Compliance & Risks

Navigating the Maze of Environmental, Social & Governance Regulations: From Sustainable Products to Sustainable Finance

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1. Introduction

The year 2005 saw the birth of the term ESG (environmental, social and governance), appearing in a report called "Who Cares Wins".[1]

The report was published in response to an initiative begun by former UN Secretary General Kofi Anan, under the auspices of the UN Global Compact, where he called on over 50 CEOs of major financial institutions to explore ways to integrate ESG into capital markets. Since then, the phrase has continued on an upward only trajectory.

ESG can now be regarded as synonymous with responsible investing where regard is had as to how a company performs in these three silos. Matters such as; how a company and the products that it produces impact the environment, supply chain transparency, treatment of workers and diversity on boards of directors are coming under the spotlight and are key considerations at play when it comes to investing in a company.

This coupled with a crackdown on greenwashing means ESG is now a priority focus for many companies - this is without taking into account the role that a strong ESG profile plays in attracting talent and customers in today's market.

The world of ESG can feel overwhelming, appearing to have tentacles in many pies. This whitepaper seeks to provide an overview of how product, supply chain and ESG reporting regulations knit together and how many companies may well be on their ESG journey already without knowing it.

Further, it seeks to highlight key regulatory developments which companies, particularly those involved in product manufacturing, should have on their radar.

1 https://d306pr3pise04h.cloudfront.net/docs/issues_doc%2FFinancial_markets%2Fwho_cares_who_wins.pdf

2. Supply Chain Due Diligence

The phrase "ignorantia juris non excusat" or "ignorance of the law is no excuse" has never been more applicable than in the field of supply chain due diligence. A company's ignorance of its obligations under the law or of what's happening in its supply chain is no longer tolerated.

2022 stands out as a year where a number of important dates in this field are bubbling to the top.

EU Developments

A.) EU: Corporate Sustainability Due Diligence, Draft Directive, February 2022

February of 2022 saw the EU Commission further advancing in its journey of sustainable development with the publication of its long anticipated proposal for a Directive on Corporate Sustainability Due Diligence which would require EU member states to implement legislation mandating human rights and environmental due diligence.

Companies covered by the Directive include large companies with more than 500 employees and a net worldwide turnover greater than €150 million or mid-sized companies with more than 250 employees and a net worldwide turnover greater than €40 million, providing that 50% was generated in high impact sectors such as manufacture of textiles, food products and metal products.

For non-EU companies turnover is the determining factor when it comes to whether they are in scope or not. A turnover of €150 million in the EU in the fiscal year preceding the last fiscal year or €40 million providing that 50% was generated in high impact sectors will bring them within the remit of the Directive.

The proposed Directive will bring into being a corporate due diligence duty obliging companies to identify, prevent, mitigate, cease and minimise potential or actual adverse environmental and human rights impacts connected with a company's own operations, its subsidiaries and their value chains.

The Directive has yet to be adopted and is awaiting approval from the European Parliament and Council. It is anticipated that the Directive will come into force in 2023.

Talks with regard to a complementary measure to the Draft Directive have also begun with the European Parliament passing a resolution on 9 June 2022 for a new trade instrument to ban products made by forced labour.[2]

This follows on from a consultation document published by the European Commission in May calling for evidence for an initiative effectively banning products produced, extracted or harvested with forced labour.[3]

[2] https://www.europarl.europa.eu/doceo/document/TA-9-2022-0245_EN.html

[3] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13480-Effectively-banning-products-produced-extracted-or-harvested-with-forced-labour_en

B.) Norway Transparency Act No. 99 of 2021

The Norwegian Transparency Act came into force on July 1, 2022 and has far reaching implications for large companies based in Norway offering goods and services in or outside the country, as well as foreign large companies liable for tax in Norway.

A larger company or enterprise is one which meets two of the following criteria :

- Sales revenue over NOK 70 million
- Balance sheet total greater than NOK 35 million
- At least 50 full-time employees

The Act which focuses on fundamental human rights, working conditions and transparency requires companies in scope to carry out due diligence assessments on their operations as well as those of their subsidiaries and business partners and produce a report with the information gathered during the assessment.

