

A photograph of a factory assembly line. Several workers wearing blue uniforms are seated at workstations, focused on their tasks. The workstations are equipped with overhead machinery, including conveyor belts and various tools. The background shows more workers and the industrial setting of a factory.

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

What does the proposed
European Corporate
Sustainability Due
Diligence Directive mean
for non-EU actors?

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Agenda

- 1) Introductory remarks:** Elin Wrzoncki, Department Director, Human Rights and Business Department, DIHR (5mins)
- 2) Presentation on EU regulatory developments and the CSDD:** Gabrielle Holly, Senior Adviser, Human Rights and Business Department, DIHR (20mins)
- 3) Presentation on CSRD:** Tabitha Bailey, Global Reporting Initiative (10mins)
- 4) Q&A/Discussion** (20mins)
- 5) Wrap up/next steps** (5mins)

EU regulation and non-EU actors

- 1) Overview of the EU regulatory ecosystem which touches on business and human rights
- 2) Summary of the EU's proposed Corporate Sustainability Due Diligence Directive (CSDD)
- 3) What does the CSDD mean for non-EU actors?
 - a) Direct application to certain non-EU companies
 - b) Requirement to conduct due diligence across global value chains
 - c) Company complaint mechanisms and state supervisory authority "substantiated concerns"
 - d) Civil liability mechanism
 - e) Inspiration for regulatory developments in non-EU states



HOW DO THE PIECES FIT IN THE PUZZLE?

Making sense of EU regulatory
initiatives related to business
and human rights

Overview of EU Files

Overarching policy initiatives

Company focused initiatives

- Corporate Sustainability Due Diligence Directive
- Corporate Sustainability Reporting Directive

Finance focused initiatives

- Sustainable Finance Disclosure Regulation
- Green Taxonomy
- Social Taxonomy Extension

Trade and import controls

- Forced labour ban
- Deforestation Regulation
- Timber Regulation
- Conflict Minerals Regulation



Corporate Sustainability Due Diligence Directive

- **What is it?**

A mandatory human rights and environmental due diligence law with some corporate governance aspects

- **What stage is it at?**

Proposal published 23 February 2022, will now go through full legislative process and then be transposed into national laws. **Public consultation currently open until 23 May 2022.**

- **BHR standards?**

Generally aligns with the process of HRDD in the UNGPs and OECD Guidelines, with some departures

- **Due Diligence?**

Large companies and medium high impact companies (EU and non-EU) to undertake DD on a range of human rights and environmental impacts on own operations, subsidiaries and "established business relationships" in the value chain



What are the due diligence requirements?

Due diligence requirements:

- Due diligence policy including code of conduct
- Take “appropriate measures” to identify actual or potential impacts
- Take “appropriate measures” to prevent or mitigate adverse impacts that have been or should have been identified
- Establish a complaints procedure
- Monitor effectiveness
- Communicate on due diligence

Actions on actual/potential impacts: menu of options, including requirements to engage with SME partners, collective action, investing in management/production processes, but also heavy reliance on use of contractual compliance with codes of conduct and verification



Key elements:



Personal
scope



Value chain



“established
business
relationships”



Contractual
assurances



Civil liability and
enforcement

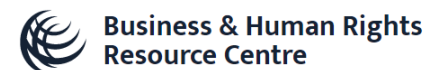
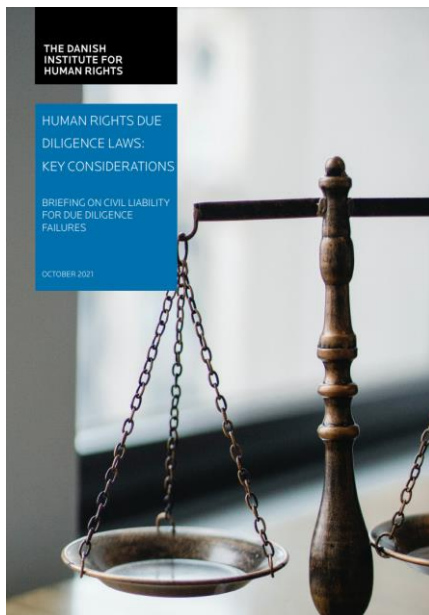


Directors
duties



How does the CSDD touch on non-EU actors?

