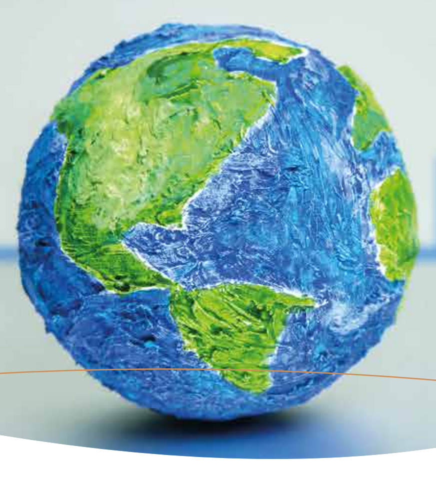
DEMAREST

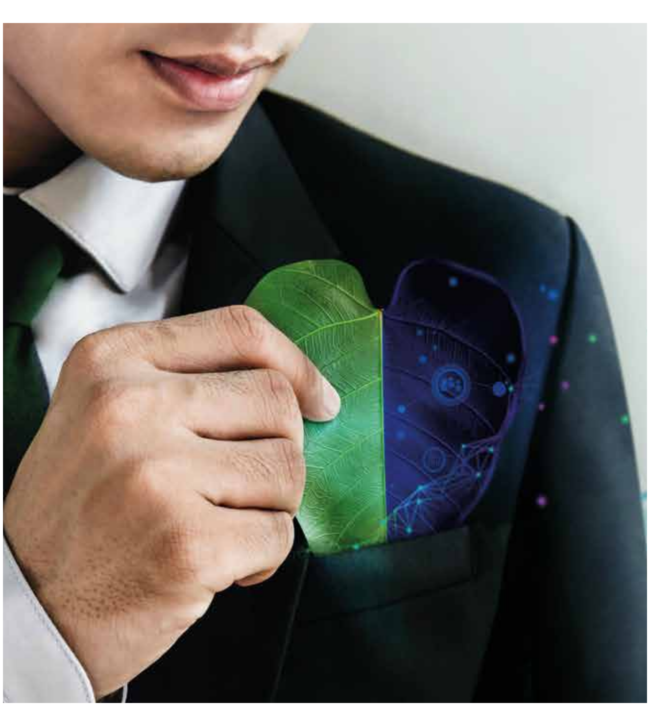


ESG NEWSLETTER

CORPORATE SUSTAINABILITY DUE DILIGENCE OBLIGATIONS – WHAT IS THE EUROPEAN UNION'S DIRECTIVE AND ITS EFFECTS?

The European Commission has proposed a Directive on corporate sustainability due diligence. The purpose of such Directive is to promote sustainable and responsible corporate behavior in global value chains, considering that companies have a fundamental role to build a sustainable economy and society. Companies will be required to identify and, if necessary, prevent, eliminate, or mitigate adverse impacts of their activities on human rights, such as child labor and worker exploitation, and on the environment, for example pollution and loss of biodiversity.

OVERVIEW



According to the European Commission, the new rules will provide legal certainty and level the playing field for competition. From the perspective of consumers and investors, it is the European Commission's understanding that the Directive will result in more transparency to ESG practices of companies subject to it, allowing indispensable stakeholders to make informed consumption and financial decisions.

In addition, the European Commission states that the new rules will promote an ecological transition and protect human rights in Europe and other regions.

The text of the proposed Directive will be submitted to the European Parliament and the Council of the European Union for approval and, once approved, must be transposed into national law of Member States within 02 years.

GOAL

The new rules seek to ensure that companies address the adverse impacts of their actions, including in their value chains, inside and outside Europe. Fragmented national rules on corporate sustainability-related **due diligence** obligations slow down the carrying out of good practices.

Stand-alone measures by some Member States were not considered enough to assist companies in exploring their full potential and act in a sustainable way.

FOR WHICH COMPANIES WILL THE NEW EU RULES APPLY?

Large EU companies

Group 1

+500 employees

€ 150.000.000,00

All EU limited liability companies with substantial dimension and economic power (with more than 500 employees and net sales of more than EUR 150 million worldwide).

Group 2

+250 employees

€ 40.000.000,00

Other limited liability companies operating in defined high-impact sectors, that do not fall into the scope of group 1, but with more than 250 employees and net sales of more than EUR 40 million worldwide. For this group, the rules will be applicable two years later than for group 1.

Small and Medium Enterprises

Micro, small and medium-sized companies are not directly encompassed within the scope of such proposed rules. However, the proposal provides for supporting measures for small and medium business that could be indirectly affected.

Third country companies

Active in the EU with a turnover threshold aligned with groups 1 and 2, which is generated in the EU.

BENEFITS OF THESE NEW RULES

For citizens

- Increased protection of human rights, including labor rights;
- Healthier environment for present and future generations;
- Increased trust in businesses;
- More transparency enabling informed choices;
- Better access to justice for victims.

For companies

- Harmonized legal framework in the EU, creating legal certainty and a level playing field;
- Greater trust from clients and commitment from employees;
- Greater awareness of negative impacts on the environment and human rights from companies;
- Improved risk management and adaptability;
- Drawing in more talent, sustainability-oriented investors, and public purchasers;
- Higher attention to innovation;
- Improved access to financing;

WHAT ARE THE OBLIGATIONS FOR COMPANIES AND THEIR DIRECTORS?

The Directive establishes a corporate due diligence duty in order to identify, end, prevent, mitigate, and account for negative impacts on human rights and the environment in the company's own operations, its subsidiaries, and value chains.

In addition, certain companies need to establish a plan to ensure that their business strategy is compatible with limiting global warming to 1.5°C, in accordance with the Paris Agreement.

Directors are encouraged to contribute to sustainability and climate change mitigation goals. In addition, the Directive also determines duties for directors of EU covered companies, including setting up and overseeing the implementation of due diligence processes and integrating such processes into their corporate strategy.

In addition to acting in the best interest of the company, directors must take into consideration human rights, climate change and environmental consequences of their decisions.

What are the estimated costs of these new rules for companies?

Companies will have to bear **due diligence** costs, as well as transition costs, including expenses and investments to alter their own operations and value chains, if necessary.

HOW WILL THE NEW RULES BE ENFORCED?

The new rules on corporate sustainability **due diligence** will be enforced through:

Administrative oversight

Member States will designate an authority body to oversee and impose effective, proportionate, and dissuasive sanctions, including fines and compliance orders. At European level, the Commission will set up a European Network of Supervisory Authorities that will bring together representatives from national bodies to ensure a coordinated approach.

Civil liability

Member States will ensure that victims are compensated for damages resulting from the failure to comply with the obligations of the Directive.

The rules of directors' duties are enforced through existing Member States' laws. The Directive does not include an additional enforcement system in case directors do not comply with their obligations under this Directive.

Demarest's ESG team is available to provide further clarifications on the European Union Directive and its effects.

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