Apart from minimum content requirements companies have flexibility as regards the remaining content and form of the report. Interestingly, the Act provides Norwegian citizens with the right to request information from companies as to how they handle negative impacts unveiled in the course of the assessment. Norway's Consumer Agency is designated as the body responsible for ensuring compliance with the Act.

Companies must publish their first report by June 2023 and update annually thereafter or in the case significant changes to the risk assessments.

C.) Germany: Corporate Due Diligence In Supply Chains Act, BGBl. 2959, 2021

Lieferkettensorgfaltspflichtengesetz (LkSG) or Germany's Supply Chain Act is another piece of legislation on companies' radar this year and forms part of Germany's roadmap to sustainable development by 2030.

Companies that employ at least 3000 people and have a registered office or branch in Germany will be in scope, with the figure for employee numbers reducing to 1,000 by January 2024.

Under the Act companies are expected to make reasonable efforts to ensure that violations of human rights, such as child or forced labour and environmental pollution in relation to human rights, do not take place in their business operations or their supply chain.

Companies are obliged to document the fulfilment of their due diligence obligations and publish an accompanying report annually. Reports are to be submitted electronically and in German, no later than four months after the end of the financial year to which a report relates.

The German Federal Office of Economics & Export is responsible for monitoring compliance and has the authority to issue fines up to €8 million depending on the nature and extent of the violation.

D.) Switzerland: Due Diligence Obligations and Transparency Regarding Minerals and Metals from Conflict Areas and Child Labour, Ordinance, December 2021

On January 1, 2022 Switzerland's Ordinance on transparency as regards child labour and conflict minerals entered into force. It provides for due diligence and annual reporting requirements on supply chains to become mandatory for all companies in Switzerland that import or process metals containing tin, tantalum, tungsten or gold from conflict or high-risk areas or offer products or services for which there could be reasonable suspicions of child labor.

Under Article 16 businesses are required to demonstrate compliance with due diligence obligations on minerals and metals through an annual review made by an independent third party auditor.

UK Developments

E.) UK: Modern Slavery Act, 2015

A refreshment of the UK Modern Slavery Act has been rumoured for quite a while, indeed a private members' bill was introduced to the House of Lords in June of last year.[4]

The rumour has gained traction more recently with the Queen's 2022 speech in which she announced that the protection and support for victims of human trafficking and modern slavery should be strengthened and the accountability of companies increased to ensure modern slavery is eradicated from their supply chain through a Modern Slavery Bill. [5]

This Bill would likely fortify obligations on companies to publish a yearly modern slavery statement setting out steps taken to prevent modern slavery in their operations as well as mandating areas which must be reported on and providing enforcement authorities with stronger tools to combat non compliance.

Also on the UK's radar is the treatment of Uyghur Muslims in China with Foreign Secretary Liz Truss recently issuing a statement underlining the UK's commitment to stand with its international partners in calling out China's appalling persecution of the Uyghur Muslims and other minorities in China.[6]
This follows on from an announcement last year of a package of measures to ensure British organisations are not complicit in or profiting from human rights violations in the Xinjiang regions which may see the introduction of financial penalites for business that fail to comply with the Modern Slavery Act.[7]

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[4] https://bills.parliament.uk/bills/2892

[5] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074113/Lobby_Pack_10_May_2022.pdf?#page=83

[6] https://www.gov.uk/government/news/foreign-secretary-statement-on-xinjiang-24-may-2022

[7] https://www.gov.uk/government/news/uk-government-announces-business-measures-over-xinjiang-human-rights-abuses

US & Canadian Developments

A.) USA: Prevention of Forced Labour in Xinjiang Uyghur, Act 2021

Since 21 June 2022 CBP (U.S. Customs and Border Protection) has begun to implement the Uyghur Forced Labour Prevention Act's provisions to prohibit imports made by forced labour into the United States of products made in Xinjiang.

The presumption operating is that all goods mined, produced, or manufactured in China's Xinjiang Uyghur Autonomous Region have been made using forced labour and the CBP will prevent the import of all such goods regardless of where the finished product is made. This may translate into blocked shipments and fines for companies that fail to comply.