- Direct application to certain non-EU companies
- Due diligence across global value chains
- Complaints and “substantiated concerns”
- Civil liability
- Regulatory developments outside EU



Resources

Danish Institute for Human Rights

- [How do the pieces fit in the puzzle? Making Sense of EU regulatory initiatives related to business and human rights](#)
- [Legislating for impact: analysis of the proposed EU corporate sustainability due diligence directive](#)
- [Human rights due diligence laws: key considerations – Briefing on civil liability for due diligence failures](#)

Other resources

- [Business and Human Rights Resource Centre resources on mandatory human rights due diligence](#)



Next steps

- Proposal will go through ordinary legislative process – debate in European Parliament and European Council
- Commissioner Reynders has indicated that he expects legislative negotiations among the co-legislators can be concluded in the course of this year, with a decision to come next year
- Regulation is a Directive, meaning that Member States will need to enact their own national laws – plan for transposition is 2 years
- Medium sized companies to follow after another 2 years
- Feedback open until **23 May 2022**:
https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance_en

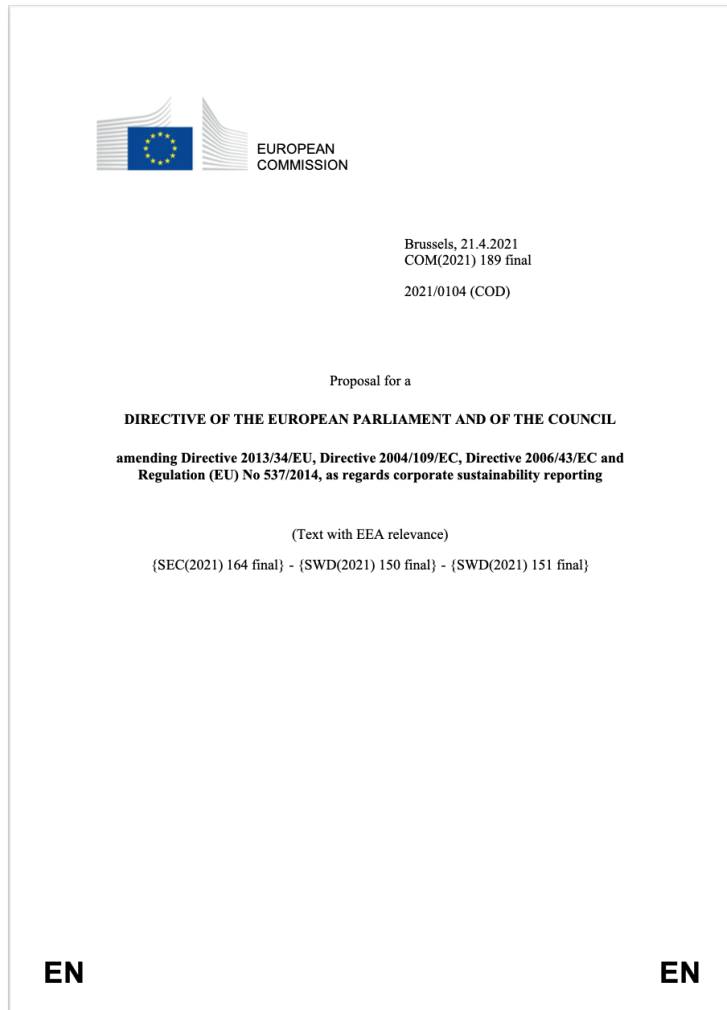
Who we are

- GRI is an **independent, international** organization providing the **global common language** for corporate transparency.
- We help businesses and other organizations understand and communicate their **sustainability impacts**.
- We deliver the **GRI Standards**, the world's most widely adopted sustainability reporting framework – which is **freely provided** as a **public good**.
- GRI is a **not-for-profit** organization and activities are funded through services we deliver and by governmental and other funders that support our work.

