

**2024
Edition**

**Factsheet 2:
EU Corporate Sustainability
Reporting Directive**

An Apparel Supplier's Guide 2.0

**Key Sustainability Legislation
in the EU, US, and UK**

EU Strategy for Sustainable and Circular Textiles
EU Corporate Sustainability Due Diligence Directive
EU Corporate Sustainability Reporting Directive
New York Fashion Act
EU Forced Labour Regulation & Guidance
US Uyghur Forced Labor Prevention Act
EU Ecodesign for Sustainable Products Regulation
EU Packaging & Packaging Waste Directive & Provisional Regulation
EU Microplastics Regulation
UK Plastic Packaging Tax
EU Product Environment Footprint Guide
EU Textiles Regulation
EU Taxonomy
The German Due Diligence in the Supply Chain Act
Lessons for Fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices

Acknowledgements

Author:

The Remedy Project is a social enterprise that works to improve access to justice and remedy for migrant workers in global supply chains. They work constructively with governments, civil society, law enforcement, and the private sector to translate the UN Guiding Principles on Business and Human Rights into practice. For more information please see www.remedyproject.co.

Additional Author:

adelphi consult GmbH has authored the section on the 'Directive (EU) 2019/633 on unfair trading practices in the agricultural and food supply chain.

Additional Reviewers:

Business & Human Rights Resource Centre
International Apparel Federation
Michele Crymes
German Institute for Global and Area Studies (GIGA)
Social & Labor Convergence Program
Yee Chain International Co., Ltd.

Graphic Design:

Fiona Fung

This resource was commissioned and led by:

Crystal International Group Limited
Diamond Fabrics Limited (Sapphire Group)
Lenzing Aktiengesellschaft
Pactics Group
Poeticgem Group
Shahi Exports
Simple Approach
Sourcery
Transformers Foundation



In addition, this research was also supported by:

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, GIZ, FABRIC Asia and Transformers Foundation



Introduction

UPDATE

a. Objective

In July 2023 the first iteration of this guide covering, 12 pieces of legislation, was published. This document is an update to that guide and includes updates to the 12 factsheets issued last year as well as three additional factsheets covering new legislation not previously included.

This document is intended to enable suppliers in the apparel value chain that are established or headquartered outside of the Global North¹, or whose operations are based outside these jurisdictions or whose supply chains extend to the Global South, to better understand how sustainability-related legislation in the Global North could potentially impact them. While suppliers may not, in all cases, be directly subject to the obligations created by these Global North

laws, they may still experience knock-on effects as they form an integral part of the global apparel value chain and produce goods for multinational brands and retailers who have increasing compliance obligations as they adopt new practices in order to respond to the increased legislation. As such, this document aims to:

- Offer a public resource and roadmap for suppliers to proactively respond to and prepare for the requirements of these Global North laws.
- Provide a platform for dialogue and information exchange where suppliers and manufacturers can explore engagement (where possible) with policy makers in Global North jurisdictions.
- Support suppliers in delivering the fashion industry's social and environmental performance goals, and drive meaningful change for rights holders – whether workers, local communities, cotton farmers– globally.

b. Important legislative context to understand

As governments in the Global North embark on ambitious plans to transition towards climate neutrality, inclusive and sustainable growth, the body of sustainability legislation is expanding rapidly.

The European Union (EU) is at the forefront of these changes, introducing a plethora of legislative and non-legislative measures to implement priority policies such as the [European Green Deal](#). The European Green Deal is a cornerstone of the EU's industrial strategy, comprising a series of proposals to make the EU's climate, energy, transport, and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, and to secure the global competitiveness and resilience of European industry². There are also sector-specific initiatives such as the EU Strategy for Sustainable and Circular Textiles, which aim to implement the commitments made

¹ For the purposes of this document, "Global North" encompasses the European Union, United Kingdom, and the United States.

² European Commission, [A European Green Deal](#)

under the European Green Deal (see infographic on the next page “**Snapshot of the Legislative Landscape in the Global North**”), by setting out measures to address the design and consumption of textile products, and promote a greener and fairer value chain in the textiles industry. The legislations covered in this document such as the EU Ecodesign for Sustainable Products Regulation and Digital Product Passport, EU Corporate Sustainability Due Diligence Directive, EU Regulation on Prohibiting Products Made With Forced Labour on the Union Market (Forced Labour Regulation), are only some of the initiatives taken by the EU to execute on the European sustainability policy objectives³.