B.) New York (USA): Disclosure of Environmental and Social Due Diligence Policies, Assembly Bill 8352, Senate Bill 7428, 2021

In January 2022 New York State proposed its Fashion Sustainability and Social Accountability Act or Fashion Act which, if adopted, will require large companies to disclose annually on their environmental and social impacts, including their carbon emissions, water, energy and chemical management, the location of their factories, wages paid to factory workers, volume of product they produce.

Additionally, they will be obliged to commit to targets to reduce their impact in these areas within 18 months of enactment of the bill.

C.) Canada: Corporate Responsibility for Protection of Human Rights, Private Bill C-262

On 29 March 2022, the Canadian House of Commons published a bill which would require businesses to establish processes to prevent, address and remedy adverse impacts on human rights that occur in relation to their business activities conducted abroad. Every entity would be required to develop and implement due diligence procedures regarding their activities and those of their affiliates.

Within one year after this Act comes into force, and annually thereafter, every entity would be required to make public a report on its due diligence.

From the foregoing regulatory initiatives one thing is clear, deep knowledge of supply chain is expected and this expectation will continue to grow. Companies need to know their suppliers and, even, their suppliers' suppliers.

This is vital not only to ensure compliance with the law, but also to predict any issues in the supply chain ahead of time.

3. Environmental Product Regulations

Concern for the environment has been at the heart of product regulation for some time, evident in many measures from those restricting hazardous substances in products, such as REACH RoHS, SCIP & TSCA, to improving energy efficiency of products, to tackling excess packaging, right through to holding producers responsible for end of life product waste.

This is nothing new, but what has changed in recent years is how the environment and sustainability have moved centre stage and are the overarching and dominant themes in product legislation unfolding around the world.

Why is this change taking place? Any honeymoon period where we could blissfully claim ignorance of the toll products take on our environment is firmly at an end.

Now, there is a pervasive and unavoidable awareness of how avaricious products are, from their cradle to grave, when it comes to the world around us. This is reflected in EU Commission's Questions and Answers on the Sustainable Products Initiative of March this year[8] :

"Products use up massive amounts of materials, energy and other resources and cause significant environmental impacts throughout their lifecycle, from the extraction of raw materials, to manufacture, transport, use and end of life. Half of global greenhouse gases and 90% of biodiversity loss are caused by extracting and processing primary raw materials. Negative environmental impacts include significant resource depletion, generation of greenhouse gas emissions, and pollution. A recent JRC study demonstrated that global planetary boundaries are close to or are already being surpassed in several impact categories. The EU needs to act now to reverse these trends."

[8] https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_2014

The volume of regulation in this field is too vast to recount here and many readers will already be familiar with it, such as energy efficiency, e-waste, hazardous substances and packaging regulations, managing the requirements in their everyday compliance work.

Instead, I will look at one or two recent key developments starting with the EU which may be regarded as leading the way with its objective to move to a climate neutral and resource efficient economy by 2050[9].

[9] https://op.europa.eu/en/publication-detail/-/publication/92f6d5bc-76bc-11e9-9f05-01aa75ed71a1

EU Developments

A.) EU: Proposed Framework for Setting Ecodesign Requirements for Sustainable Products, Draft Regulation, March 2022

On March 30 the EU Commission published its proposal on a draft regulation setting ecodesign requirements for sustainable products. This draft regulation, once enacted, will repeal existing EU Directive 2009/125/EC on Ecodesign and play a pivotal role in advancing the EU's agenda for more circular and sustainable products.

Very few products will remain out of scope. Apart from food, feed or medicinal products (for human and veterinary purposes) all physical products placed on the EU market or put into service will be subject to the measures to be proposed and this includes both components and intermediate products such as steel, iron and aluminium.

Delegated Acts will be enacted setting out product specific measures and the likely first candidates to be targeted are products such as textiles, mattresses, furniture, tyres, plants, detergents and lubricants due to their high environmental toll and the potential for improvement. The EU Commission will not legislate for products if they are already subject to legislation which adequately addresses the sustainability of the product.

The sustainability requirements will be split into two categories - information and performance requirements. The former relates to product data and labelling and how this will be used to allow comparability between products. The latter refers to the familiar concepts of durability, repairability, recyclability as well as some newer ones such as micro-plastic release.

This draft sees the idea of a digital product passport firmly take root making it mandatory for all regulated products in the form of a QR code which may be scanned, providing information on the product at hand such as product performance, repair and more.