Corporate Sustainability Reporting Directive (CSRD) – draft



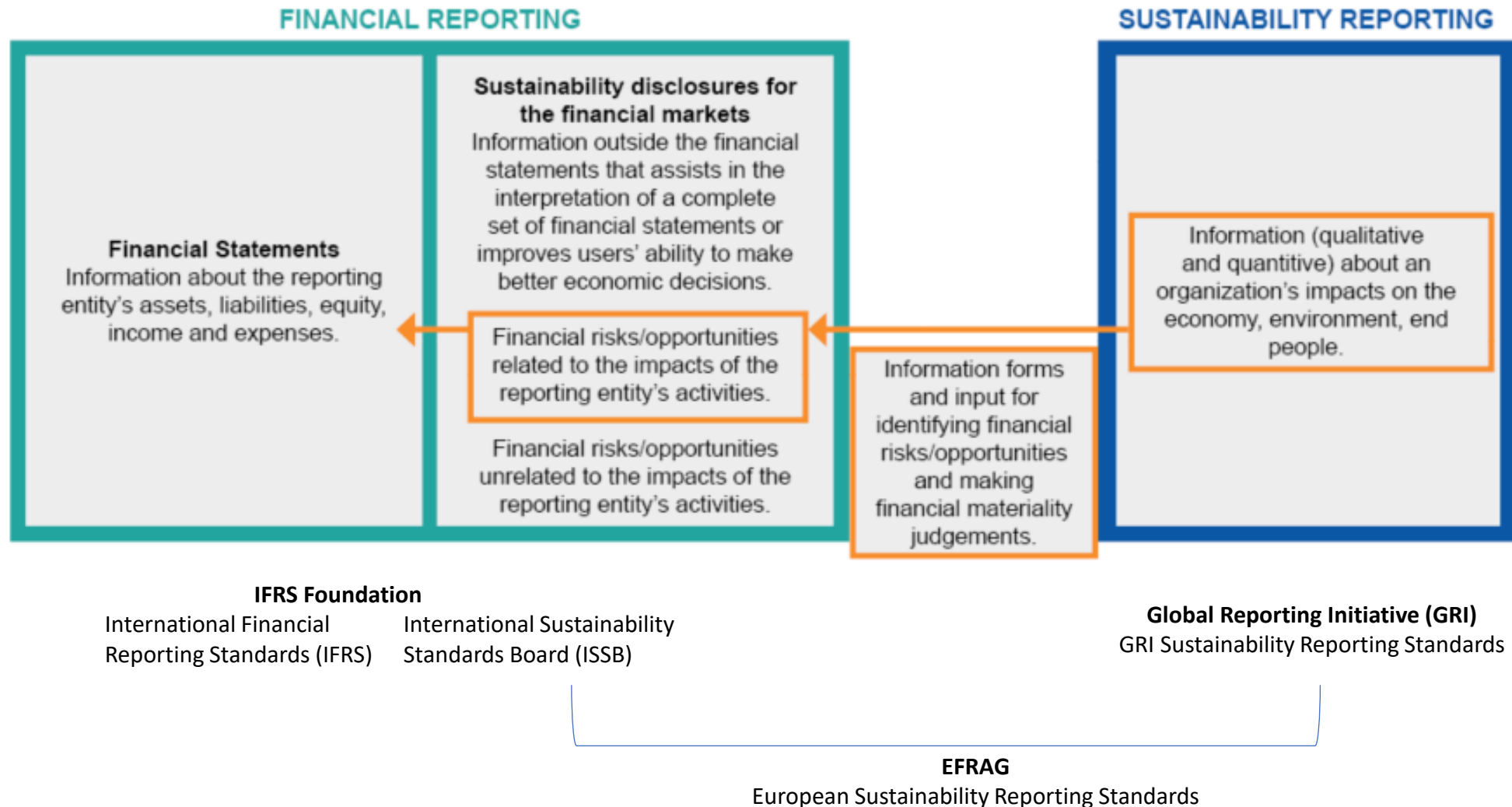
Released by EU Commission: 21 April 2021