These legislations create legally binding obligations on companies to consider how they are managing their social and environmental impact. Many of these laws and regulations have global application and/or will impact apparel manufacturing and sourcing hubs outside of the Global North. As such, while these laws originate from the Global North such as the EU, United Kingdom, and United States, they will impact companies operating outside of these jurisdictions. It is therefore a prescient

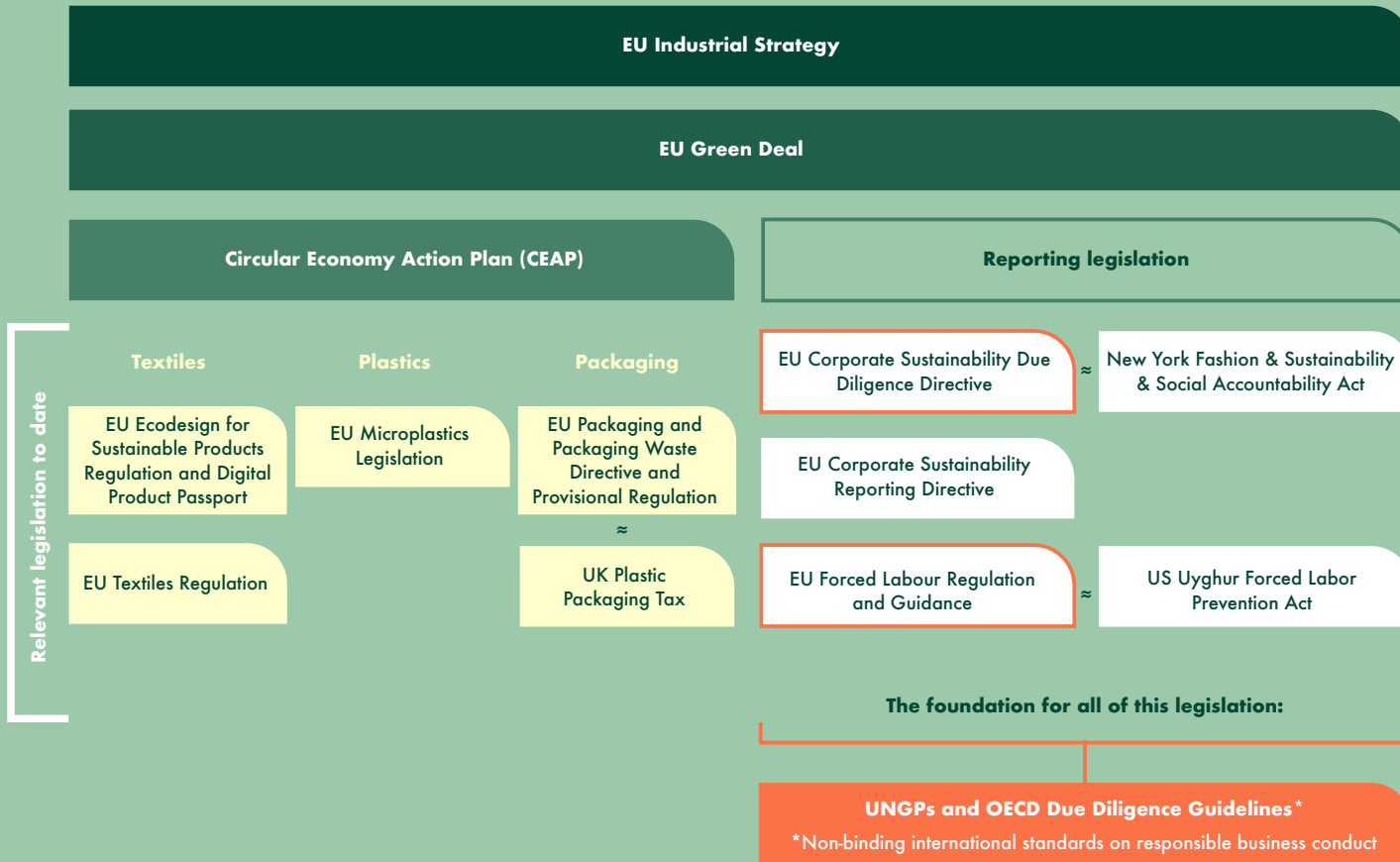
time for companies directly subject to these legislations, and for those who have business relationships with them, to align their sustainability policies and practices with these laws.