Other noteworthy provisions include an obligation on economic operators to disclose how many products they have discarded per year as well as giving the EU Commission the authority to introduce mandatory green public procurement criteria in public contracts.

In respect of the delegated acts to be enacted, the EU Commision has indicated that it intends to adopt up to 18 such acts between 2024 and 2027 and a further 12 more between 2028 and 2030. The proposal itself is now progressing through the EU's legislative procedure where it will be scrutinised by the Parliament and Council. Adoption is likely to be a while away with the delegated Acts coming after that.

The Sustainable Products Initiative builds on existing product regulation taking it to a new level and heralding the future of where environmental product regulation is going. It will be interesting to see how other countries follow suit.

International Developments

B.) UN: End Plastic Pollution: Towards an Internationally Legally Binding Instrument, Resolution, March 2022

One of the most troubling environmental challenges with products manufactured today is the use of plastics, their presence almost unavoidable in so many products or the packaging of products. Regarded as one of the most serious offenders of environmental damage, plastics do not break down, but break up becoming a permanent pollutant in our environment.

It is fair to say that plastics and packaging are firmly in the spotlight of regulators across the world and it is hard to see when this will not be the case. Extended producer responsibilities, plastic taxes and the use of post consumer resins are all areas firmly on policy makers' agendas. This was reflected in March this year when, at the United Nations Environment Assembly in Nairobi, 175 nations in a historic vote agreed to endorse a Resolution creating a legally binding Agreement to end plastic pollution.[10]

The Resolution to be drafted will target environmental issues relating to the full life-cycle of plastics, including production, design and disposal, by promoting the sustainable consumption of plastics in line with circular economy approaches. The task of drawing up the agreement has been laid at the doorstep of Intergovernmental Negotiating Committee (INC) with the aim of a Draft Agreement to be completed by the end of 2024.

Once INC has completed the Agreement the UN Environment Programme (UNEP) will hold a diplomatic conference, opening the Agreement for signatures.

10 https://www.unep.org/news-and-stories/press-release/historic-day-campaign-beat-plastic-pollution-nations-commit-develop

While product manufacturers or, more specifically, the product compliance professionals working for such manufacturers may, understandably, feel they are drowning in the relentless tide of regulatory requirements, either already housed in legislation or coming their way, the upside is that they are optimally placed to manage global growing ESG obligations due to their knowledge of managing supply chains and extracting data from their suppliers.

This is a solid foundation which will hold them in good stead when it comes to sustainability transparency and one that can be built upon.

4. Environmental, Social & Governance Reporting

In today's climate it's no longer sufficient to merely claim your company embraces environmental, social and governance considerations. If a company makes such statements, interested parties, from investors to customers to employees, want to know exactly how ESG conscious a company really is.

In addition to this, we are witnessing an unfolding global trend to make environmental, social and governance reporting mandatory with legislation cropping up in the EU, UK, USA and further afield. This is in response to concerns that sustainability reporting throws up in relation to the quality, reliability, comprehensivity and comparability of the information being reported on and the knock-on effects this may have in terms of directing finance towards greener and more sustainable investments.

This is succinctly captured by the EU Commission in its Questions and Answers: Corporate Sustainability Reporting Directive proposal[11] :

"There is ample evidence, however, that the information that companies report is not sufficient. Reports often omit information that investors and other stakeholders think is important. Reported information can be hard to compare from company to company, and users of the information are often unsure whether they can trust it.

Problems in the quality of sustainability reporting have knock-on effects. It means that investors lack a reliable overview of sustainability-related risks to which companies are exposed.

Investors increasingly need to know about the impact of companies on people and the environment. They need to know this partly to meet their own disclosure requirements under the Sustainable Finance Disclosure Regulation.

[11] https://ec.europa.eu/commission/presscorner/detail/en/QANDA_21_1806

More generally, if the market for green investments is to be credible, investors need to know about the sustainability impact of the companies in which they invest. Without such information, money cannot be channelled towards environmentally friendly activities.)

EU Developments

A.) Draft Corporate Sustainability Reporting Directive

On 21 April 2021 the European Commission presented its proposal to amend its auditing and accounting Directives in a bid to strengthen sustainability reporting in the EU with a proposal entitled a Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting or, now more better known by its acronym, "CSRD".

