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## Updated

# The Corporate Sustainability Due Diligence Directive, explained

# What your company needs to know about CSDDD now

This EU initiative is designed to promote sustainability in the EU and globally. It will define obligations for large companies regarding actual and potential adverse impacts on human rights and the environment, in their own operations, their subsidiaries and their partners.

*Here's how you can get ready for it.*

# What is this directive?

**The Corporate Sustainability Due Diligence Directive (CSDDD)** is legislation that with far-reaching implications for EU companies and for all companies doing business in the EU. It ensures that companies operate in a sustainable and responsible manner. The reporting requirements are designed to get companies to protect the environment, maintain social justice and promote a stronger, sustainable economy.

The directive requires that companies consider the social and environmental impact of their operations by promoting transparency and encouraging companies to be more proactive in identifying and mitigating sustainability risks.

The directive is a clear signal of the EU's commitment to sustainability and responsible development. In fact, CSDDD is one of the first laws of its kind to require sustainability due diligence at the corporate level. It represents a major change in the way businesses operate, and signals a new regulatory environment.

Significantly, the directive aims to harmonise corporate sustainability due diligence requirements across the EU, which, prior to this law, had been addressed through a patchwork of legislation.

# The back story

CSDDD ties into the broader framework of EU ESG related legislative initiatives and provides a framework for the reporting obligations.

The companies in scope of CSDDD are required to conduct human rights and environmental due diligence by carrying out the following actions. These were developed in line with prior OECD Guidance for Responsible Business Conduct:

- ✓ integrating due diligence into their policies
- ✓ identifying actual or potential adverse impacts
- ✓ preventing and mitigating potential adverse impacts, and ending actual adverse impacts or minimising their extent
- ✓ establishing and maintaining a complaints procedure
- ✓ monitoring the effectiveness of their due diligence policy and measures
- ✓ publicly communicating on due diligence

**The due diligence obligations do not just pertain to the company itself, but also to its subsidiaries and their operations, as well as operations carried out in the value chain.**

In **February, 2022**, the European Commission published its proposal for CSDDD. The plan was to require companies to implement certain processes throughout their value chains in line with ESG (environmental, social, governance) criteria. The European Parliament and the Council of the European Union reviewed the CSDDD Proposal.

In **December, 2022**, the Council adopted an amended version of the CSDDD Proposal.

In **April, 2023**, the European Parliament's committee on legal affairs adopted a draft report of CSDDD.

In **December, 2023** the Council and the European Parliament agreed to a provisional deal on CSDDD. It will need to be endorsed and formally adopted by both institutions.

**In March, 2024, the European Council approved a scaled-back version of CSDDD.**

**2024** - CSDDD passes into EU law

**2026** - CSDDD transposed into national law by Member States

# What changed?

- The threshold of companies covered under the legislation was increased to 1,000 employees, up from 500, and to those with revenue over €450 million, up from €150 million, cutting the number of companies in the scope of CSDDD by almost two thirds.
- Lower thresholds that had been in place for high-risk sectors have also been removed. This could be reconsidered at a later date.
- Supply chain definition has been narrowed to only requiring due diligence on businesses with a direct relationship. “Indirect” relationships do not require due diligence.
- The legislation’s phasing in was extended. It will only be fully implemented for all in-scope companies five years after coming into force.
- Product disposal activities were removed from the scope of the law.
- The requirement for companies to promote the implementation of climate transition plans through financial incentives was removed.

## Why was CSDDD scaled back?

The Council reached a provisional agreement on CSDDD with Parliament in December 2023 but by January, a vote on its approval in the Council was postponed. Germany threatened not to support the directive because it was concerned about the bureaucratic and legal impact it could have on companies. Then Italy said it would also pull its support. Ultimately, the directive failed to pass in late February, even after a last minute effort by France to significantly scale back the scope of the new rules to only the largest companies in the EU. Over the next few weeks, this revised version of CSDDD gained enough member state support to pass.

CSDDD is sent to the EU Parliament to consider the approved compromise text. The revised CSDDD will then go to the Parliament’s legal affairs committee, with a final vote in the plenary in 2024. Following the vote, member states will have two years to transpose the directive into national law.

# Who does CSDDD apply to?

The scope of the CSDDD is on:

**EU companies with over 1000 employees and a net worldwide turnover over €450 million**

- » Previously it applied to EU companies having more than 500 employees and a net worldwide turnover of €150 million
- » Previously, lower thresholds applied for companies in certain “high-risk sectors.” These were removed.