At a high level, these laws (especially those relating to mandatory human rights due diligence) can be collectively understood as a legal framework that translates elements of the United Nations Guiding Principles on Business and Human Rights (UNGPs) into binding legal obligations. The UNGPs represent the authoritative framework on how businesses should operationalize their commitments to human rights. As businesses are increasingly required to comply with different (and sometimes overlapping) laws in this area, it is The Remedy Project’s view that businesses that are able to operate in accordance with the UNGPs and other international frameworks such as the OECD Due Diligence Guidance for Responsible Business Conduct will be more successful in making this transition. Complying with the highest international standards could help future-proof business against future legislative changes and may also be more efficient from a process perspective. Furthermore, the Remedy Project sees a trend of many

brands upgrading their internal compliance and value chain requirements based on the UNGPs and international frameworks. Thus, complying with these international standards could help businesses position themselves to align with brands’ expectations and easily and effectively adapt to future legislative requirements, as well as satisfy the requirement of other business partners and customers. Instead of having to operate in accordance with different standards of compliance for each jurisdiction and each counterparty, the business can adopt a less fragmented, and thus less burdensome, approach to compliance. Of course, even if suppliers align with established international frameworks, different brands will continue to set varying detailed procedural requirements on their supply chain partners, particularly in the near future. We therefore continue to recommend that suppliers proactively work with brands and retailers on implementation to reduce the risk of multiple interpretations.

³ See for example the summaries of EU legislation on environment and climate change.

Snapshot of the Legislative Landscape in the Global North



Note * The legislations, regulations and directives in this diagram are not the complete set laid out under the umbrella strategies. Head to the [European Commission](https://ec.europa.eu/commission/press-room/detail/2023/07/eu-eco-design) website to learn more.

c. General implications for companies supplying apparel & beyond

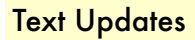
These legislative developments make clear that businesses will need to re-think the way they approach sustainability. This new era of legislation moves sustainability from “nice to have” to “must-have” and requires companies to implement human rights and environmental risk management practices. With this transition, we expect to see more cross-functional efforts to embed considerations of human rights and environmental impacts into business’ day-to-day operations and overall strategy. In this new landscape, in-house legal teams must work closely with procurement and sourcing, operations, product teams, and in-house sustainability experts to achieve compliance. There must also be executive and management level buy-in, and attention given to sustainability issues.

How to Use ● This Document

This document comprises a series of factsheets. For each legislation, the factsheet will cover the following topics on the right.

Updates to Factsheets will be identified by these indicators:

UPDATE 

 Text Updates

1. Key Changes

A summary of key changes to the legislation since August 2023.

2. Overview

A summary of the key aspects of the legislation.

3. Context

A description of the political context and policy objectives that the legislation seeks to address or achieve.

4. Status

Whether the legislation is in effect and if not, the current stage of the legislative procedure. If known, the expected timeline for implementation is also provided. For proposed EU legislation, users may find it helpful to refer to the [European Parliament's infographic](#) for information on the different stages of the EU legislative procedure.

5. Scope

This section sets out the types of companies or products that fall within the scope of the legislation. This may include, for example, an explanation of the thresholds that a certain company must meet for the legislation to apply. Our suggestion to suppliers is to start by identifying whether they are directly in-scope and, if so, review the obligations and compliance recommendations for companies in-scope (Sections 5 & 6). If a supplier has established that they are not directly in-scope, it is our suggestion that those suppliers review whether the brands for which they produce are in scope. If a supplier's customer is within scope, our suggestion is to review the potential implications for suppliers to companies in-scope (see Section 7).

6. Obligations for companies in-scope

A description of the duties and responsibilities that must be undertaken by the companies that are directly subject to the legislation.

7. Compliance recommendations for companies in-scope

Suggested recommendations for companies to prepare for compliance with the legislation (where the legislation is not yet in effect), or considerations for companies seeking to improve their compliance (where the legislation is already in effect). For the avoidance of doubt, these compliance recommendations do not constitute legal advice or opinion; companies should seek legal advice from attorneys concerning any specific situation or legal question they may have. Moreover, as the text of the laws in many cases remains subject to change, companies should refer to the most updated version of the legislation in developing their compliance strategy. The enforcement actions undertaken by the relevant regulator (once the law is in effect) will also determine the scope of compliance obligations.

8. Potential implications for suppliers to companies in-scope

In some instances, suppliers in the apparel value chain who are not directly subject to the concerned legislation, may still be impacted by the legislation as they supply to companies in-scope (i.e., a fashion brand or fashion retailer in-scope). These may include requirements around transparency and traceability, or obligations to undergo audits or obtain certifications. This section sets out the potential implications of the legislation for suppliers. For the avoidance of doubt, companies in-scope will approach compliance differently and many of the legislations covered in this document are in nascent stages of development. Moreover, the enforcement actions undertaken by the relevant regulator will also affect how companies in-scope respond to the legislation. As such, the guidance provided herein is only intended to represent our best estimates of the knock-on effects of the concerned legislation and is for informational purposes only.

