></p>	<p>Read more: <a href="#">Avoiding the blind spot: EU Taxonomy reporting for US companies</a></p>	<p>Read more: <a href="#">Carbon Border Adjustment Mechanism</a></p>



The CSDDD joins other EU due diligence acts – e.g. Germany's Supply Chain Due Diligence Act (SCDDA) and France's Duty of Vigilance Law. Companies impacted by such EU acts should monitor developments that may result from legislative attempts to converge with the CSDDD – e.g. Germany's plans to modify the SCDDA.

## Due diligence legislation extends beyond the CSDDD

Although the CSDDD is one of the more commonly discussed due diligence acts expected to have a significant impact on US companies, it joins similar developments globally, including the [Uyghur Forced Labor Prevention Act](#) in the US, and the two examples highlighted below that have reporting obligations – [Canada’s Fighting Against Forced Labor and Child Labor in Supply Chains Act \(S-211\)](#) and the [EU Deforestation Regulation \(EUDR\)](#).

	Canada’s S-211	EUDR
<b>Objective</b>	Prevent and reduce forced labor and child labor violations in corporate supply chains.	Prevent deforestation, forest degradation and biodiversity loss.
<b>Scope</b>	Businesses (Canadian and foreign owned) that (1) are either listed on a stock exchange in Canada or operate <sup>1</sup> in Canada, and (2) import, produce, sell or distribute goods in Canada, or control an entity that engages in such activity.	Operators and traders <sup>3</sup> that place and make available on, or export from, the EU market, certain relevant products <sup>4</sup> .
<b>Effective</b>	January 1, 2024 – for all entities in scope.	December 30, 2024 – for large operators and traders. June 30, 2025 – for SME operators.
<b>Reporting</b>	Annual public report to the government.	Due diligence statement to the relevant authorities.
<b>Obligations</b>	Take steps to prevent and reduce the risk that forced labor or child labor is used at any step of the production of: <ul style="list-style-type: none"> <li>goods in Canada or elsewhere by the entity; or</li> <li>of goods imported into Canada by the entity.</li> </ul>	Exercise due diligence – including collecting relevant information, performing risk assessment measures, and adopting risk mitigation measures – to prove that relevant goods/products <sup>4</sup> do not originate from recently deforested areas or contribute to forest degradation.
<b>Penalties</b>	Fines up to CAD 250,000 for failure to submit a report or misrepresentation in reporting.	Fines up to 4% of EU revenue, to be determined by Member State transposition; confiscation of products and revenue; exclusion from public procurement process.

### Notes:

- Operating in Canada means (1) having a place of business in Canada, doing business<sup>2</sup> in Canada or having assets in Canada and (2) meeting at least two of the following conditions, based on consolidated financial statements, for at least one of the two most recent financial years: (a) having ≥ CAD 20M in assets; (b) having generated ≥ CAD 40M in revenue; and (c) employing an average of ≥ 250 employees.
- When determining whether an entity does business in Canada, the Canadian government may consider various factors depending on the nature of the business – e.g. employee location, production location.

**Notes:**

3. Operators and traders are those that, in the course of a commercial activity, place relevant products<sup>4</sup> on the market, export them or otherwise make them available.
4. Relevant products are seven commodities (and products derived from those commodities): cattle, cocoa, coffee, oil palm, rubber, soya, wood.

These laws are signals for what may become more common around the world. As their impact is felt, other countries have already begun (and others likely will follow) to boost their due diligence laws.



US companies should look for efficient ways to implement due diligence operating models that address multiple jurisdictional requirements simultaneously. An overall risk management approach, supported by a cross-functional team, can allow a company to collect and manage relevant data and stay abreast of new laws.

## KPMG resources

For further guidance on sustainability developments in the EU, we recommend the following KPMG resources as a starting point.

- [ESRS Resource Center](#)
- Talk book, [Get ready for ESRs](#)
- [Impact of EU sustainability reporting on US companies](#)

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