**Non-EU (parent) companies with a net turnover in the EU of over €450 million**

- » Previously, it applied to non-EU companies with €150 million net turnover generated in the EU



# Timeline

## CSDDD is phased in over 5 years.

### For EU companies the obligations apply:

#### From 2027

Companies with over 5,000 employees and a global turnover of more than €1.5 billion

#### From 2028

Companies with over 3,000 employees and a global turnover of more than €900 million

#### From 2029

Companies with over 1,000 employees and a global turnover of more than €450 million

### For non-EU companies the the obligations apply:

#### From 2027

Companies with a net turnover in the EU of over €1.5 billion.

#### From 2028

Companies with a net turnover in the EU of over €900 million.

#### From 2029:

Companies with a net turnover in the EU of over €450 million

Small- and medium-sized enterprises are outside the scope of the directive. They will likely be impacted indirectly by the due diligence that in-scope companies will be required to do on their value chains.

# CSDDD's main features

## A focus on due diligence

CSDDD introduces a requirement for in-scope companies to identify and either prevent, mitigate or bring to an end actual or potential adverse human rights and environmental impacts. This means companies will need to:

- ✓ Integrate human rights and environmental due diligence into their policies
- ✓ Identify actual and potential adverse human rights and environmental impacts in their own operations and those of their subsidiaries and business partners
- ✓ Conduct appropriate measures to prevent or mitigate potential adverse impacts
- ✓ Minimise and remedy adverse impacts that are identified
- ✓ Establish and maintain a notification mechanism and complaints procedure
- ✓ Monitor the effectiveness of their due diligence policy and measures
- ✓ Publicly communicate due diligence procedures
- ✓ Publicly communicate due diligence procedures



## A climate transition plan

CSDDD requires companies – including those in the financial sector – to adopt and put into effect a climate transition plan with time-bound targets for climate change mitigation to ensure that their business strategy is compatible with limiting global warming to 1.5 °C. It is no longer a requirement for a company's director remuneration to be linked to the implementation of the plan.

## Value chain plays a big role

CSDDD still places a strong emphasis on supply chain management. Companies are responsible not only for their own operations, but also for the impacts that their suppliers may have on society and the environment. They must actively monitor the practices of their suppliers and work with them to improve any problems identified.

CSDDD does not specifically require supply chain traceability but companies will need to have a complete understanding of their supplier practices. They must develop pathways for supply chain visibility and procurement, establish due diligence policies and train procurement and product teams.

The supply chain is often where the greatest risks and opportunities for improving sustainability can be found. Companies will be expected to effect change throughout their value chains. Previously, CSDDD required in-scope companies to identify actual and potential adverse impacts on human rights and/or on the environment within its value chain which cannot be prevented or ended, and end those partnerships. Now, that is a last resort. Companies can set an appropriate time frame in its mitigation plan, and assess if termination would result in more serious adverse impacts.



# The controversial elements

## Should the financial sector be included?

The inclusion of the financial sector was a major sticking point for the directive. The Parliament pushed for legislation that would include the financial sector but the EU Council, representing the 27 member states, disagreed. The agreement now excludes the core business of financial actors, specifically their investment and lending activities, from the scope of CSDDD - a concession from the Parliament to the Council.

Those firms will be excluded from the full scope of the directive. This means that financial firms will only have to check whether there are human rights and environmental harms in their own operations. They do not have to check whether there are violations in their client's activities. There is a review clause for future inclusion.

The decision to exclude the financial sector from the main requirements of CSDDD was greeted with disappointment by some - and relief, by others.

**Isabella Ritter**, EU policy officer at ShareAction, a non profit dedicated to responsible investing, stated,

“EU negotiators have missed a resounding opportunity for more transformative change. Despite strong support from financial sector representatives and civil society, EU policymakers, due to the council's pressure, chose to exempt financial institutions from due diligence requirements when offering financial services to their clients. This grants financial institutions a free pass to neglect human rights and environmental harms.”

**Johannes Blankenbach**, senior EU/Western Europe researcher & representative at Business & Human Rights Resource Centre, said,

“It is disappointing that fierce pressure from parts of the industry appears to have succeeded in eviscerating some key safeguards. One example would be the 'temporary' exclusion of financial activities from

due diligence when investors and banks play such a central role in defining the behaviour of companies in human rights.”