9. Penalties for non-compliance

Where applicable or known, the penalties for companies in-scope that fail to comply with the legislation are set out.

10. Form of Enforcement

A description of the key forms of enforcement action that may be taken by the relevant authorities.

11. Reporting/disclosure for companies in-scope

An overview of the key information disclosure obligations (if any) for companies in-scope.

12. Access to remedy mechanisms and litigation risk

This section notes where the relevant legislation provides a right for legal action to be taken against a company for alleged non-compliance.

13. Opportunity to participate and engage in legislative development

Where applicable, opportunities to participate in public consultation.

14. Useful resources to support compliance

Links to third-party resources and guidance are provided for further detail on how companies in-scope may approach compliance and how suppliers or business partners to companies in-scope may prepare for cascaded compliance requirements.

Glossary

A glossary of key terms used in this document is set out below.

Brands: For the purposes of this document, this refers to a multinational company that is engaged in the business of offering branded apparel products.

Companies in-scope: Companies that are directly subject to the obligations set out in the relevant legislation.

Due Diligence: A process that businesses should carry out to identify, prevent, mitigate, and account for how they address the actual and potential adverse human rights or environmental impacts in their operations, their value chain and other business relationships.

EU Decision: A “decision” is binding on those to whom it is addressed (e.g., an EU country or an individual company) and is directly applicable.⁴

EU Delegated Act: A delegated act is an EU legislative mechanism to ensure that EU

laws that are passed can be implemented properly or reflect developments in a particular sector.

EU Directive: A directive is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals⁵.

EU Regulation: A regulation is a binding legislative act. It must be applied in its entirety across the EU⁶.

EU negotiation position: A particular stance taken by a European Institution in a negotiation where it outlines the preferred result.

EU provisional agreement: When after negotiations, an informal agreement is reached on the text of a legislative proposal that then needs to be formally approved by the European Parliament and the Council of the European Union during the legislative procedure.

Adopted: When a law is officially approved at the end of the legislative procedure.

Approved: Used as a synonym for adopted or used in cases of approval of draft versions of the law.

Derogated: Not included or not applied.

European Commission: The European Commission is the EU’s politically independent executive arm. It is responsible for drawing up proposals for new European legislation, and it implements the decisions of the European Parliament and the Council of the EU.

European Council: The European Council is the EU institution that defines the general political direction and priorities of the European Union.

European Parliament: The European Parliament is the EU’s law-making body that is directly elected by EU voters every 5 years.

Grievance Mechanism: Any routinized, State-based, or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought⁷.

^{4,5,6} European Union, Types of legislation

⁷ UNGPs Principle 25 and commentary

Types of EU legislation

- **Directive:**
A legislative act that sets out a goal for EU countries who then have to devise their own laws on how to reach these goals.
- **Regulation:**
A binding legislative act which must be applied in its entirety across the EU.
- **Decision:**
A binding law only on those to whom it is addressed (e.g. an EU country or an individual company) and is directly applicable (it does not have to be implemented by the recipient).
- **Delegated and Implementing Acts:**
Non-legislative acts adopted by the European Commission aimed at supplementing elements of a legislative act for uniform implementation.

Supplier: For the purposes of this document, unless otherwise specified, this refers to a supplier in the apparel value chain. While the information provided herein is applicable across the entire value chain, it is primarily intended for Tier 1 suppliers and sub-contractors who produced finished goods for fashion brands and retailers, and Tier 2 suppliers and sub-contractors who provide services and goods, such as knitting, weaving, washing, dyeing, finishing, printing for finished goods, and components (e.g., buttons, zippers, soles, down and fusible) and materials for finished goods.

Value Chain: A value chain encompasses all activities related to the production of goods or the provision of services by a company, including the development of the product or the service and the use and disposal of the product as well as the related activities of upstream and downstream business relationships of the company.

Intentionally added: Deliberately utilized in the formulation of a material or component where its continued presence is desired in the final product to provide a specific characteristic, appearance or quality.

EU Corporate Sustainability Reporting Directive



UPDATE

1. Key Updates

On October 17, 2023, the European Commission adopted a delegated directive that adjusted the reporting threshold for large companies. This summary has also been updated to provide an overview of (1) EU Member States' progress in transposing the Directive into national law and (2) the adoption of the first 12 European Sustainability Reporting Standards (ESRS). The adoption of sector-specific standards has been postponed. The main changes relate to Section 3, 4, 6, 11, 13 and 14.

