



**NEW ZEALAND**  
**FOREIGN AFFAIRS & TRADE**  
Manatū Aorere

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# **European Union Corporate Sustainability Due Diligence**

MARKET INTELLIGENCE REPORT

# Summary

**NB: This report covers a provisional agreement reached between the European Parliament and Council (the EU's two co-legislating bodies). It will now be voted on separately by both institutions and is subject to further amendment.**

- New mandatory requirements for corporate due diligence reporting on the environmental and social impacts of certain companies have been agreed by the European Union, and are expected to enter into force following European elections in June 2024.
- Companies which come under the scope of the Corporate Sustainability Due Diligence Directive ('CSDDD') will be required to assess their operations and supply chains for negative impacts on people and the planet.
- Specific requirements include:
  - Implementing transition plans to ensure that business models align with limiting global warming to 1.5°C.
  - Mitigating and preventing negative environmental and social impacts, including ending business relationships with upstream or downstream partners when these impacts cannot be mitigated.
  - Introducing a complaints mechanism system and meaningfully engaging with complainants.
- The CSDDD is the latest example of the European and United Kingdom markets trending towards more, not less, data collection and corporate due diligence towards sustainability. Consequently, firms looking to enter, maintain, or grow their presence in Europe may need to approach sustainability due diligence as a minimum requirement of doing business as opposed to something that adds additional value.

# Report

This report outlines the background, outcome, and planned implementation of the European Union (EU)'s new Corporate Sustainability Due Diligence Directive (CSDDD), including the potential impacts for New Zealand companies trading with or doing business in the EU.

First proposed by the European Commission in February 2022, the CSDDD aims to foster more sustainable and responsible corporate behaviour through tackling the adverse impacts of companies' operations and supply chains on the environment (including biodiversity loss) and human rights (such as child labour and worker exploitation).

The CSDDD will apply to:

- EU companies with over 500 employees and a net worldwide turnover over €150 million;
- EU companies in 'high-risk' sectors with over 250 employees and with a turnover of more than €40 million (at least €20 million of that turnover must be from activities within a 'high-risk' sector – namely manufacture and trade of textiles, clothing, and footwear; agriculture, forestry, and fisheries; extraction and wholesale trade of mineral resources; or, manufacture of related products and construction); and,
- Non-EU (including parent) companies from three years after the entry into force of the directive provided they have generated over €150 million net turnover in the EU.

While it appears that small and medium enterprises ('SMEs') will initially remain out of scope, they are likely to be indirectly affected if they do business with larger companies as a result of the requirement for supply chain due diligence.

Companies within scope of the CSDDD will be required to identify, assess, prevent, mitigate, and remedy any negative impacts on people and the planet, including those of their upstream and downstream partners such as those involved in production, supply, transport and storage, design, and distribution.

The CSDDD will require companies to invest in due diligence systems, seek contractual assurances from their contractual partners, and provide support to their supply partners from SMEs. Companies that identify adverse impacts on the environment or human rights by their business partners will have to end business relationships when these impacts cannot be avoided.

To assist companies with compliance, EU Member State governments will create practical online portals to share information on conducting due diligence and related

European Commission guidance and information for stakeholders. Compliance with due diligence obligations will also be included as part of the assessment criteria for public and concession contracts.

Companies will also have to adopt a transition plan to ensure that their business model aligns with limiting global warming to 1.5°C. Companies with over 1000 employees will be entitled to financial benefits for implementing any such plans. Companies providing financial services (i.e. banks) will be temporarily excluded from the due diligence requirements, though they will still be required to include alignment with the goals of the Paris Agreement within their business plans.

Companies will also be required to introduce complaint mechanisms and meaningfully engage with any complainants, alongside regularly communicating and monitoring the effectiveness of their due diligence policies.

Victims of companies found liable for breaching their due diligence obligations will have the right to be compensated for damages suffered as a result of any breaches. Companies found to be in violation of the directive are at risk of several injunction measures. In addition, Member State governments will be able to take the turnover of the company into consideration in imposing pecuniary penalties (including fines of up to 5% of the company's net turnover).

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## Next steps and implications for New Zealand businesses

The final version of the CSDDD now needs to be rubber stamped by EU Member States and the European Parliament before it can enter into force.

It is expected that a final text will be published and enter into force after European elections in June 2024 (Q3 2024 at the earliest). As a Directive, the CSDDD will then be transposed into national law by Member States – a process that is expected to happen over the following two years.

In the meantime, the European Commission will develop and publish a list of non-EU businesses (those listed and based outside the EU) which will fall under the scope of the CSDDD. These businesses will have three years longer than their EU-based counterparts before the CSDDD obligations apply to them. However, non-EU businesses which supply into the EU market (directly or indirectly) are likely to begin receiving requests for sustainability information from entry into force, or sooner, as EU companies begin to prepare to comply with the new requirements.

New Zealand businesses which trade with or in the EU should therefore begin thinking about how they might map their human rights and environmental risks if required to, and what action they might take if negative impacts were identified as part of a due diligence

process.

While the CSDDD sets a regulatory baseline, it does not require exact harmonisation between different Member States. This means that Member States with existing national-level corporate due diligence regimes (such as France and Germany) or indeed any other Member State, may choose to go further than the minimum requirements set out by the CSDDD potentially risking an uneven set of slightly differing rules across Europe.

(See [here](#) for a previous Market Intelligence report on this topic.)

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