And then there is the Global Reporting Initiative (GRI) which works with businesses to develop sustainability standards. Its CEO, [Eelco van der Enden](#), believes it was the right decision to exclude financial institutions at this point. He said,

“This deal recognises the challenges for financial institutions of implementing ambitious regulations. Our hope is that, as we move forward, the review clause will offer an opportunity to include both upstream and downstream activities of financial institutions within the scope of the CSDDD.”

## Should climate plans include implementation?

The EU Council and Parliament also fought over the role of climate plans that companies would have to draw up to bring their activities in line with the Paris agreement climate targets to limit global warming below 1.5 degrees Celsius.

The Council wanted to limit the obligation to the formulation of plans but the Parliament also wanted CSDDD to force companies to actually implement it. The agreement is that companies would have the duty to adopt and put into effect climate plans.

Financial companies will also be required to adopt and put into effect such climate plans, which is a slight concession to the Parliament’s agreement to exclude the financial sector from due diligence obligations in their core business.

# How will CSDDD be enforced?

Enforcement of the directive was part of the provisional agreement. At this point, it will be enforced in a number of ways:

- 1** Each EU member state will need to designate a supervisory authority to monitor whether companies are complying with their due diligence obligations, with a framework for these agencies to cooperate at an EU level within a European Network of Supervisory Authorities established by the Commission.
- 2** These supervisory agencies will be able to launch inspections and investigations and impose penalties on non-compliant companies, including “naming and shaming” and at this point, fines of up to 5% of net turnover. If companies fail to settle fines, the provisional agreement includes injunction measures.
- 3** Member states will have to provide new civil liability procedures to allow for companies that are in scope to be held liable for the damage caused by breaching their due diligence obligations. Impacted persons and their representatives will have a five-year window to make their claims. These civil liability procedures will be in addition to national procedures.

## Penalties

For companies that fail to pay fines imposed on them in the event of violation of the directive, the provisional agreement includes several injunction measures, and takes into consideration the turnover of the company to impose penalties - up to 5% of the company's net turnover. The deal includes the obligation for companies to carry out meaningful engagement including a dialogue and consultation with affected stakeholders, as one of the measures of the due diligence process.



# CSDDD - The 7 requirements in-scope companies

## need to know:

- ✓ Social and sustainability due diligence is positioned as a key element in policy development and implementation
- ✓ Current and potential adverse impacts on the environment and human rights are identified - from company operations and the operations of subsidiaries and the supply chain
- ✓ Identified risks are mitigated within the company and its supply chain
- ✓ An action plan with a timeline is developed to address identified risks
- ✓ Formal grievance procedures are created for employees and stakeholders
- ✓ Business model and future strategy are aligned with the Paris Agreement's 1.5°C target
- ✓ Sustainability reports that focus on due diligence are published publicly

## Preparing for CSDDD

Want to get your company ready for the directive? Here are some steps you can take:

1. Understand the expectations of the directive and how these apply to your company's operations and supply chains
2. Carry out a risk assessment to identify any existing sustainability issues
3. Develop and implement an action plan to mitigate identified risks
4. Train employees and improve existing systems to ensure compliance



# CSDDD vs CSRD - What is the difference?

CSDDD has a similar aim as the Corporate Sustainability Reporting Directive (CSRD) - to enhance sustainability in ESG aspects. Both directives focus on increasing transparency in the company's operations and throughout the supply chain. They both reflect the EU's focus on sustainability with its goal of the European Green Deal, to become a climate-neutral society by 2050.

The directives ensure that companies will be legally obligated to provide all necessary information and report on all sustainability issues related to their activities. The difference in the directives is in the focus.

CSDDD wants to ensure that EU and non-EU companies take responsibility for the adverse impacts of their activities. It creates an EU standard and emphasises due diligence strategies for companies to implement on human rights and environmental issues.

CSRD wants to enhance and broaden EU companies' sustainability reporting. Its more comprehensive reporting requires companies to reveal their social and environmental impacts, using the EU's sustainability standards as its benchmark. The directive maintains credibility with intense auditing. The CSRD was formally adopted in 2023, and large in-scope companies are required to submit their first reports by January 2025.

## CSDDD

Required due diligence

A global reach

Requires action to reduce negative impact

## CSRD

Required reporting framework

A focus on EU companies

Ensures consistent ESG reporting

# CSDDD and companies around the world

CSDDD's reach around the world is still a fairly significant feature of the directive. If a non-EU company's own activities have a net turnover within the EU of above €450 million, the directive applies to it.

But there's more. If the non-EU company is part of the value chain of a company subject to CSDDD, it would have to comply with the standards established by the directive, even if it is not required in their country. This applies to companies of any size, as long as they do business with, or are otherwise involved in the value chain of, inscope EU companies. This means a manufacturer of auto parts in the UK that sells its products to an EU car company would be obligated.

Finally, if the European subsidiaries of a non-EU parent company are in scope of the directive, the non-EU parent would be affected as well. The non-EU parent would not only have to monitor its CSDDD subsidiary's compliance but it would also likely have to comply itself if it qualifies as having a business relationship in the subsidiary's value chain.

Companies doing business with large EU companies might face a choice:

**Either stop doing business with those companies or make sure to adapt their own work practices and policies to the EU standards.**

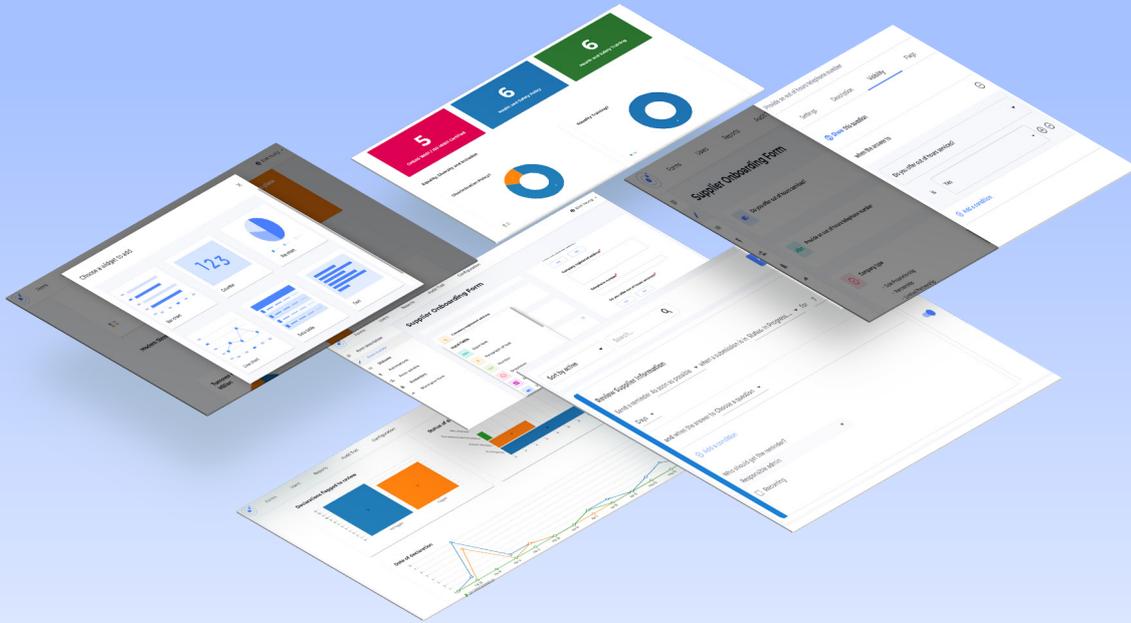


# Omnitrack's centralised supplier onboarding compliance solution

## Automate the onboarding process and save time on supplier management

New suppliers carry with them a unique set of challenges and risks. Increased suppliers mean more people with access to your employees, premises, systems and data. Managing this process requires diligence and efficiency. Risks of not putting in place a compliant system include both financial and reputational damage, something all organisations want to avoid.

Omnitrack is an online portal that can be accessed from anywhere and at any time. Omnitrack provides a streamlined solution for supplier onboarding. Onboarding questions are tailor-made to fit all types of suppliers. The automated system generates reminder emails to ensure completion, saving you from chasing suppliers. Internal review can take place by different admins allowing real-time collaboration from different internal parties.



# Supplier Onboarding Compliance Tool

## Key features

- ✓ **Our central database** allows you to track and record all supplier information in one place, avoiding lost or missing data
- ✓ Use **one dynamic form** that adapts the question set depending on the profile of the supplier and the responses submitted
- ✓ Easily understand the data and identify risks via a **graphical dashboard**
- ✓ Complex compliance requirements are hard to get right. We offer **best practice workflows** developed with leading law firms to ensure full compliance with regulatory needs.
- ✓ **Automated flagging** and sorting surfaces high-risk submissions and escalates via email where needed, allowing multiple stakeholders to review data
- ✓ **API functionality** allows you to integrate data with external data sources

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