2. Overview

The EU Corporate Sustainability Reporting Directive (**CSRD**) took effect on January 5 2023, although the first wave of companies in-scope are not expected to start reporting until their 2024 financial year (with the first report to be produced in 2025). Building on the current EU Non-Financial Reporting Directive (**NFRD**¹), the CSRD will require detailed qualitative and quantitative sustainability disclosures from a substantially expanded universe of companies.

The CSRD sets out how companies must report on their social and environmental performance. It includes what types of information they need to disclose and how those disclosures should be made. Companies in-scope will need to follow the reporting requirements set out in the ESRS, which specifies the detailed reporting requirements. The ESRS are being developed by EFRAG (European Financial Reporting Advisory Group)²

CSRD reporting is intended to help a company's stakeholders better understand its sustainability performance and impact. Such stakeholders may include:

- ▶ Investors and asset managers, who want to better understand the risks and opportunities that sustainability issues pose for their investments and the impacts of those investments on people and the environment;
- ▶ Customers, who want to understand and, where necessary, report on sustainability risks and impacts throughout their own value chains;
- ▶ Civil society actors, including non-governmental organizations and social partners that wish to better hold companies to account for their impacts on people and the environment;
- ▶ Policy makers and environmental agencies, as part of monitoring environmental and social trends and to inform public policy.

¹ The NFRD requires companies to provide disclosures on: their efforts to protect the environment, how they treat their employees, how they plan to adhere to general human rights, how they mitigate corruption or bribery, and how they promote diversity in their work environment.

² EFRAG is a private association established with the encouragement of the Commission to serve the public interest. Its member organizations are European stakeholders and national organizations and civil society organizations

3. Context

The CSRD provides a framework for harmonizing EU sustainability reporting standards and aims to align EU reporting standards and internationally recognized sustainability reporting and accounting standards and frameworks. In November 2023, the GRI-ESRS Interoperability Index was made publicly available. This index allows entities reporting under ESRS to be considered as reporting 'with reference' to the GRI standards. However, with other international standards on sustainability reporting, such as the IFRS and TCFD, there are differences to be assessed with regard to their interoperability with ESRS. Please refer to the comparative analysis provided by EFRAG to learn more about the similarities and differences in these requirements.

4. Status

The CSRD entered into force on January 5, 2023. However, as a European Directive, it does not directly create obligations for companies in-scope. Those obligations will be created under each EU country's national laws based on the CSRD. EU countries will have until July 6, 2024, to transpose the CSRD into their national laws. As of February 29, 2024, five EU Member States (Czechia (in part), Finland, France, Hungary and Romania) have approved implementing legislation to transpose the CSRD into national law, an additional eight Member States have introduced implementing legislation but not yet approved it, and a further eight Member States have held consultations regarding transposing the CSRD into national law.

On July 31, 2023, EFRAG adopted the first set of ESRS, consisting of two general cross-cutting ESRS and ten topical ESRS, as a delegated act.³ EFRAG may develop, and the European Commission may adopt, additional sector-specific and other ESRS. On February 8, 2024, the European Parliament and the European Council reached a political agreement to delay the adoption of sector-specific ESRS and the standards specifying the reporting obligations of Third-Country Companies (as defined below) to June 30, 2026.

³ A delegated act is an EU legislative mechanism to ensure that EU laws that are passed can be implemented properly or reflect developments in a particular sector.

Category	Criteria	Implementation ⁵
1 Companies already subject to reporting under the NFRD	Large company or parent company of a large group that is incorporated in the EU which (i) is a public interest entity and (ii) has more than 500 employees on average.	Financial years starting on or after January 1, 2024, with the first report to be produced in 2025
2 Large companies incorporated in the EU (including EU subsidiaries of non-EU parent companies) not already subject to the NFRD	The company must meet two of the following criteria: <ul style="list-style-type: none"> • Balance sheet total of EUR 25 million • Annual net turnover⁶ of at least EUR 50 million; and/or • An average of 250 employees during the financial year 	Financial years starting on or after January 1, 2025, with the first report to be produced in 2026
3 SMEs incorporated in the EU that are listed on EU-regulated markets (other than micro-companies)	The company must have securities listed on an EU-regulated market and meet two of the following criteria (to the extent not covered by categories 1 and 2, a Listed SME): <ul style="list-style-type: none"> • Balance sheet total of at least EUR 4 million; • Annual net turnover of at least EUR 8 million; and/or • An average of 50 employees during the financial year. 	Financial years starting on or after January 1, 2026, with the first report to be produced in 2027. However, for the first two years following 2026, SMEs will have the option to opt out from the reporting requirements, so long as they indicate in their management report why they did not disclose sustainability information.
4 Large companies not incorporated in the EU with certain EU ties	The non-EU company must meet the following criteria (Third-Country Companies): <ul style="list-style-type: none"> • Annual net turnover of EUR 150 million in the EU for each of the last two consecutive financial years; and • At least one subsidiary that is a Large Undertaking (as defined in category 2) or a Listed SME (as defined in category 3) or EU branch that generated net turnover of more than EUR 40 million in the prior financial year 	Financial years starting on or after January 1, 2028, with the first report to be produced in 2029