The CSRD builds on and expands the scope of the existing Non-Financial Reporting Directive 2014/95/EU (NFRD) bringing more companies into scope and setting out in more detail what companies are expected to report on.

It applies to listed companies and all large companies satisfying two out of the following three criteria, the company has :

- more than 250 employees
- a turnover greater than € 40 million
- assets totalling over € 20 million

Non-European companies will be subject to the Directive if they generate a net turnover of €150 million in the EU and have at least one subsidiary or branch there. Listed SMEs are in scope, but will have an extended grace period.

It is predicted that the expanded scope will apply to approximately 49,000 companies, a significant increase from the 11,600 companies subject to the NFRD.

However, it is anticipated that many more companies will also implement the requirements of the CSRD, thereby enabling them to fulfil the expectations of their largest customer who will most likely be expected to report under the Directive.

In addition to existing reporting requirements in respect of environmental protections, social responsibility and treatment of employes, respect for human rights, anti-corruption & bribery and diversity on company boards the proposal requires reporting on the following, all of which are to be included in a dedicated section of the company's management report, thereby providing for improved accessibility of information :

- Double materiality concept: i.e. sustainability risk, including climate change, affecting the company and the companies' impact on society and environment
- Process to select material topics for stakeholders
- More forward looking information, including targets and progress thereon
- Disclose information relating to intangibles (social, human and intellectual capital)
- Reporting in line with Sustainable Finance Disclosure Regulation (SFDR) and the EU Taxonomy Regulation

Noteworthy is the CSRD introduction of mandatory assurance and the standardisation of sustainability reporting standards, mandating the European Financial Reporting Advisory Group (EFRAG) to produce such standards which are to be adopted via secondary legislation. An accredited independent auditor or certifier is required to ensure that the sustainability information provided complies with the certification standards to be adopted.

Key Dates Worth Noting

Adoption of the Directive by EU member states	December 2022
First set of sustainability reporting standards	January 2023
Reporting of sustainability metrics for 2023	2024

Recently, on 21 June the European Council and Parliament reached provisional political agreement on the proposed directive. Minister for Economic Affairs, Finance and Industrial and Digital Sovereignty, Bruno le Maire, encapsulated in his comments on this agreement the benefits the proposal is expected to bring.

"This agreement is excellent news for all European consumers. They will now be better informed about the impact of business on human rights and the environment. This means more transparency for citizens, consumers and investors. It also means more readability and simplicity in the information provided by companies, which must play their full part in society. Greenwashing is over. With this text, Europe is at the forefront of the international race to standards, setting high standards in line with our environmental and social ambitions." [12]

12 https://www.consilium.europa.eu/en/press/press-releases/2022/06/21/new-rules-on-sustainability-disclosure-provisional-agreement-between-council-and-european-parliament/

B.) EU: Sustainability Reporting Standards, Draft Consultation Document, April 2022

As stated above companies will be required to report under the CSRD in line with mandatory European Sustainability Reporting Standards (ESRS) which will be adopted as delegated acts by the European Commission on the basis of technical advice provided by the EFRAG. On 29 April EFRAG launched a public consultation on the draft standards indexed as follows[13] :

Table 1 – ESRS Exposure Drafts index

Cross-cutting Exposure Drafts	
ESRS 1	General principles
ESRS 2	General, strategy, governance and materiality assessment
Topical standards - Environment	
ESRS E1	Climate change
ESRS E2	Pollution
ESRS E3	Water and marine resources
ESRS E4	Biodiversity
ESRS E5	Resource use and circular economy
Topical standards - Social	
ESRS S1	Own workforce
ESRS S2	Workers in the value chain
ESRS S3	Affected communities
ESRS S4	Consumers & end-users
Topical standards - Governance	
ESRS G1	Governance, risk management and internal control
ESRS G2	Business conduct

[13] https://www.efrag.org/lab3

Although the ESRS are mandated under CSRD they have wider reaching significance as they are also relevant to disclosures required under other EU legislation and proposals such as disclosure obligations under the already discussed Corporate Sustainability Due Diligence Draft Directive, as well as the Sustainable Finance Disclosure Regulation and the Taxonomy Regulation.