- Mandates sustainability reporting based on European standards
 - GRI is co-constructor with European Financial Reporting Advisory Group (EFRAG)
- Intends to normalize international authoritative instruments
- Specifies in more detail the information that undertakings should report
- Extends the scope of the reporting requirements applying to both EU and Non-EU companies
- Firmly embedding the concept of **double materiality**

Double Materiality

A company should start with the assessment of the outward impact



Corporate Sustainability Reporting Directive – key changes

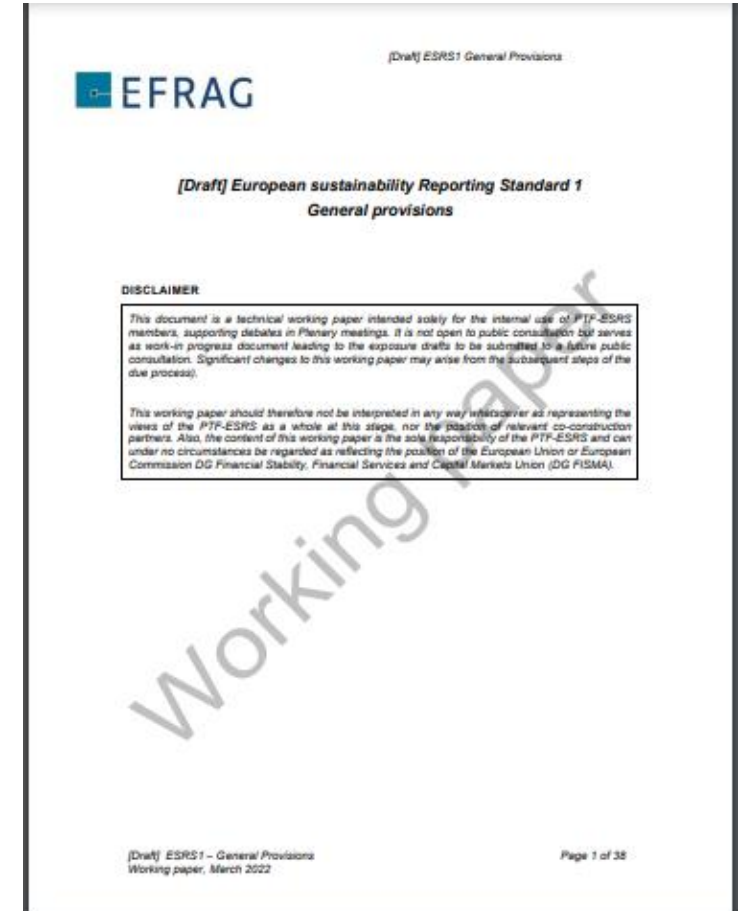


- **Scope:** number of companies covered will increase from around 11.700 companies to 50.000
- **Mandatory external audit:** A requirement for non-financial information to be verified by an external auditor
- **EU Sustainability Reporting Standards:** Reporting requirements will be listed **more detailed** and according to the obligatory **EU sustainability reporting standards**
- **Formatting Requirements:** Management reports will have to be published in a certain format and companies are required to **digitally tag** information

How the CSRD can impact non-EU based companies

- As members of global value and supply chains
- As owner of EU-based subsidiaries with over 250 employees
- As owners of EU-listed companies
- As large companies selling into the European market*
- EU aims to influence reporting policies in other jurisdictions

* Still being negotiated between EU Parliament, EU Commission and the member countries



- **Timelines:** CSRD and ESRS expected to apply from January 2023, with initial reports due in 2024
- **Trialogues:** Priority negotiation topics are scope and inclusion of Non EU Companies, Reporting Burden on SMEs, and the assurance regime.
- **Pushing towards alignment:** It is key for alignment between the CSRD and the Sustainable Corporate Governance Directive (Due Diligence) Directive

How can this be achieved? Emphasizing the importance of this through feedback to public consultations, such as those of the EU, EFRAG, ISSB, GRI.



Questions and discussion



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