⁴ It must be noted that the term used in the CSRD is an “undertaking” rather than a “company”. But for the purposes of readability, the term “company” will be used in this factsheet. Undertakings is an EU legislative term that refers to any entity that is engaged in the economic activity of offering goods or services on a given market, regardless of its legal status and the way in which it is financed. As such, the term “undertaking” is broader than a “company” as an undertaking could be an entity without formal legal status.

⁵ Reporting will occur in the following financial year for each of the above financial years.

⁶ “Net turnover” is generally defined as the amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover.

5. Scope

6. Obligations for companies in-scope

The CSRD casts a wide net, substantially wider than the NFRD. Please refer to the table in Section 4 above for the criteria to determine whether a company would fall within the scope of the CSRD. The European Commission estimates that approximately 49,000 companies will be required to comply with the CSRD, compared to an estimate of only 11,600 companies that are required to comply with the NFRD.

Overview

The CSRD will require the company's management report to include (in a clearly identifiable dedicated section) information necessary to understand the company's impacts on sustainability matters, and how sustainability matters affect the company's development, performance, and position. **"Sustainability matters"** broadly encompasses environmental, social, and human rights and governance factors. The CSRD provides an exemption for subsidiaries, if the subsidiary's parent company includes the subsidiary in the parent company's consolidated management report.

Types of Disclosures Required

As noted above, the specific disclosures required to be made are set out in the ESRS. The CSRD more generally states that sustainability matters to be addressed in the management report are required to include the following:

- A brief description of the company's business model and strategy, including, but not limited to, the resilience of the company or group's business model and strategy in relation to sustainability risks; and how the company's business model and strategy consider its stakeholders' interests and its impacts on sustainability matters;
- Sustainability targets, a description of the progress the company has made towards achieving those targets, and a statement of whether the company's targets, as related to environmental matters, are based on conclusive scientific evidence;

- Any incentive schemes linked to sustainability matters;
- Indicators relevant to its sustainability-related disclosures;
- A description of the due diligence processes regarding sustainability matters;
- The principal actual or potential adverse impacts connected with the company's own operations and within its value chain and actions taken to identify and track these impacts;
- Actions taken by the company, and the result of such actions, to prevent, mitigate, remediate or bring an end to actual or potential adverse impacts; and
- Principal risks to the company related to sustainability matters.

To the extent applicable, reported information is required to address the company's own operations and its value chains – both within and outside the European Union – including its products and services, its business relationships, and its supply chain.⁷

On December 22, 2023, EFRAG published Draft EFRAG IG 2.⁸ Draft EFRAG IG 2 is draft value chain guidance that explains how to navigate the value chain requirements of the ESRS, contains FAQs for implementing value chain reporting under the ESRS and includes an upstream and downstream value chain map that explains the coverage of the upstream and downstream value chain.

Double Materiality

The CSRD takes a “double materiality” approach to reporting. Companies in-scope are required to report both on (i) how sustainability matters affect their business; and (ii) the external impacts of their activities on people and the environment. This is consistent with the approach taken under the voluntary Global Reporting Initiative (GRI) standards. The concept of double materiality is further explained in the draft ESRS 1 (General requirements).

⁷ For the first three years of reporting, if information regarding the value chain is not available, the undertaking must instead explain the efforts made to obtain the necessary information about its value chain, the reasons why not all of the necessary information could be obtained and its plans to obtain the necessary information in the future.

⁸ <https://www.efrag.org/Assets/Download?assetUrl=/sites/webpublishing/SiteAssets/Draft+EFRAG+IG+2+VCIG+231222.pdf>

On December 22, 2023, EFRAG also published Draft EFRAG IG 1.⁹ Draft EFRAG IG 1 provides draft guidance concerning the materiality assessment required by the ESRS; Draft EFRAG IG 1 explains the ESRS approach to materiality, illustrates how the materiality assessment is to be performed, explains how companies can take account of other frameworks and standards while making the assessment, and includes FAQs on impact and financial materiality, the materiality assessment process, stakeholder engagement and disaggregation and reporting.

Limited Assurance

Companies in-scope will have to seek limited assurance of the sustainability information disclosed. This means that companies in-scope will need to engage a third-party auditor to verify the information disclosed, although the degree of assurance required is less onerous than what is required for financial auditing. Assurance standards are to be adopted by the European Commission before October 1, 2026.