Helpfully, the EFRAG has also taken into consideration draft standards released by the International Sustainability Standards Board (ISSB) as well the Task Force on Climate-related Financial Disclosures (TFCD) recommendations mapping the ESRS disclosure requirements against both.

The consultation remains open for comment until 8 August 2022 with the final first set of draft ESRS likely to be submitted to the European Commission by November 2022.

C.) EU: Sustainability-Related Disclosures in the Financial Services Sector Regulation (EU) 2019/2088 (SFDR)

EU: Establishment of a Framework to Facilitate Sustainable Investment, Regulation (EU) 2020/852 (The Taxonomy Regulation)

The CSRD has also been welcomed by financial market participants (FMPs), e.g. investments firms, pension funds, banks and financial advisors, who are subject to their own mandatory ESG disclosure obligations under the Sustainable Finance Disclosure Regulation and the Taxonomy Regulation, both of which form part of the European Commission's action plan on sustainable finance.

These measures are designed to redirect European capital towards sustainable investments by enabling investors to more easily identify and invest their money in ESG friendly products as well as making it more difficult for financial firms and advisors to partake in greenwashing where the information provided makes it difficult to determine which financial products are more sustainable than others.

Overall, it seems CSRD is being largely regarded by those in the industry as a means of enabling them to meet their disclosure obligations more accurately.

UK Developments

D.) UK: Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations, S.I. 2022/31

UK: Limited Liability (Climate-related Financial Disclosure) Regulations, S.I. 2022/46

The UK has passed two new regulations that combined apply to all UK registered companies and limited liability partnerships with an annual revenue greater than £500 million and over 500 employees.

Statutory Instruments No. 31 and No. 46 of 2022, which are in force since 6 April 2022, require impacted companies to produce a sustainability statement on climate-related disclosures in their annual strategic or energy and carbon reports on :

- A listing and description of environmental risks identified as impacting the company's operations.
- The company's governance strategy for assessing and managing environmental risk that takes into account different environmental outcomes.
- The scope for the assessment
- The process used to identify, assess, and manage environmental risks.
- List and description of environmental goals and key performance indicators (KPIs) used to measure environmental risk performance.
- The company's process for integrating environmental risk into the broader enterprise risk management (ERM) strategy.

It's worth noting that while these new regulations are being commonly referred to as ESG measures it is only environmental risk factors that are being taken into consideration.

US Developments

E.) USA: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices, Proposed Rules 2022

USA: The Enhancement and Standardization of Climate-Related Disclosures for Investors, Proposed Rules 2022

On 25 May 2022 the US Securities and Exchange Commission (SEC) proposed amendments to rules and reporting forms[14] aimed at enhancing and standardising disclosures concerned with environmental, social and governance factors made by US funds and advisors.

The proposed changes would oblige registered funds and investors to make specific disclosures on ESG strategies in their fund prospectuses, annual reports, and adviser brochures and require certain environmentally focused funds to disclose greenhouse gas (GHG) emissions of their portfolio investments.

The measures would also introduce a standard table for ESG funds to disclose information allowing investors to compare ESG funds quickly. The amount of disclosure required under the proposed rule depends on the degree to which ESG factors are core to a fund's strategy.

Additionally, SEC proposed an amendment to the "Names Rule" (Rule 35d-1 under the Investment Company Act of 1940) which requires funds with certain names to adopt a policy to invest 80% of their assets in investments that are aligned with the fund name by extending it to any fund name with terms suggesting the fund focuses on investments that have particular characteristics.
ESG related fund names would be subject to the 80% requirement because their names suggest that they are invested in issuers or investments with particular ESG characteristics. Funds that violate the rule would be considered to be misleading or materially deceptive in the use of ESG terminology.

[14] https://www.sec.gov/rules/proposed/2022/ia-6034.pdf

The proposals, which are open for public comment for 60 days following publication in the Federal Register, come hot on the heels of the SEC's pivotal proposal in March requiring public companies to disclose detailed climate-related information in their SEC filings[15]. These measures follow along similar lines to the SFDR in making ESG central to financial and investment products.

Conclusion

There is no way of getting away from sustainability, it is woven into the fabric of regulation facing companies from environmental and human rights due diligence to product requirements to non-financial reporting. It is now a number one business imperative and companies who fail to have regard to it, whether required to do so by law or not, run the risk of losing credibility, customers, employees and, most importantly, investment.

Further, it is not any single department's job, but takes a collaborative and cross functional effort throughout the entire organisation and an understanding that the whole company is on the same sustainability journey.

[15] https://www.sec.gov/rules/proposed/2022/33-11042.pdf

Referenced Legislation

- EU: Corporate Sustainability Due Diligence, Draft Directive, February 2022
- Norway Transparency Act No. 99 of 2021
- Germany: Corporate Due Diligence In Supply Chains Act, BGBl. 2959, 2021
- Switzerland: Due Diligence Obligations and Transparency Regarding Minerals and Metals from Conflict Areas and Child Labour, Ordinance, December 2021
- UK: Modern Slavery Act, 2015
- USA: Prevention of Forced Labour in Xinjiang Uyghur, Act 2021
- New York (USA): Disclosure of Environmental and Social Due Diligence Policies, Assembly Bill 8352, Senate Bill 7428, 2021
- Canada: Corporate Responsibility for Protection of Human Rights, Private Bill C-262,
- EU: Proposed Framework for Setting Ecodesign Requirements for Sustainable Products, Draft Regulation, March 2022
- UN: End Plastic Pollution: Towards an Internationally Legally Binding Instrument, Resolution, March 2022
- EU: Corporate Sustainability Reporting, Draft Directive April 2021
- EU: Annual Financial Statements, Consolidated Financial Statements and Related Reports of Certain Undertakings, Directive 2013/34/EU
- EU: Audit Directive 2006/43/EC
- EU: Non-Financial Reporting Directive 2014/95/EU
- EU: Sustainability Reporting Standards, Draft Consultation Document, April 2022
- EU: Sustainability-Related Disclosures in the Financial Services Sector Regulation (EU) 2019/2088
- EU: Establishment of a Framework to Facilitate Sustainable Investment, Regulation (EU) 2020/852
- UK: Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations, S.I. 2022/31
- UK: Limited Liability (Climate-related Financial Disclosure) Regulations, S.I. 2022/46

- USA: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices, Proposed Rules 2022
- USA: The Enhancement and Standardization of Climate-Related Disclosures for Investors, Proposed Rules 2022

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Louise is a Senior Content Project Manager responsible for researching new content areas & leveraging existing content. In tandem, Louise heads up our Knowledge Partner Network, an external network of legal, environmental & industry experts. Prior to moving to this role, Louise was a member of the Global Regulatory Compliance Team for 12 years, including leading the team for 5 years.

Louise is a qualified barrister who has been working with Compliance & Risks since 2008. Prior to joining the company, Louise worked as a barrister, law lecturer and researcher, and obtained her law degree (BCL) and masters in law (LLM) from University College Cork, Ireland.

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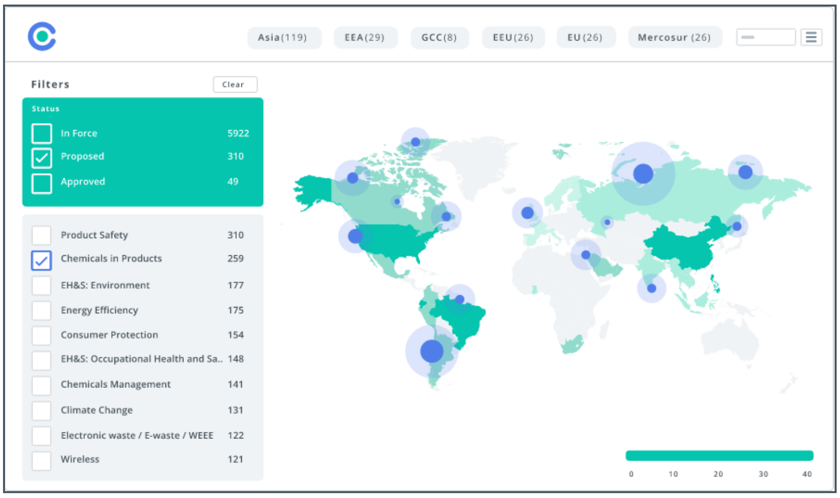

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