The European Commission has indicated that its goal is to eventually adopt a “reasonable assurance” standard, potentially as early as 2028. Reasonable assurance would entail more extensive procedures, including consideration of internal controls of the reporting company and substantive testing to detect flaws.

Equivalence

The CSRD includes an equivalence mechanism. This means that where a company is subject to multiple reporting requirements across different jurisdictions, it may be able to attain some reporting exemptions where the other reporting requirements are considered equivalent to the ESRS. However, the European Commission has not postponed the deadline to issue the equivalent standards to 2026 and it is unclear at this stage how this equivalence mechanism will operate in practice and which other reporting standards will be considered equivalent to the ESRS.

⁹ https://www.efrag.org/Assets/Download?assetUrl=/sites/webpublishing/SiteAssets/IG+1+Materiality+Assessment_final.pdf

7. Compliance recommendations for companies in-scope

Companies in-scope can prepare for reporting under the CSRD by taking the following steps:

- ▶ As an initial matter, there should be an assessment of whether your company is in-scope. For most multinationals, the threshold question will be whether any of their incorporated in the EU are large companies / large undertakings (i.e., Category 2 companies as per the table in Section 4 above). Larger multinationals also will need to assess whether they might be subject to reporting as a non-EU company. Multinationals that do not currently meet a CSRD compliance threshold should consider whether their EU growth strategy needs to monitor when the company reaches CSRD threshold and prepare for compliance with the CSRD.
- ▶ Companies in-scope should determine where primary responsibility for CSRD compliance will sit, e.g., at the parent level or subsidiary level. There has been a trend to increase the centralization of responsibility for sustainability disclosures at the parent company level to ensure consistency across mandatory and voluntary disclosures and reduce compliance costs.
- ▶ For multinationals, in almost all cases, it will make the most sense for primary responsibility for sustainability disclosure globally to sit in the headquarters (whether with the sustainability, legal, compliance, finance or another team). Of course, regional, and local personnel in other parts of the world also have an important part to play and will need to be integral to data collection and reporting.
- ▶ Companies in-scope also should conduct a preliminary CSRD gap assessment. The gap assessment should focus on gaps between expected required CSRD disclosures (as detailed in EFRS 1 and ESRS 2 standards) and other current and expected voluntary and mandatory sustainability disclosures (including those expected to be required by the SEC's climate risk disclosure rules if applicable).
- ▶ Companies in-scope should set up a process for ongoing monitoring of the significant number of CSRD-related developments that will occur over the next few years.

8. Potential implications for suppliers to companies in-scope

Suppliers to companies in-scope may experience some indirect impact as the CSRD pushes for greater transparency and standardization of sustainability reporting standards. Brands and retailers in-scope may require suppliers to provide information to support their reporting process. For example, companies in-scope are likely to develop key performance indicators to measure sustainability-related performance and require their suppliers to report in accordance with these indicators.

Suppliers to companies in-scope may also consider reviewing the sector-agnostic EFRS standards (EFRS 1 and ESRS 2) to understand what kinds of data and information they may be required to provide to support companies in-scope report under the CSRD. Suppliers may conduct a gap

analysis to determine what information is readily available and where their ESG data collection and reporting systems may need to be upgraded or expanded. Suppliers should also consider where further and independent verification will be required to validate the accuracy of datasets. Note that this gap analysis will need to be updated when the draft sector-specific standard is published by EFRAG.

9. Penalties for non-compliance

Each EU country will set their own enforcement and penalty rules under the CSRD. Therefore, a company operating in Germany may pay more or less in penalties for non-reporting or non-compliance than a company in Spain.



10. Form of Enforcement

Please refer to Section 9.

11. Reporting/disclosure requirements (if any) for companies in-scope

The ESRS will specify the forward-looking, historical, qualitative, and quantitative information to be reported by companies in-scope. On July 31, 2023, the European Commission adopted twelve ESRS, consisting of two general cross-cutting ESRS and ten topical ESRS, as further described below. Additional sector-specific and other ESRS are currently being developed by EFRAG.

● General and topical standards

The European Commission adopted general standards, which provide for general requirements ([ESRS 1](#)) and general disclosures ([ESRS 2](#)), in addition to 10 topical draft standards across each of the environmental, social and governance pillars. Companies in-scope will need to report according to the general and topical standards.

Environment

Climate change ([ESRS E1](#))
 Pollution ([ESRS E2](#))
 Water and marine resources ([ESRS E3](#))
 Biodiversity and ecosystems ([ESRS E4](#))
 Resource use and circular economy ([ESRS E5](#))

Social

Own workforce (ESRS S1)
 Workers in the value chain (ESRS S2)
 Affected communities (ESRS S3)
 Consumers and end-users (ESRS S4)

Governance

Business conduct (ESRS G1)

Sector-specific standards

The second set of standards will include sector-specific standards including sectors covered by GRI sector standards (agriculture, coal mining, mining, oil and gas (upstream) and oil and gas (mid- to downstream)) and sectors characterized as **high impact**, (textiles, energy production, road transport, motor vehicle production and food/beverages). These standards shall set out the disclosure requirements that are specific to each sector; companies in-scope that fall within the identified sectors will also need to ensure that their reporting is aligned with the sector-specific standards in addition to the sector agnostic standards described above. EFRAG has noted that its sector-specific standards will be mapped to the sector-specific SASB standards in subsequent versions of the ESRS to avoid inconsistencies. On February 8, 2024, the European Parliament and the European Council reached a political agreement to delay the adoption of sector-specific ESRS to June 30, 2026.

The second set of EFRAG standards will also include ESRS for SMEs. The intent behind standards specific to SMEs is to enable them to report in accordance with standards that are proportionate to their capacities and resources, and relevant to the scale and complexity of their activities. The reporting standards for SMEs are to be included in the ESRS to be adopted by June 30, 2026.

Additionally, EFRAG is developing a voluntary reporting standard for use by non-listed SMEs to enable them to respond to requests for sustainability information in an efficient and proportionate manner. A draft of the voluntary standard is expected to be issued in the first half of 2024 and will be open to a four-month public consultation.



12. Access to remedy mechanisms and litigation risk

While there is no access to remedy mechanisms under the CSRD, it is worth noting that non-compliance could lead to reputational and financial damage. Activists are targeting management and boards of certain companies that fail to take a proactive stance on ESG issues, and social and mainstream media are quick to expose companies' failings in ESG areas. This stakeholder accountability and public scrutiny fed by a desire for change, is expected to result in an increase in enforcement and litigation risks relating to sustainability performance for corporates. These risks may include:

These risks may include:

- Misleading and inaccurate ESG disclosures or “greenwashing” by companies may result in liability in relation to investors who have suffered loss as a result of any untrue or misleading statements, or omissions.
- The potential for sanctions for breaches of prospective supply chain due diligence requirements under the CSDDD, such as debarment from public procurement, loss of export credit and fines. Companies also face significant reputational and financial damage from governance and oversight failures of supply chain risks where there are allegations over poor labour practices, human rights abuses, and slavery.
- Claims by asset managers for indemnity and contributions to meet regulatory penalties or damages arising from misleading ESG disclosures provided by companies.
- Employees feel more emboldened to call out their employers for non-compliance with their published ESG standards.
- Climate-related legal action brought by environmental groups continues to rise, with The Hague District Court recently ordering Royal Dutch Shell to reduce its carbon emissions by 45% (compared to 2019 levels) by 2030. In July 2021, Royal Dutch Shell confirmed its intention to appeal the court ruling. During the same week, investors in energy company Chevron, voted to cut emissions generated by the use of the company's products. These developments are likely to lead to further transformations with the energy sector (including in relation to transport and mining), with companies increasingly likely to face similar lawsuits from environmental groups, together with pressure from investors to reduce their contributions to climate change.

13. Opportunity to participate and engage in legislative developments

As noted above, additional ESRS standards are under development by EFRAG. Please refer to the EFRAG website for information on opportunities to participate.

14. Useful resources to support compliance

European Commission, [Corporate sustainability reporting](#)

European Commission, Adjustments of the size criteria for micro, small, medium-sized and large undertakings or groups

EFRAG, Sustainability reporting standards

EFRAG, ESRS Q&A Platform

EFRAG, Draft EFRAG IG 1

EFRAG, Draft EFRAG IG 2

Discover Other Factsheets from An Apparel Supplier's Guide 2.0

0

EU Strategy for Sustainable and Circular Textiles

1

EU Corporate Sustainability Reporting Directive

2

EU Corporate Sustainability Due Diligence Directive

3

New York Fashion Act

4

EU Forced Labour Regulation and Guidance

5

US Uyghur Forced Labor Prevention Act

6

EU Ecodesign for Sustainable Products Regulation

7

EU Packaging and Packaging Waste Directive and Provisional Regulation

8

EU Microplastics Regulation

9

UK Plastic Packaging Tax

10

EU Product Environment Footprint Guide

11

EU Textiles Regulation

12

EU Taxonomy

13

German Supply Chain Due Diligence Act

14

Lessons for fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices