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Corporate Social Responsibility Legislation

A Summary of Selected Instruments

Furnished for use by AIM-PROGRESS
members

Prepared by Ropes & Gray LLP

Michael R. Littenberg
Marc Rotter
Samantha A.M. Elliott
Abigail Alfaro
Kimberley Charles
Adwoa Hinson

Sarah Jackmauh
Kelley R. Murphy
Rebecca Schulga
Tyler Thomas
Rachel Wilhelm
Peter Witschi

INTRODUCTION

There has been a significant increase in corporate social responsibility legislation over the last several years, with more legislation on the horizon. In light of these developments, Ropes & Gray LLP is providing for AIM-PROGRESS members summaries of selected adopted, pending and proposed corporate social responsibility legislation relevant to its members. The summaries included in this compilation are listed in the Table of Contents at the end of this section.

Selected updates since the last installment of this compilation are discussed under “Updates Since Last Revision.”

A FRAMEWORK FOR THINKING ABOUT CORPORATE SOCIAL RESPONSIBILITY LEGISLATION

At first blush, CSR legislation can seem complicated. However, there are similarities in approach across CSR instruments, as discussed in this subsection.

Types of CSR Legislation

CSR legislation generally fits into the following broad categories:

Disclosure-Only: Disclosure-only legislation requires subject companies to disclose data or compliance activities relating to the subject matter of the legislation. However, it does not require companies to adopt policies or procedures, trace their supply chains, source responsibly, reduce emissions or take other remedial action. Disclosure-only legislation is intended to increase transparency, to in turn encourage a “race to the top.”

Examples:

- Australian Commonwealth Modern Slavery Act
- California Social Compliance Audits Act
- California Corporate Data Accountability Act
- California Transparency in Supply Chains Act
- Canadian Fighting Against Forced Labour and Child Labour in Supply Chains Act
- EU Corporate Sustainability Reporting Directive (CSRD)
- U.K. Modern Slavery Act

Due Diligence: This type of legislation goes beyond mere disclosure, requiring companies to take affirmative steps to assess and address risks and adverse impacts.

Examples:

- EU Corporate Sustainability Due Diligence Directive (CSDDD)
- French Corporate Duty of Vigilance Law
- German Due Diligence in the Supply Chain Act (LkSG)
- Norwegian Transparency Act

Trade-Based: Trade-based legislation prohibits the importation into a jurisdiction of goods that do not meet specified human rights or other CSR requirements, such as no forced labor in the supply chain. In some cases, due diligence is not explicitly part of these statutes, although it is implied and/or discussed in guidance, since it is required to support admissibility of goods and/or taken into account as a mitigating or aggravating factor if there is a violation.

Examples:

- EU Deforestation Regulation
- U.S. Tariff Act, Section 307
- U.S. Uyghur Forced Labor Prevention Act

Other: Of course, not all CSR legislation fits into the foregoing categories. An example is Section 135 of the Indian Companies Act, which requires subject companies to, among other things, spend a specified portion of their net profits on CSR activities. In addition, keep in mind that, although not commonly thought of as CSR legislation, there is a significant body of civil and criminal legislation globally that intersects with corporate social responsibility to varying degrees addressing the environment, forced labor and other employment practices, health and safety matters, truth in advertising, consumer protection and data privacy, among other topics. Although important from a compliance perspective, these areas generally are outside the scope of this work product.

Compliance Thresholds

With any piece of legislation, the threshold question is “Does it apply to my company?” CSR legislation is no different in this regard.

Common types of thresholds in CSR legislation include:

- Financial thresholds, such as revenues or assets; these typically take into account the consolidated financials of the particular entity, but sometimes also take into account other group entities when the subject entity is a subsidiary of a larger group

- Number of employees
- “Doing business” requirements, which can be facts and circumstances-based or have bright line tests, such as a physical presence in the jurisdiction that adopted the legislation
- Nature of business activities
- Jurisdiction of organization

Some legislation has multiple threshold requirements. Thresholds often must be tested at least annually.

ADDRESSING COMPLIANCE

It is important for companies to take a holistic approach to compliance in this area, both to reduce compliance costs and better manage risks. Although each regulation has its own unique compliance requirements (as discussed in the Summaries), consistent with the foregoing approach, companies should consider the following high-level compliance measures:

- Ensure that policies and procedures are flexible enough to address new CSR regulations. For example, are policies and procedures broadly written, or are they narrowly tailored to specific regulations?
- Manage CSR compliance through a centralized team of subject matter experts. With the proliferation of CSR regulations, companies have been moving towards more centralized CSR compliance, either generally or around specific subject areas.
- Consolidate disclosure where applicable. In any event, disclosures should be globally harmonized.
- Leverage existing procedures for new regulations. For example, if flexible, existing supply chain traceability, audit, training and risk assessment protocols usually can accommodate new supply chain-related CSR regulations.
- Leverage voluntary frameworks, guidance and best practices, such as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct, OECD sector guidance (including the OECD-FAO Guidance for Responsible Agricultural Supply Chains) and International Labour Organization guidance and recommendations, as well as non-binding government guidance and NGO commentary. Note that voluntary frameworks are outside the scope of the Summaries. As noted in the Summaries, voluntary frameworks are expressly taken into account in many CSR regulations.

UPDATES SINCE LAST REVISION

In the last several months, there have continued to be many developments regarding CSR-related legislation.

New summaries include the following:

- ***New Jersey Climate Corporate Data Accountability Act:*** The Act was introduced to the New Jersey Senate on February 3, 2025. If passed, the Act would require U.S. companies doing business in New Jersey with total annual revenues exceeding \$1 billion to annually report their scope 1, 2 and 3 greenhouse gas emissions.

We also have updated many of the pre-existing summaries to reflect developments since the last installment. Some of the updates include the following:

- ***EU Corporate Sustainability Reporting Directive, EU Corporate Sustainability Due Diligence Directive and EU Taxonomy Regulation:*** On February 26, 2025, the European Commission published a draft omnibus regulation, in an effort to streamline the requirements for covered companies under the CSRD, CSDDD and EU Taxonomy. Each summary has been updated to reflect the publication of, and key provisions from, the proposed omnibus package.
- ***U.S. Uyghur Forced Labor Prevention Act:*** On November 12, 2024, U.S. Customs and Border Protection published guidance on isotopic testing. On November 22, 2024, DHS announced the addition of 29 companies based in China to the UFLPA Entity List. On January 14, DHS added a further 37 Chinese entities to the UFLPA Entity List.
- ***EU Deforestation Regulation:*** Updated to reflect the approval of the one year delay to the Regulation's start date and, on October 2, 2024, the publication of new FAQs on the Regulation.
- ***EU Forced Labor Regulation:*** The Regulation was published in the Official Journal of the European Union on December 12, 2024, and will take effect on December 14, 2027.
- ***California Social Compliance Audits:*** Updated to reflect the Act's reporting obligations going into effect on January 1, 2025.
- ***Australia Commonwealth Modern Slavery Act:*** Updated to reflect the Government's response to the Attorney-General's Department report reviewing the first three years of practice under the Act.

- **Canadian Fighting Against Forced Labour and Child Labour in Supply Chains Act:** Updated to reflect additional guidance from Public Safety Canada on how to comply with the Act.
- **UK Modern Slavery Act:** Updated to reflect the House of Lords Select Committee report on the effectiveness and impact of the Act, and the Government's response to such report.
- **Australian Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024, Schedule 4:** The law went into effect on January 1, 2025. Updated to reflect the issuance of assurance standards.
- **Swiss Ordinance on Climate Disclosures:** On December 6, 2024, the Swiss Federal Council launched a consultation on a proposed revision to the Ordinance. The consultation will last until March 21, 2025. If approved, the revised Ordinance would be expected to enter into force on January 1, 2026.
- **California Corporate Data Accountability Act:** On December 5, 2024, the California State Air Resources Board issued an enforcement notice indicating that it will exercise enforcement discretion with respect to scope 1 and 2 emissions in the first year of reporting under the Act. On December 16, 2024, the California State Air Resources Board launched a solicitation seeking feedback to help inform its work on the implementation of the Act across three general topic areas: applicability, standards in regulation and data reporting. The solicitation will be open until March 21, 2025.
- **California Climate-Related Financial Risk Act:** On December 16, 2024, the California State Air Resources Board launched a solicitation seeking feedback to help inform its work on the implementation of the Act across three general topic areas: applicability, standards in regulation and data reporting. The solicitation will be open until March 21, 2025.
- **Illinois Climate Corporate Accountability Act:** The prior version of the bill was not passed by the end of the 2023-2024 legislative session; however, the bill was re-introduced to the Illinois House of Representatives on February 7, 2025.
- **New York Climate Corporate Data Accountability Act:** The prior version of the bill was not passed by the end of the 2023-2024 legislative session; however, the bill was re-introduced to the New York Senate on January 27, 2025 and the New York Assembly on February 4, 2025.
- **New York Climate-Related Financial Risk Reporting Act:** The prior version of the bill was not passed by the end of the 2023-2024 legislative session; however, the bill was re-introduced to the New York Senate on January 29, 2025.

- A number of summaries of proposed laws have been removed as they were not adopted during their legislative sessions and are thus considered inactive. These laws would need to be reintroduced in the next legislative session in order to be considered.

ABOUT ROPES & GRAY

Ropes & Gray has a leading ESG, CSR, business and human rights and supply chain compliance practice. We offer clients a comprehensive approach in these subject areas through a global team with members in the United States, Europe and Asia. In addition, senior members of the practice have advised on these matters for more than 30 years, enabling us to provide a long-term perspective that few firms can match. For further information on the practice, please contact Michael Littenberg at michael.littenberg@ropesgray.com or 1-212-596-9160.

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Assessing the Applicability of Modern Slavery Legislation

The following charts compare the thresholds for applicability of the instruments described below. Additional detail on the items below is contained in the summaries.

Modern Slavery Disclosure-based Legislation

	<u>California Transparency in Supply Chains Act</u>	<u>United Kingdom Modern Slavery Act</u>	<u>Australia Commonwealth Modern Slavery Act</u>	<u>Canada Fighting Against Forced Labour and Child Labour in Supply Chains Act</u>
Jurisdiction	California, United States	United Kingdom	Australia (federal)	Canada
Quantitative and/or Qualitative Threshold	Retailer or manufacturer with annual worldwide gross receipts in excess of US\$100 million	Total annual turnover of at least £36 million	Annual consolidated worldwide revenue of more than A\$100 million	Listed on a Canadian stock exchange or meets two of the following: (1) has at least C\$20 million in assets, (2) has generated at least C\$40 million in revenue or (3) employs an average of at least 250 employees
Jurisdictional Nexus	Identifies as a retail seller or manufacturer in its CA tax returns	Carries on a business (including a trade or profession) or part of a business in the UK	Australia-based entity or carries on business in Australia	Does business in Canada or has assets in Canada and either produces or imports goods in/into Canada

Modern Slavery Legislation – Trade Based

	<u>Section 307 of the US Tariff Act</u>	<u>US CAATSA</u>	<u>US Uyghur Forced Labor Prevention Act</u>	<u>Canada Customs Tariff, Tariff Item 9897.00</u>	<u>Mexico Administrative Regulation related to Forced Labor</u>	<u>EU Forced Labor Regulation</u>
Issue Addressed	Forced labor	North Korean forced labor	Uyghur forced labor	Forced labor and child labor	Forced labor	Forced labor
Jurisdiction	United States	United States	United States	Canada	Mexico	European Union
Compliance Threshold	N/A	N/A	N/A	N/A	N/A	N/A
Jurisdictional Nexus	Imports good into the United States	Imports good into the United States produced using North Korean national or citizen labor	Imports good into the United States using Uyghur labor	Imports good into Canada	Imports good into Mexico	Imports goods into or exports goods out of the EU, or produces or sells goods produced in the EU

Note: These charts should be read in conjunction with the more detailed summaries that follow.

Assessing the Applicability of Selected Other Human Rights Legislation

	<u>US FAR Anti-Human Trafficking Rule</u>	<u>French Corporate Duty of Vigilance Law</u>	<u>Swiss Child Labor/Conflict Minerals Due Diligence Legislation</u>	<u>German Due Diligence in the Supply Chain Act</u>	<u>Norwegian Transparency Act</u>	<u>EU Corporate Sustainability Due Diligence Directive</u>
Issue(s) Addressed	Forced labor	Human rights, health and safety and the environment	Conflict minerals and child labor	Human rights risks and selected environmental risks	Fundamental human rights and decent working conditions	Adverse human rights impacts and adverse environmental impacts
Jurisdiction	United States	France	Switzerland	Germany	Norway	European Union
Compliance Threshold	Prohibited conduct restrictions apply to all U.S. federal contracts Compliance plan and certification requirements apply to U.S. federal government contracts/ subcontracts if offshore performance exceeds US\$500,000	At least 5,000 employees in French entities or 10,000 employees worldwide	Subject to specified exceptions, (1) imports or processes 3TG minerals or metals or (2) products or services are conclusively made with child labor or is not an SME (i.e., exceeds two of the following thresholds for two years: (a) assets of SFr20 million; (b) sales of SFr40 million; and (c) 250 full-time employees on average)	As of 2024, at least 1,000 employees	Large enterprises covered by Section 1-5 of the Norwegian Accounting Act or that meet two of the following: sales of NOK 70 million, balance sheet amount of NOK 35 million or average number of employees during the fiscal year of 50	EU companies that (1) have more than 1,000 employees on average and net worldwide turnover of more than €450 million or (2) the ultimate parent company of a group that reaches these thresholds Non-EU companies that (1) generated EU net turnover of more than €450 million or (2) the ultimate parent company of a group that reaches this threshold Separate thresholds for licensors and franchisors; also phase-ins
Jurisdictional Nexus	Contract with the U.S. federal government, as a prime contractor, subcontractor or agent	Registered office in France	Registered office, central administration or principal place of business in Switzerland	Head office, principal place of business, administrative headquarters, registered office or branch office in Germany	Domiciled in Norway or offering goods and services in Norway that are taxable in Norway	EU company, or non-EU company that generated required net turnover in the European Union

Note: This chart should be read in conjunction with the more detailed summaries that follow.

Modern Slavery Act Comparison

	<u>California Transparency in Supply Chains Act</u>	<u>United Kingdom Modern Slavery Act</u>	<u>Australia Commonwealth Modern Slavery Act</u>	<u>Canada Fighting Against Forced Labour and Child Labour in Supply Chains Act</u>
Subject Companies	Manufacturer or retailer	Commercial organisation that supplies goods or services	Any entity that meets the turnover and jurisdictional nexus below	Listed on a Canadian stock exchange or meets two of the following: (1) has at least C\$20 million in assets, (2) has generated at least C\$40 million in revenue or (3) employs an average of at least 250 employees; and meets the jurisdictional nexus below
Annual Turnover Threshold	US\$100 million	£36 million	A\$100 million	See above
Jurisdictional Nexus	Identifies as a retail seller or manufacturer in its CA tax returns	Carries on a business (including a trade or profession) or part of a business in the UK	Australia-based entity or carries on business in Australia	Does business in Canada or has assets in Canada and either produces or imports goods in/into Canada
Covered Business Activities	Direct supply chain for tangible goods offered for sale	Any of the subject entity's supply chains, and any part of its own business	The subject entity's operations and supply chains	The subject entity's operations and supply chains
Statement Content (Similar, but not identical, across all jurisdictions)	Required topics	Suggested topics	Required topics	Required topics
Publication	Website, with a conspicuous and easily understood homepage link, or upon written request	Website, with a prominent homepage link, or upon written request	Submission to the Australian Border Force for inclusion in a central Modern Slavery Statements Register	Submission to the Minister of Public Safety and Emergency Preparedness and publication, in a prominent place, on website
Signature/Board Approval	None	Required	Required	Required
Frequency	Not specified; on an as-needed basis	Annual	Annual	Annual
Due Date	Not specified	No mandatory due date; expected within six months after fiscal year end	Within six months after fiscal year end	On or before May 31 of each year end
Specified Penalties	None	None	None	Fines up to C\$250,000

Note: This chart should be read in conjunction with the more detailed summaries that follow.

Overview of Selected Trade-based Modern Slavery Legislation

	<u>Section 307 of the US Tariff Act</u>	<u>US CAATSA</u>	<u>US Uyghur Forced Labor Prevention Act</u>	<u>Canada Customs Tariff, Tariff Item 9897.00</u>	<u>Mexico Administrative Regulation related to Forced Labor</u>	<u>EU Forced Labor Regulation</u>
Covered Activities	Imports into the US	Imports into the US	Imports into the US	Imports into Canada	Imports into Mexico	Imports into and exports out of the EU and goods produced and sold in the EU
Prohibited Activities	Importing goods produced using prison or forced labor	Importing goods produced using North Korean labor, whether in North Korea or abroad	Importing goods produced in Xinjiang or using government-sponsored Uyghur labor	Importing goods produced using prison or forced labor or child labor	Importing goods produced or manufactured by forced or compulsory labor	Importing, exporting or selling domestic goods made with forced labor
Risk Assessment / Remediation	No specific requirements, but taken into account as a mitigating factor if there is a violation	No specific requirements, but taken into account as a mitigating factor if there is a violation	No specific requirements, but extensive due diligence guidance has been issued	No specific requirements, but guidance notes that it is the responsibility of the importer to conduct due diligence on its supply chains to ensure that goods it imports into Canada are not produced using prison or forced labor	No specific requirements, but guidance covering due diligence has been issued	No specific requirements but, by June 14, 2026, the European Commission is required to issue guidance on due diligence in relation to forced labor
Management Systems	No specific requirements, but taken into account as a mitigating factor if there is a violation	No specific requirements, but taken into account as a mitigating factor if there is a violation	No specific requirements, but extensive due diligence guidance has been issued	No specific requirements	No specific requirements	No specific requirements
Reporting	N/A	N/A	N/A	N/A	N/A	N/A

Note: This chart should be read in conjunction with the more detailed summaries that follow.

Overview of Selected Due Diligence-based Modern Slavery and MHRDD Legislation

	<u>US FAR Anti-Human Trafficking Rule</u>	<u>French Corporate Duty of Vigilance Law</u>	<u>German Due Diligence in the Supply Chain Act</u>	<u>Swiss Child Labor/Conflict Minerals Due Diligence Legislation</u>	<u>Norwegian Transparency Act</u>	<u>EU Corporate Sustainability Due Diligence Directive</u>
Covered Activities	US government contracts	All business operations	All business operations	All business operations	All business operations	All business operations
Due Diligence	Required for contracts with foreign performance over specified dollar threshold	Must establish a reasonable vigilance plan to allow for risk identification and prevention of severe violations of human rights, health and safety or environmental damage	The duty of care is based on the UN Guiding Principles on Business and Human Rights and is higher for direct suppliers	Generally must carry out due diligence in respect of conflict minerals and child labor	Must carry out due diligence in accordance with the OECD Guidelines for Multinational Enterprises	Must conduct risk-based due diligence, generally aligned with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises; limited downstream applicability
Due Diligence Requirements	If due diligence/ certifications are required, must also have compliance plan meeting specified requirements	Must include procedures to identify and analyze human rights risks and regularly assess supplier risks, actions to mitigate risks and prevent violations, alert mechanisms and assessment mechanisms	Must include a risk management system, risk analysis, human rights policy statement, preventative and remedial measures to address adverse impacts and a complaint mechanism	Must include management systems, a risk assessment, a risk management plan and risk mitigation	Must include accountability, mapping and risk assessment, measures to mitigate adverse impacts, tracking of measures implemented, communication with affected stakeholders and cooperation with remediation	Must include integration into policies and risk management systems, measures to identify, assess, prevent, mitigate and address adverse impacts, stakeholder engagement, a complaints procedure and systems to monitoring the effectiveness of measures taken
Reporting	Compliance certifications at time of contract award and annually	Must make public vigilance plan and regular reports on the implementation of the plan	Annual reporting that discusses risks identified, measures taken to fulfill the duty of care, how the measures taken are assessed and conclusions drawn from assessments for future measures	Annual reporting on due diligence	Annual statement discussing the business, the process for addressing adverse impacts, adverse impacts and risks uncovered through due diligence and measures to address adverse impacts and the results of the measures	Annual reporting on due diligence; companies will be exempt from the Directive's reporting if they report under the EU Corporate Sustainability Reporting Directive

Note: This chart should be read in conjunction with the more detailed summaries that follow.

Commonwealth Modern Slavery Act 2018 Australia

Overview

Law / Country	Australia Commonwealth Modern Slavery Act (No. 153, 2018) (the “ Act ”) (Australia)
Goal	To reduce modern slavery occurring in the supply chains of goods and services through enhanced disclosure.
Adoption / Status	Effective January 1, 2019.
Issue Addressed	Modern slavery
Covered Entities	A reporting entity under the Act is an entity that: - At any time in the reporting period is either an Australian entity or carries on business in Australia; and - Has annual consolidated worldwide revenue of more than A\$100 million. Consolidated revenue is the total revenue of the entity for a reporting period, or if the entity controls another entity or entities, the total revenue of the entity and all of the controlled entities, considered as a group, for the applicable reporting period of the controlling entity. Note that this summary is limited to the transparency provisions of the Act.

How It Works

Mandatory?	Yes.
Statement Requirements	A Modern Slavery Statement must include the following: - The reporting entity; - The entity’s structure, operations and supply chains; - The potential modern slavery risks in the entity’s operations and supply chains; - Actions the entity has taken to assess and address those risks, including due diligence and remediation processes; and - How the entity assesses the effectiveness of those actions. The statement also must describe the process of consultation with: - Any entities that the reporting entity owns or controls; and - In the case of a joint modern slavery statement, with the other entities giving the statement. In addition, the statement must include any other information that the reporting entity considers relevant.

Reporting	<u>Timing</u> Statements are due within six months after fiscal year end. <u>Publication</u> Reporting entities must submit statements to the Attorney-General’s Department for publication in an online central register. <u>Approval/Signatures</u> A statement must be approved by the principal governing body of the subject entity and signed by a responsible member for the entity.
Enforcement	If the Minister believes an entity failed to comply with the Act, the Minister may ask the entity to provide an explanation for its failure to comply. The Minister also may request the entity undertake remedial action. If the entity fails to comply with the Minister’s request, the Minister may publish information about its failure to comply.
Government and Other Guidance	In May 2023, the Attorney-General’s Department published updated Guidance for Reporting Entities to reflect that the Modern Slavery and Human Trafficking function moved from the Australian Border Force to the Attorney-General’s Department and to provide further clarification on voluntary statements and the requirement to consult with entities that the reporting entity owns or controls. The guidance contains information related to modern slavery more generally and provides explanatory guidelines for complying with the Act. The guidance does not create additional substantive obligations under the Act. Starting in August 2020, the Australian Human Rights Commission, an independent third-party established by an Act of Parliament that investigates complaints about discrimination and human rights breaches, launched five sector-specific guides to help business effectively respond to the Act. The sector guides include: (1) property and construction; (2) financial services; (3) resources and energy; (4) health services; and (5) the cleaning industry.
Government Review and Proposed Reforms	On May 25, 2023, the Australian Government Attorney-General’s Department tabled a report, which reviews the first three years of practice under the Act (the “Report”). The Report expresses the concern that the Act has not caused meaningful change for people living in conditions of modern slavery and outlines 30 recommendations for the Government’s consideration in reforming the Act. Notable recommendations in the Report include: • Lowering the threshold for reporting entities from A\$100 million to A\$50 million in annual consolidated revenue; • Replacing the phrase “operations and supply chains” with “operations and supply networks” in the mandatory reporting criteria; • Adding new mandatory reporting criteria to report on identified modern slavery incidents or risks, available grievance and complaint mechanisms and internal and external consultation undertaken by a reporting entity; • Introducing a mandatory due diligence requirement;

	• Permitting entities to submit a full Modern Slavery Statement once every three years, with shorter updates submitted in the interim years; • Introducing penalties for failing to submit a statement, submitting a statement that includes knowingly false statements, failing to implement a due diligence system and failing to comply with a request by the Minister to take remedial action to comply with the Act; • Creating a formal mechanism for stakeholders and other members of the public to submit complaints to the Australian Government Attorney-General’s Department; and • Establishing the office of an Anti-Slavery Commissioner. To help facilitate reporting for entities captured by the proposed lower reporting threshold, the Report proposes providing tailored guidance to small and medium-sized entities, modifying reporting mechanisms to make it easier to submit reports and introducing a grace period of two years during which a reporting entity with consolidated revenue between A\$50 million and A\$100 million would not be required to implement a due diligence system or be subject to penalties for non-compliance with the Act. On December 2, 2024, the Australian Government issued its response to the Report (the “Government Response”), outlining its position on the 30 recommendations in the Report. The Government Response agrees or agrees in principle to 25 of the 30 recommendations and notes five recommendations. The Attorney-General’s Department will lead the next stage of implementation and further consideration of reforms arising from the Government Response, which will involve: • Consultation on amended reporting criteria; • Consultation on the introduction and operation of penalties, and related regulatory powers; • Consultation on a model for high-risk declarations; • Enhancements to the Guidance for Reporting Entities and supplementary guidance material; • Consideration of enhancements to the modern slavery statement registry; and • Engagement with stakeholders on the introduction of a requirement for a due diligence system.
Anti-Slavery Commissioner	On June 11, 2024, an amendment (the “Amendment”) to the Act gained royal assent to become law. The Amendment establishes the Australian Anti-Slavery Commissioner (the “Commissioner”) as an independent statutory office holder within the Attorney-General’s portfolio to provide an independent mechanism for victims and survivors and other parties to engage on issues and strategies to address modern slavery. The Commissioner is to be appointed by the Governor-General on a full-time basis, and the term of the Commissioner is to be up to five years. Functions of the Commissioner include: • Promoting compliance with the Act; • Supporting Australian entities and entities carrying on business in Australia to address risks of modern slavery practices in their operations and supply chains, and in the operations and supply chains of entities they own or control; • Supporting victims of modern slavery by providing information on government and non-government resources, programs and services, including by developing and maintaining guidance material and making such material publicly available;

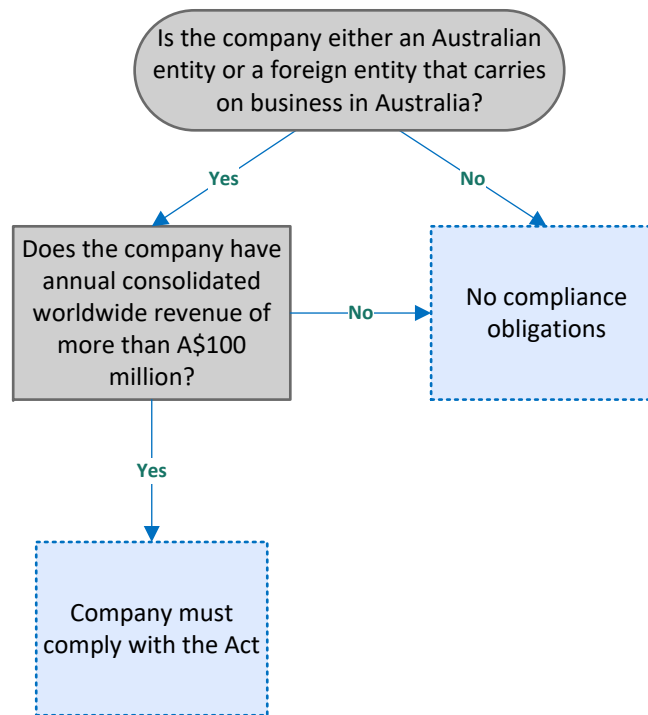
	- Engaging with, and promoting engagement with, victims of modern slavery to inform measures for addressing modern slavery; - Supporting, encouraging and conducting education and community awareness initiatives relating to modern slavery; - Consulting and liaising with Commonwealth, State and Territory governments, agencies, bodies and office holders on matters relating to modern slavery; and - Advocating to the Commonwealth Government on matters relating to modern slavery, including for continuous improvement in policy and practice.
Additional Information/Resources	
Law	Text of the Act. Text of the Amendment.
Other Resources	For the Guidance for Reporting Entities, click here. The Australian Human Rights Commission sector-specific guides: - For the property and construction guidance, click here. - For the financial services sector guidance, click here. - For the resources and energy sector guidance, click here. - For the health services sector guidance, click here. - For the cleaning industry guidance, click here.
Report of the Statutory Review of the Act	For the Report, click here. For the Government Response, click here.
Ropes & Gray Resources	Client alerts related to the Act: - Australian Government Publishes Response to Modern Slavery Act Review – Takeaways for U.S.-based Multinationals (December 7, 2024) (link here). - ESG disclosures in 2024 – key compliance dates for U.S.-based multinationals (January 22, 2024) (link here). - Proposed Changes to Australia’s Modern Slavery Act Would Introduce New Obligations for Multinationals (June 28, 2023) (link here). - The Australian Modern Slavery Act Three Years In – The Government Review and Public Feedback Process May Usher In Enhanced Compliance Requirements (November 8, 2022) (link here). - Modern Slavery Compliance For U.S.-based (and Other) Multinationals: A Review of Recent Compliance and Disclosure Developments in the United States and Abroad (April 22, 2019) (link here). - New Australian Modern Slavery Reporting Requirements on the Horizon – A Primer for Multinationals (August 17, 2018) (link here).

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| | <ul style="list-style-type: none">• Australia Proposes Modern Slavery Reporting Requirements for Multinationals – An Overview and Comparison to Existing Corporate Modern Slavery Disclosure Legislation (September 20, 2017) (link here). |
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Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



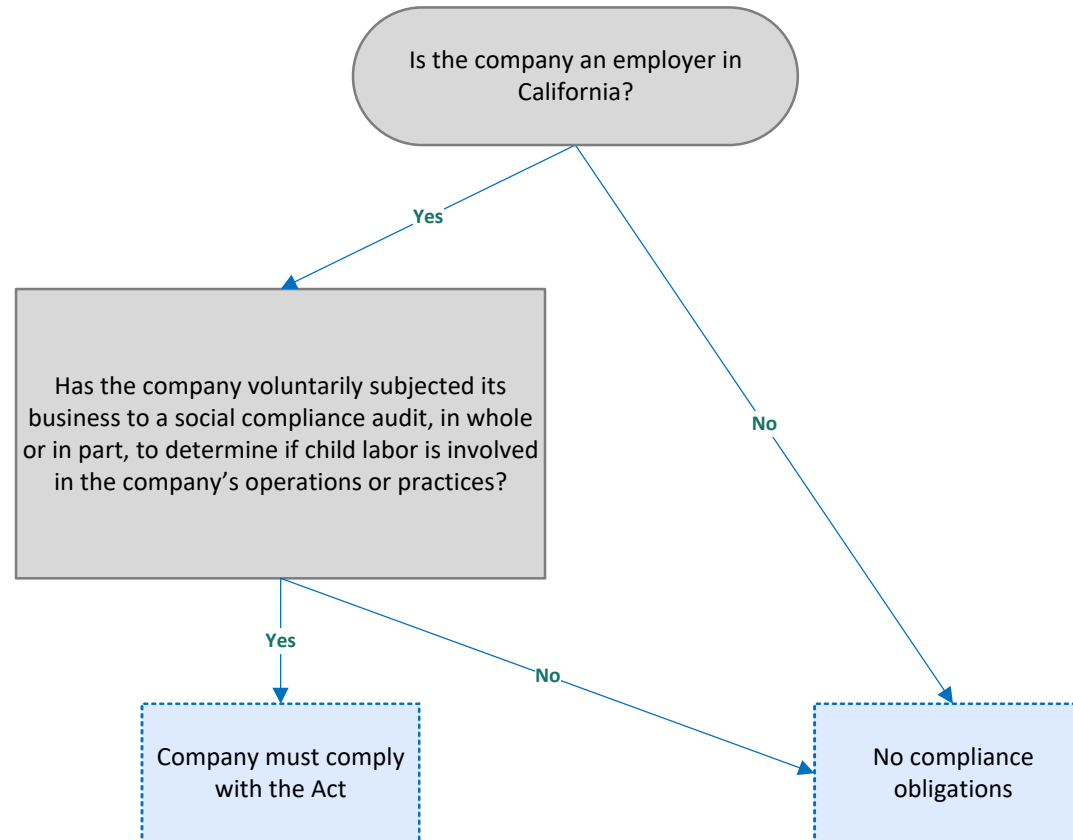
Social Compliance Audits Act California	
Overview	
Law / State	Social Compliance Audits Act (AB 3234) (the “ Act ”) (California, United States)
Goal	To ensure compliance with child labor laws.
Adoption / Status	The Act was approved by the Governor of California on September 22, 2024 and took effect on January 1, 2025.
Issues Addressed	Child labor
Covered Entities	Employers in California who have voluntarily subjected their business to a social compliance audit, either in whole or in part. “Social compliance audit” means a voluntary, nongovernmental inspection or assessment of an employer’s operations or practices to evaluate whether the operations or practices are in compliance with state and federal labor laws, including, but not limited to, wage and hour and health and safety regulations, including those regarding child labor. “Child labor” means any work performed by a child in violation of a state or federal law.
How It Works	
Mandatory?	Yes, disclosure is mandatory. However, it is not mandatory to conduct social compliance audits.
Statement Requirements	If a subject company conducts a social compliance audit to determine if child labor is involved in its operations or practices, it must post a report detailing the findings of the company’s compliance with child labor laws. The report must include: - The year, month, day and time the audit was conducted, and whether the audit was conducted during a day shift or night shift; - Whether the employer engaged in or supported the use of child labor; - A copy of any written policies and procedures the employer has and had regarding child employees; - Whether the employer exposed children to any workplace situations that were hazardous or unsafe to their physical and mental health and development; - Whether children worked within or outside regular school hours or during night hours for the employer; and - A statement that the auditing company is not a government agency and is not authorized to verify compliance with state and federal labor laws or other health and safety regulations.
Reporting	The report must be posted on the company’s website using a clear and conspicuous link. “Clear and conspicuous” means in larger type than the surrounding text, or in a contrasting type, font, or color to the surrounding text of the same size, or text that is set off from the surrounding text of the same size by marks that call a reader’s attention to the language.

Enforcement	The Division of Labor Standards Enforcement within the Department of Industrial Relations is charged with enforcement of the Act.
Additional Information/Resources	
Law	Text of the Act .
Ropes & Gray Resources	Client alert related to the Act: • Another New California Corporate Social Responsibility Disclosure Requirement on the Horizon (September 2, 2024) (link here).

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(Updated February 28, 2025)

Applying the Law



Transparency in Supply Chains Act California

Overview

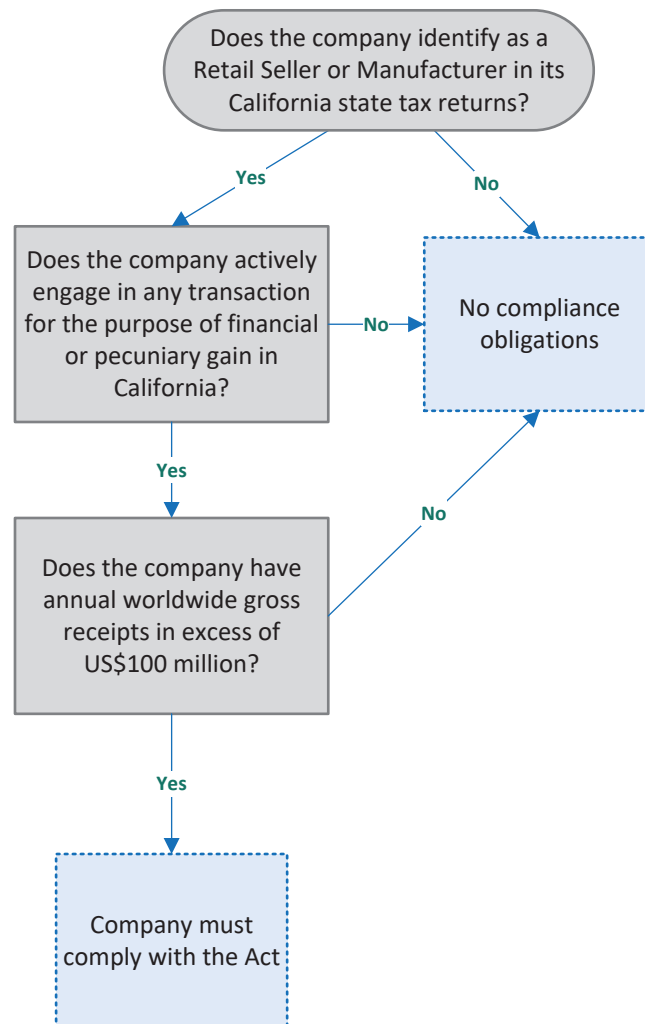
Law / State	Transparency in Supply Chains Act (California Civil Code S. 1714.43) (the “ Act ”) (California, United States)
Goal	To reduce modern slavery through enhanced disclosure.
Adoption / Status	The Act was adopted on September 30, 2010 and went into effect on January 1, 2012.
Issues Addressed	• Human trafficking • Slavery
Covered Entities	A company is subject to the Act if it: • Identifies as a Retail Seller or Manufacturer in its California state tax returns; • Actively engages in any transaction for the purpose of financial or pecuniary gain in California; and • Has annual worldwide gross receipts in excess of \$100 million.
How It Works	
Mandatory?	Yes.
Statement Requirements	A company subject to the Act must prepare a statement indicating to what extent it: • Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery. The disclosure must specify if the verification was not conducted by a third party. • Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains. The disclosure must specify if the verification was not an independent, unannounced audit. • Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business. • Maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking. • Provides company employees and management who have direct responsibility for supply chain management with training on human trafficking and slavery, particularly with respect to mitigating risks within product supply chains.
Reporting	The statement must be posted on the company’s website using a “conspicuous and easily understood link.” If the company does not have a website, the company must provide consumers with written disclosures within 30 days of receipt of a written request.

Enforcement	The Attorney General has exclusive authority to enforce the Act and may file a civil action for injunctive relief. There are no associated financial penalties. The Act does not specify the timing for publishing a statement or specify when the existing statement must be updated.
Additional Information/Resources	
Law	Text of the Act .
Resource Guide	For the official resource guide, which includes sample disclosures, click here .

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Fighting Against Forced Labour and Child Labour in Supply Chains Act Canada

Overview

Law / Country	Fighting Against Forced Labour and Child Labour in Supply Chains Act (S-211) (the “Act”) (Canada)
Goal	To combat and prevent forced and child labor through the imposition of reporting obligations on entities producing goods in or importing goods into Canada.
Adoption / Status	The Act went into effect on January 1, 2024. Modern slavery reports and the associated online questionnaire (as discussed below) are due by May 31 each year.
Issues Addressed	• Child labor • Forced labor
Covered Entities	A corporation, trust, partnership or other unincorporated organization is subject to the reporting requirements of the Act to the extent it meets the following requirements: • Is listed on a stock exchange in Canada; • Has a place of business in Canada, does business in Canada or has assets in Canada and, based on its consolidated financial statements, meets at least two of the following conditions for at least one of its two most recent financial years: (1) has at least C\$20 million in assets, (2) has generated at least C\$40 million in revenue or (3) employs an average of at least 250 employees; or • Is otherwise prescribed by regulations. And: • Produces, sells or distributes goods in Canada or elsewhere (for purposes of the Act, the production of goods includes the manufacturing, growing, extraction and processing of goods); The Guidance (as defined below) clarifies that the reporting obligation only applies to entities that “produce goods in Canada or elsewhere.” According to the Guidance, entities solely involved in distributing and selling are not expected to report under the Act. The Guidance states that Public Safety Canada will not seek enforcement action in those instances. • Imports into Canada goods produced outside Canada; or • Controls an entity engaged in any activity described in the two foregoing bullets (control can be direct or indirect). The Guidance indicates that entities should use the ordinary meaning of the words “place of business,” “doing business” or “having assets” in Canada since specific definitions and tests are not included in the Act. The Guidance, however, notes that a “place of business” means any premises, facility or installation used to carry on business, whether or not it is used exclusively

for that purpose. Premises, facilities or installations may be considered to be a place of business whether they are owned or rented, or, in some cases, where they are simply available to the business. Doing business in Canada does not require having a place of business in Canada. An organization may determine if it **“does business”** in Canada by evaluating the factors considered by the Canada Revenue Agency when determining if a person is “carrying on business in Canada” for tax purposes. **“Having assets”** in Canada refers to any tangible property in Canada owned by a person or business. The Guidance clarifies that this does not include intangibles such as intellectual property, securities and goodwill.

“Employee” includes people employed on a full-time, part-time or temporary basis in Canada or in any other jurisdiction but does not include independent contractors. The number of employees is the average number of people employed by the entity over the course of the financial year.

Under the Act, assets, revenue and employees are to be calculated based on consolidated financial statements. The Guidance indicates that asset and revenue values should be converted into Canadian dollars if those statements use a different currency.

The Guidance indicates that the size-related thresholds refer to total (global) assets, revenue and employees, where **“assets”** are understood as any tangible property owned by a person or business. Assets are not restricted to assets located in Canada, revenue is not restricted to revenue from business activities in Canada and the number of employees includes those residing or employed in Canada or in another jurisdiction. Assets should be calculated on a gross basis, not a net basis.

“Goods” is not a defined term under the Act. The Guidance indicates that this term refers to tangible physical property that is the subject of trade and commerce, understood in the ordinary sense of the word. Real property, electricity, software services and insurance plans are explicitly excluded from this definition.

The Guidance indicates that an entity is **“importing goods”** if the entity is the true importer that, in reality, caused the goods to be brought into Canada. The Guidance indicates that this is generally the entity that accounts for or pays the duties on the goods being imported. Customs brokers, express couriers, trade consultants and other third-parties authorized to transact business on behalf of the importer, or to account for goods in lieu of the importer, are generally not be considered importers (i.e., because they usually will not be the person that, in reality, caused the goods to be imported). The Guidance indicates that purchasing goods produced outside Canada from a third party, where that third party is considered to be the importer, does not count as importing goods

The Guidance indicates that the terms producing and importing are not intended to capture services that solely support the production or importation of goods, such as marketing, administrative services, financial services and software services.

There is no minimum value threshold for the goods an entity produces or imports for the Act to apply. However, the Guidance indicates that the terms as they are used in the Act should be understood as excluding very minor dealings which may be interpreted in accordance with generally accepted principles of de minimis and evaluated within the context of each entity's business.

The Act also applies to government institutions, but such obligations are not addressed in this summary.

Other Key Definitions	“Forced labor” is defined as labor or service provided or offered to be provided by a person under circumstances that (1) could reasonably be expected to cause the person to believe their safety or the safety of a person known to them would be threatened if they failed to provide or offer to provide the labor or service or (2) constitute forced or compulsory labor as defined in Article 2 of the International Labour Organization’s Forced Labour Convention. That Convention defines forced or compulsory labor as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (subject to several narrow exceptions specified in the Convention). “Child labor” is defined as labor or service provided or offered to be provided by persons under the age of 18 and that: (1) are provided or offered to be provided in Canada under circumstances that are contrary to the laws applicable in Canada; (2) are provided or offered to be provided under circumstances that are mentally, physically, socially or morally dangerous to the persons providing the labor; (3) interfere with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work; or (4) constitute the worst forms of child labor as defined in Article 3 of the ILO’s Worst Forms of Child Labour Convention. That Convention defines the worst forms of child labor as (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict, (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties or (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
How It Works	
Mandatory?	Yes.
Report Requirements	The report is required to include the steps the entity has taken during the preceding fiscal year to prevent and reduce the risk that forced labor or child labor is used at any step of the production of goods in Canada or elsewhere by the entity or of goods imported into Canada by the entity. In the report, the entity also is required to include information pertaining to: • Its structure, activities and supply chain; • Its policies and its due diligence processes in relation to forced labor and child labor; • The parts of its business and supply chains that carry a risk of forced labor or child labor being used and the steps it has taken to assess and manage that risk; • Any measures taken to remediate any forced labor or child labor; • Any measures taken to remediate the loss of income to the most vulnerable families that results from any measure taken to eliminate the use of forced labor or child labor in the entity’s activities and supply chains; • The training provided to employees on forced labor and child labor; and • How the entity assesses its effectiveness in ensuring that forced labor and child labor are not being used in its business and supply chains.

	The Guidance provides additional detail on what information may be covered under the above topics. The report must be in English or French, or both. According to the Guidance, the report’s PDF file must not exceed 100MB in size.
Online Questionnaire	In addition to preparing a report under the Act, reporting entities must complete an online questionnaire. The questionnaire includes both open and closed-ended questions that address each of the requirements under the Act. Some of the open-ended questions are optional. The optional questions allow reporting entities to elaborate on their responses to the mandatory questions and provide additional information if desired. In the case of a report covering multiple reporting entities (i.e., a joint report), the questionnaire only needs to be completed by the entity that submits the report. Reporting entities are required to submit their annual report under the Act via an upload option at the end of the online questionnaire.
Approval and Attestation Requirement	In the case of a report on a single entity, the report needs to be approved by its governing body. The approval must be evidenced by a statement that indicates it was approved by the entity’s governing body and include the signature of one or more members of the governing body. In the case of a joint report, the report needs to be approved by (1) the governing body of each entity included in the report or (2) if applicable, the governing body of the entity that controls each entity included in the joint report. The approval(s) must be evidenced by a statement that states whether it was approved by the governing body of each entity included in the report or by the governing body of the entity, if any, that controls each entity included in the report, and include the signature of one or more members of the governing body(ies). The signed attestation must be included in the PDF version of the report. The online questionnaire requires entities to confirm that their report has received the required approvals and includes a signed attestation. Appropriate attestations include a wet signature or an electronic signature. According to the Guidance, the attestation included in the report may use the following format: “In accordance with the requirements of the Fighting Against Forced Labour and Child Labour in Supply Chains Act (Act), and in particular section 11 thereof, I, in the capacity of [title], attest that I have reviewed the information contained in the report on behalf of the governing body of the entity [or entities] listed above. Based on my knowledge, and having exercised reasonable diligence, I attest that the information in the report is true, accurate and complete in all material respects for the purposes of the Act, for the reporting year listed within this report. Full name Title Date

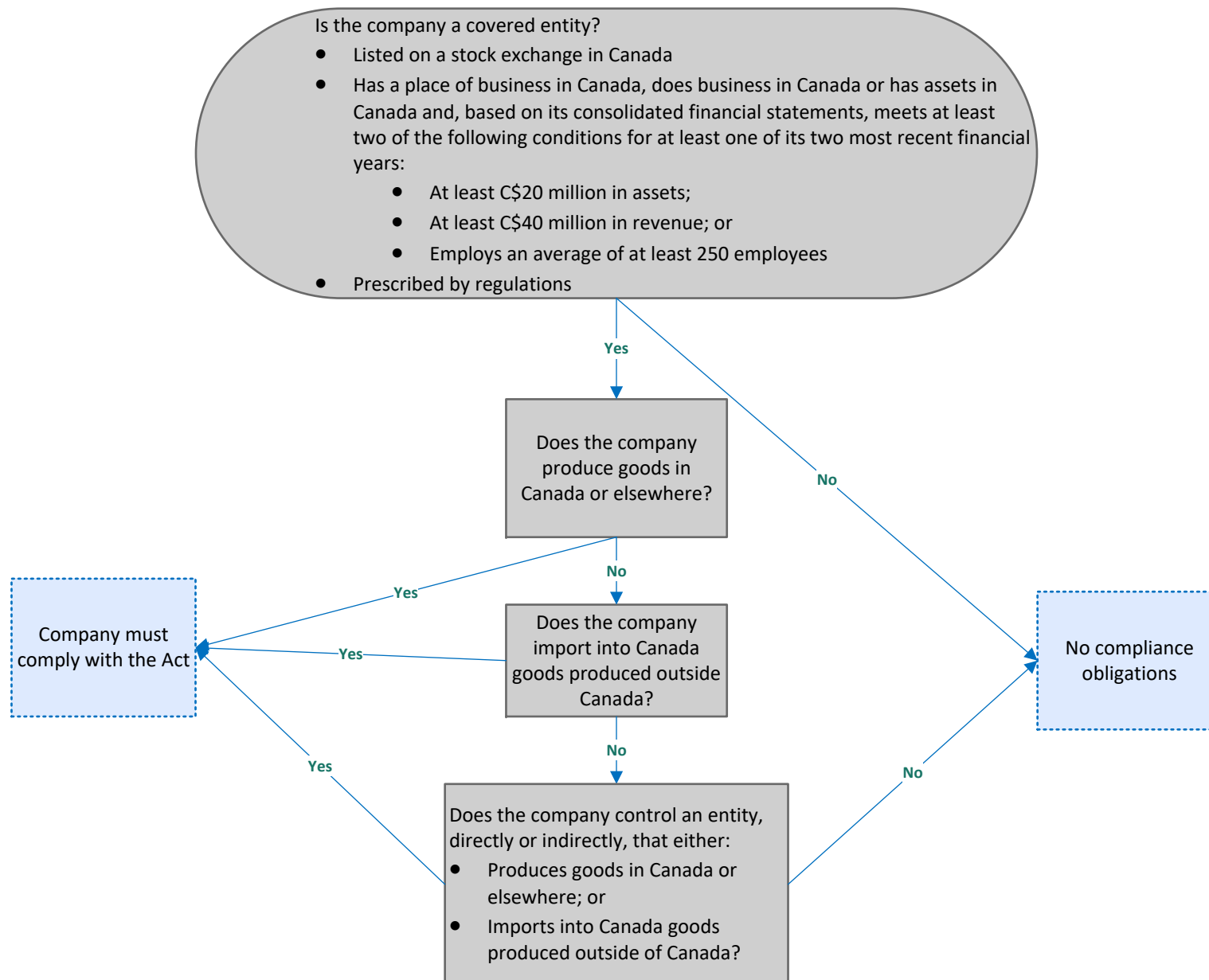
	Signature, accompanied by the statement ‘I have the authority to bind [Name of Entity].’” The online questionnaire requires an attestation for it to be submitted. The person submitting the questionnaire on behalf of the reporting entity is required to attest that they have reviewed the information contained in the report for the entity and that, based on their knowledge, and having exercised reasonable diligence, the information in the report is true, accurate and complete in all material respects for the purposes of the Act, for the listed reporting year.
Reporting	A subject entity annually is required to submit its report to the Minister of Public Safety and Emergency Preparedness (the “Minister”) on or before May 31 of each year. A subject entity is able to meet its annual report requirement by providing a report on solely the subject entity or by being part of a joint report for multiple entities. In the case of a joint report, the report requirements are required to be addressed for each subject entity. Submitted reports will be made publicly available by Public Safety Canada in a searchable online catalogue. Only the PDF reports and select identifying information submitted through the online questionnaire will be published on the Public Safety Canada website. In addition to submitting its report via the online questionnaire, a subject entity is required to make their submitted report available to the public, including by publishing it in a prominent place on its website. According to the Guidance, when the report is submitted to Public Safety Canada, it should at the same time be published on the reporting entity’s website. Any entity that is incorporated under the Canada Business Corporations Act or any other Act of Parliament is required to provide the report or revised report to each shareholder, along with its annual financial statements.
Public Safety Canada Guidance and Other Publications	Public Safety Canada has published online guidance (the “Guidance”), which it periodically updates, and the online questionnaire that reporting entities need to complete when they submit reports under the Act. On October 23, 2024, Public Safety Canada published on its website the Government’s first Annual Report discussing Year One submissions under the Act.
Enforcement	If, on the basis of information obtained, the Minister is of the opinion that an entity is not in compliance with its reporting obligations, the Minister is able to, by order, require the entity to take any measures that the Minister considers to be necessary to ensure compliance. Persons or entities that fail to submit or publish a report in accordance with the Act can be fined up to C\$250,000. In addition, every person or entity that knowingly makes a false or misleading statement or knowingly provides false or misleading information to the Minister or a person designated by the Minister to administer and enforce the Act, can be fined up to C\$250,000. An officer, director or agent of the person or entity who directed, authorized, assented to, acquiesced in or participated in the commission of an offense also can be held liable for the offense. The Minister may designate persons or classes of persons for the purposes of the administration and enforcement of the Act.

Import Prohibition	The Act also amended the Customs Tariff to prohibit the importation into Canada of goods that are mined, manufactured or produced wholly or in part by child labor, or to prescribe the conditions under which those goods may be prohibited. Note that the Customs Tariff already contains a similar prohibition on goods involving forced labor. That prohibition took effect on July 1, 2020 as part of the US-Mexico-Canada Agreement, which is the successor to NAFTA.
Additional Information/Resources	
Law	Text of the Act .
Public Safety Canada’s Guidance and the Online Questionnaire	For Public Safety Canada’s Guidance and the link to the online questionnaire, click here. For Public Safety Canada’s first Annual Report discussing Year One submissions under the Act, click here.
Ropes & Gray Resources	Client alerts related to the Act: • Canada Updates Forced and Child Labor Reporting Guidance – Key Updates for 2025 Compliance and Reporting (November 24, 2024) (link here). • Canadian Modern Slavery Reporting – Year 1 Benchmarking Data Published (October 28, 2024) (link here). • ESG disclosures in 2024 – key compliance dates for U.S.-based multinationals (January 22, 2024) (link here). • Preparing for new Canadian forced and child labor reporting – Unpacking the new Government guidance (December 27, 2023) (link here). • Preparing for new Canadian forced and child labor reporting – a detailed look at the online questionnaire (December 27, 2023) (link here). • Canada to Implement New Modern Slavery Reporting Requirements and Child Labor Import Ban – Slotting into Global Compliance by U.S.-based Multinationals (May 8, 2023) (link here).

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(Updated February 28, 2025)

Applying the Law



Modern Slavery Act United Kingdom	
Overview	
Law / Country	Modern Slavery Act (S. 54) (the “Act”) (United Kingdom)
Goal	To reduce modern slavery through enhanced disclosure.
Adoption / Status	The transparency provisions of the Act came into force on October 29, 2015. The transparency disclosure requirements are addressed in Section 54 of the Act. Note that this summary is largely limited to the transparency provisions of the Act.
Issues Addressed	• Human trafficking • Slavery
Covered Entities	<u>Commercial Organisations</u> The Act covers any “commercial organisation” that supplies goods or services and has a total annual turnover of at least £36 million. A commercial organisation is a corporation or partnership that carries on a business (including a trade or profession) or part of a business in the United Kingdom, regardless of where it is was incorporated. The turnover calculation includes the turnover of the subject commercial organisation and its subsidiary undertakings, including those subsidiary undertakings carrying on business outside of the United Kingdom. <u>Parents and Sister Companies</u> Having a subsidiary that is subject to the Act does not subject entities that are above that subsidiary in the corporate chain, or sister companies under common control, to the Act. However, depending on their business activities in the UK, multiple entities in the consolidated group, even those not primarily engaged in carrying on a business in the United Kingdom, may be subject to the Act. A parent organisation that is subject to the Act must include in its statement the activities of its subsidiaries, even if a subsidiary does not independently meet all of the Act’s jurisdictional requirements, if the activities of the subsidiary are part of the parent’s supply chain or business. <u>Franchisees</u> In determining the total turnover of a business operating a franchise model, only the turnover of the franchiser and not that of any franchisees must be included.
How It Works	
Mandatory?	Yes.

Statement Requirements	A commercial organisation must prepare a statement indicating the steps it has taken during the applicable financial year to ensure that slavery and human trafficking are not taking place in any of its supply chains or in any part of its own business. While the Act does not provide for mandatory disclosures, there are six encouraged disclosure topics: • The structure of the commercial organisation, its business model and its supply chain relationships. • Policies relating to slavery and human trafficking. • Due diligence and auditing processes in relation to slavery and human trafficking in its business and supply chains. • The parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk. • Its effectiveness in ensuring that slavery and human trafficking are not taking place in its business or supply chains, measured against such key performance indicators as it considers appropriate. • Slavery and human trafficking training available to its staff.
Reporting	<u>Timing</u> Commercial organisations are expected to publish a statement within six months after fiscal year end. Although there is no mandatory due date by which statements must be published, over time, the Home Office has taken steps to increase pressure on companies to timely report. <u>Publication</u> The statement must be published in a prominent location on the commercial organisation’s website homepage and must clearly identify the contents of the link. If the commercial organisation does not have a website, it must provide a copy of the statement upon written request within 30 days after the request is received. For commercial organisations with more than one website, the statement should be placed on the most appropriate website relating to the commercial organisation’s business in the United Kingdom. If there is more than one relevant website, the commercial organisation should place a copy of the statement or a link to the statement on each relevant website. <u>Approval/Signatures</u> For corporate entities, the statement must be approved by the board of directors (or equivalent) and signed by a director or the equivalent. If the entity is a limited liability partnership, the statement must be approved by the members and signed by a designated member. If the entity is a limited partnership registered under the UK Limited Partnerships Act, it must be signed by a general partner. For any other kind of partnership, the statement must be signed by a partner. <u>Additional Content Guidance</u> Home Office guidance pertaining to statement content indicates that: • Group statements published by parent entities should clearly name the entities covered by the statement. • Statements should indicate the date of the fiscal year end and the period covered. • Statements should clearly indicate the board approval date.

	Statements should include the name (physical signature not required) and job title of the signatory and the signature date.
Government Guidance	In October 2015, the Home Office published guidance (Transparency in Supply Chains: A Practical Guide) for organisations on how to comply with the Act and ensure that modern slavery was not taking place in their business or supply chains. Updated guidance was published on March 23, 2025 by the Home Office (the “ Guide ”).
Enforcement	At present, there is no financial or legal penalty for non-compliance.
Potential Amendments – September 2020 Government Response to Public Consultation	On September 22, 2020, the UK Government published its response to the 2019 public consultation on the Act. The consultation solicited views on possible changes to several aspects of the transparency provisions, including: (1) the topics covered by statements; (2) potential features of a new Government-run reporting service for modern slavery statements; (3) establishing a single deadline for the publication of statements; and (4) the addition of civil penalties for non-compliance. Many of the Government’s commitments described below will require changes to the Act. The Government indicated that these changes will be made when parliamentary time allows. <u>Mandated Disclosure Topics</u> The Government indicated it will mandate the areas to be addressed in modern slavery statements. The mandatory topic areas will include the existing voluntary suggested areas, although in the shift to mandatory reporting they may be presented differently through the combination of some topic areas. If a commercial organisation does not take steps within a particular required topic area, it will be required to clearly state that. Commercial organisations also will be encouraged to provide the reason for not taking steps within a particular area. <u>Statement Registry</u> The Government indicated it will require commercial organisations to publish their statement on the Government-run registry. <u>Timing</u> The Government will introduce a single reporting deadline. Rather than requiring commercial organisations to report on activity undertaken during their most recently completed fiscal year, statements will cover a reporting period running from April 1 through March 31. Modern slavery statements will be due on September 30, giving commercial organisations six months to prepare their statements. <u>Other Statement Enhancements</u> The Government will amend the Act to require modern slavery statements to state the date of board (or equivalent) approval and director (or equivalent) sign-off. The Government will also amend the Act to require group statements to name the entities covered.

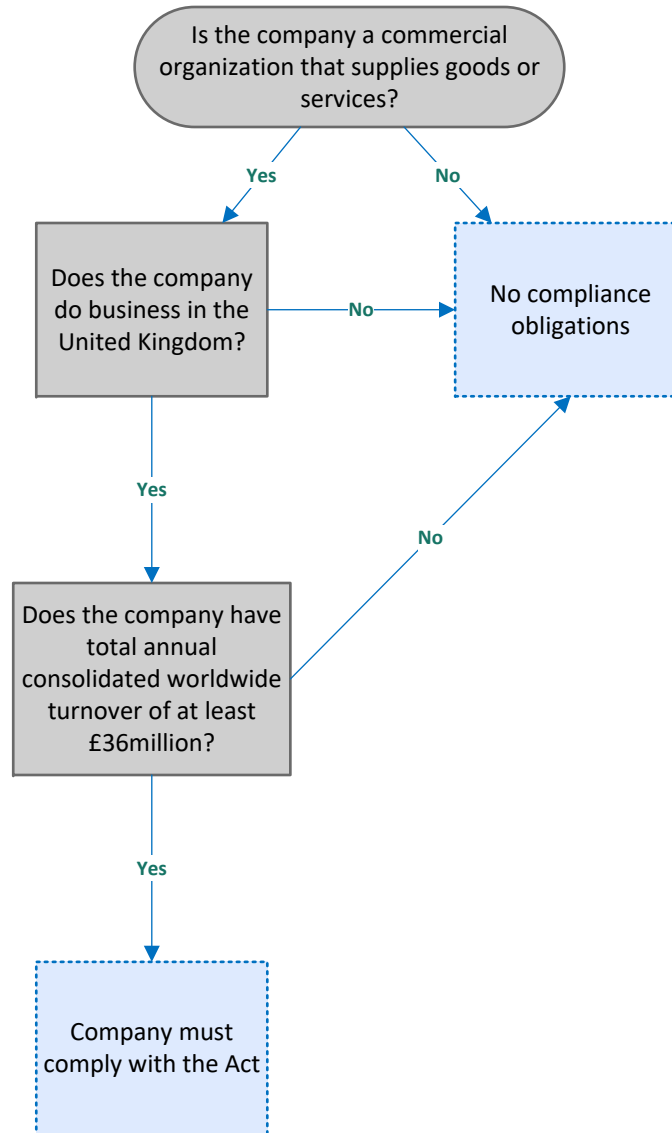
	<u>Penalties</u> The Government has indicated it intends to propose penalties for failure to comply with the requirements of the transparency provisions. The King’s speech delivered on July 17, 2024 also reiterated the UK’s commitment to combating modern slavery.
Statement Registry	In March 2021, the Government established an online registry to house statements under the Act. At present, submitting statements to the Registry is voluntary.
Private Member’s Bill to Amend the Act	On June 15, 2021, a Modern Slavery (Amendment) Bill (the “ Bill ”) was tabled in the House of Lords. The Bill would have (1) added a new criminal offense for false information in modern slavery statements, (2) added a new civil offense for continuing to source from a supplier after they receive a formal warning from the Independent Anti-Slavery Commissioner for failing to demonstrate a minimum standard of transparency, (3) required subject commercial organisations to publish information on the country of origin of sourcing inputs and report the use of employment agents acting on behalf of an overseas government and (4) arranged for credible inspections and verify country of origin information. The Bill was first read in the House of Lords, but the Bill did not pass before the end of the 2021-2022 Parliamentary session. To date, the Bill has not been re-introduced in Parliament.
Government Review and Proposed Reforms	On January 24, 2024, the House of Lords appointed a committee to consider the effectiveness and impact of the Act. On October 16, 2024, the committee published a report of its findings, including a number of recommendations for consideration in reforming the Act (the “Committee Report”). Recommendations include (but are not limited to): • Mandatory publication of statements on the online registry. • Required topics for statements to cover, including a description of how the commercial organisation has assessed the effectiveness of its actions. • Introduction of legislation requiring commercial organisations meeting the threshold to undertake modern slavery due diligence in their supply chains and to take reasonable steps to address problems. The committee notes that any such law should be compatible with the standards of the international landscape to make compliance easier for companies. • Introduction of a law banning goods being brought into the UK if they are produced by certain companies known to use forced labor. These import laws should not be targeted at particular countries. On December 16, 2024, the Government responded to the Committee Report and indicated that many of the recommendations would be accepted in some form.
Additional Information/Resources	
U.K. Modern Slavery Act	Text of the MSA. For the modern slavery statement registry, click here.

Guide	For the Guide, click here .
Other Developments	Text of the Bill. For the UK Government’s response to the 2019 public consultation on the Act, click here. For the Committee Report, click here. For the Government’s response to the Committee Report, click here.
Ropes & Gray Resources	Client alerts related to the Act: • Updated UK Modern Slavery Act Guidance Published – An In-depth Look at the Statement Content Guidance (March 28, 2025) (link here). • ESG disclosures in 2024 – key compliance dates for U.S.-based multinationals (January 22, 2024) (link here). • Proposed Amendments to the UK Modern Slavery Act Introduced in Parliament (June 28, 2021) (link here). • UK Government Announces Commitment to Significantly Increase Modern Slavery Act Reporting Requirements (October 12, 2020) (link here). • Modern Slavery Compliance for U.S.-based (and Other) Multinationals: A Review of Recent Compliance and Disclosure Developments in the United States and Abroad (April 22, 2019) (link here). • UK Home Office Ramps Up Modern Slavery Statement Expectations – Recent Developments and Compliance Recommendations for Multinationals (November 12, 2018) (link here). • The UK Modern Slavery Act – Ropes & Gray Resources for Compliance (May 21, 2018) (link here).

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(Updated February 28, 2025)

Applying the Law



Customs Tariff Canada	
Overview	
Law / State	Customs Tariff, Tariff Item 9897.00 (Canada)
Goal	To prohibit importing goods produced or manufactured by forced or child labor.
Adoption / Status	As part of the U.S.-Mexico-Canada Agreement (the “USMCA”), the Canada-United States-Mexico Agreement Implementation Act amended the Canada Customs Tariff to include the prohibition against imports produced or manufactured by forced labor. The prohibition took effect on July 1, 2020. As part of the Fighting Against Forced Labour and Child Labour in Supply Chains Act, which went into effect January 1, 2024, the above prohibition was expanded to include imports produced or manufactured by child labor. The Fighting Against Forced Labour and Child Labour in Supply Chains Act is discussed in a separate summary. In the fourth quarter of 2024, the Canadian Government held a public consultation seeking stakeholder feedback on potential measures to strengthen the prohibition and combat forced and child labor (discussed below). Canada has faced criticism for its enforcement efforts and lack of publicly reported enforcement actions. In September 2024, four U.S. Members of Congress, each of whom worked to pass the U.S. Uyghur Forced Labor Prevention Act, wrote a letter to members of the Canadian government urging cooperation under the forced labor provisions of the USMCA to prevent the importation into one USMCA country of products denied entry into another due to a determination that forced labor was used in the manufacturing process of that product.
Issue Addressed	• Child labor • Forced labor
Covered Entities	Importers of goods into Canada.
Key Definitions	“Forced labor” means labor or service provided or offered to be provided by a person under circumstances that (1) could reasonably be expected to cause the person to believe their safety or the safety of a person known to them would be threatened if they failed to provide or offer to provide the labor or service or (2) constitute forced or compulsory labor as defined in Article 2 of the Forced Labour Convention (1930) (the “Forced Labour Convention”). The Forced Labour Convention defines forced or compulsory labor as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (subject to certain exceptions specified in the Forced Labour Convention). “Child labor” means labor or service provided or offered to be provided by persons under the age of 18 and that: (1) are provided or offered to be provided in Canada under circumstances that are contrary to the laws applicable in Canada; (2) are provided or offered to be provided under circumstances that are mentally, physically, socially or morally dangerous to the persons providing the labor; (3) interfere with their schooling by depriving them of the opportunity to attend school, obliging

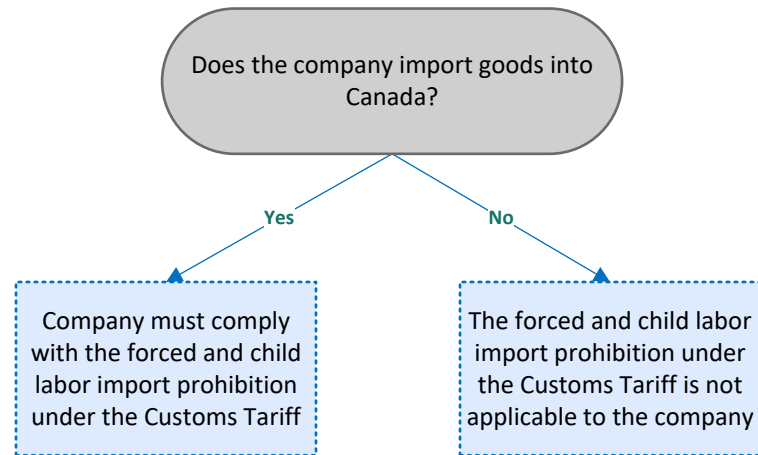
	them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work; or (4) constitute the worst forms of child labor as defined in Article 3 of the Worst Forms of Child Labour Convention (1999) (the “Child Labour Convention”). The Child Labour Convention defines the worst forms of child labor as (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict, (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties or (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
How It Works	
Mandatory?	Yes.
Prohibited Imports	Prohibits importing into Canada goods mined, manufactured or produced wholly or in part by forced or child labor. Tariff Item 9897.00 also prohibits importing goods into Canada produced wholly or in part by prison labor.
Enforcement	The Canada Border Services Agency (“ CBSA ”) is responsible for enforcing prohibitions under the Customs Tariff. The CBSA works with Employment and Social Development Canada (“ ESDC ”) to identify goods that may have been produced by forced labor. The Labour Program of the ESDC researches relevant facts related to problematic supply chains and prepares reports signaling when goods are likely mined, manufactured or produced by forced labor. These reports are shared with the CBSA. The CBSA may use this information to identify and detain, upon importation, suspected goods produced by forced labor.
Guidance	To date, the CBSA has issued limited guidance on its enforcement of the prohibition. The CBSA updated Memorandum D9-1-6 as of May 28, 2021, which contains guidelines and general information relating to the Customs Tariff’s forced labor prohibition. On November 1, 2023, the CBSA released Memorandum D11-11-3, which provided information on seeking an advanced ruling on whether tariff items fall under Tariff Item 9897 (i.e., the prohibition).
Related Litigation	In November 2024, Charge Solar Renewables Inc. sued the CBSA in Canada’s Federal Court, alleging the detention of solar panels imported from China, worth more than CAD 5 million, caused it to lose its "dominant market share." The company's lawsuit alleges border guards detained the shipments that came through multiple Canadian ports between February and April 2024, after which the company was issued Notices of Detention and requested to provide information and documents to determine if the goods were manufactured or produced with forced labor. The goods were ultimately granted clearance after the CBSA determined the panels were not prohibited, and were released between June 2024 and July 2024. The company alleges that the CBSA’s failure to timely consider their documents and wrongfully delay the release of the goods caused significant financial losses. The company seeks damages and a declaration of wrongful conduct, including a finding that the CBSA violated their duty of care. In its statement of defense, the CBSA states that there are "important policy reasons" against allowing the company's lawsuit because it "would create indeterminate liability" over each decision made by border officers regarding imported or exported goods. The case is ongoing.

Consultation	The fourth quarter 2024 consultation seeking stakeholder feedback on potential measures to strengthen the prohibition and combat forced and child labor sought feedback on the following possible measures: • The publication of a list of specified goods at risk for forced labor (the “At Risk List”), informed by the International Labour Organization’s forced labor indicators and other sources. This list is expected to be similar to the United State’s List of Goods Produced by Child Labor or Forced Labor, which is produced by the U.S. Bureau of International Labor Affairs as required under the Trafficking Victims Protection Reauthorization Act. • Introducing supply chain traceability requirements for goods on the At Risk List. Importers of goods on the At Risk List would need to provide documentation on the imported goods’ supply chain, evidencing that the goods are not made from forced or child labor. • Changes to the cost recovery model. Importers of goods allegedly made by forced labor would be responsible for costs associated with the detention, removal, abandonment and/or forfeiture of the goods. • Creation of a streamlined dispute resolution mechanism to settle denied entry decisions. • Strengthening the legislative and regulatory mechanisms for information collection/sharing, enforcement and disposition, including collaboration with the United States and Mexico to prevent transshipments.
Additional Information/Resources	
Law	Text of the Customs Tariff, Tariff Item 9897. Text of the Fighting Against Forced Labour and Child Labour in Supply Chains Act. Text of the Canada–United States–Mexico Agreement Implementation Act introducing the prohibition against imports produced or manufactured by forced labor.
Guidelines and General Information	For the text of Memorandum D9-1-6, click here. For the text of Memorandum D11-11-3,, click here. For the Consultation’s webpage, click here. For the letter written by US. Members of Congress, click here.

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Forced Labour Regulation (Compliance Pending) European Union

Overview

Law / Country	Regulation Prohibiting Products Made with Forced Labour on the Union Market (the “ Regulation ”) (European Union)
Goal	To decrease use of forced labor worldwide by eliminating products made with forced labor from the EU market.
Adoption / Status	The Regulation was published in the Official Journal of the European Union on December 12, 2024. The Regulation will take effect on December 14, 2027.
Issues Addressed	Forced labor
Covered Entities	Any natural or legal person or association of persons placing or making available products on the EU market or exporting products from the EU market (each, an “ Economic Operator ”).
How It Works	
Mandatory?	Yes.
Prohibition	Economic operators will be prohibited from placing and making available on the EU market or exporting from the EU market products made with forced labor. The prohibition includes products offered for sale online or through other means of distance selling if the offer is targeted at end-users in the EU (not just those products physically made for sale on the EU market). An offer for sale will be considered to be targeted at end-users in the EU if the relevant Economic Operator directs, by any means, its activities to a Member State. The prohibition applies to all sectors, levels of the supply chain and products of any type, including their components. The Regulation does not contain a de minimis exception, but, as discussed below, the quantity or volume of products is a factor to be considered in enforcement.
Selected Definitions	“Product” means any item that can be valued in money and is capable, as such, of being the subject of commercial transactions, whether it is extracted, harvested, produced or manufactured. “Supply chain” means the system of activities, processes and actors involved at all stages upstream of a product being made available on the market, namely the extraction, harvesting, production and manufacturing of a product in whole or in part, including working or processing related to the product at any of those stages. “Product made with forced labor” means a product for which forced labor has been used in whole or in part at any stage of its extraction, harvest, production or manufacture, including working or processing related to the product at any stage of its supply chain. “Forced labor” means forced or compulsory labor, including forced child labor, as defined in Article 2 of the Convention on Forced Labour, 1930 (No. 29) of the International Labour Organization (the “ILO”). “Placing on the market” means the first making available of a product on the EU market.

	“Making available on the market” means any supply of a product for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge.
Forced Labor Single Portal	The European Commission (the “Commission”) is required to develop a Forced Labor Single Portal, a public website including key information and tools related to the Regulation. The Forced Labor Single Portal will include: • A list of, and contact information for, all Member State Authorities (defined below); • Guidelines to be issued by the Commission (further discussed below); • A database of forced labor risk areas or products containing indicative, non-exhaustive, evidence-based, verifiable and regularly updated information on forced labor risks in specific geographic areas or with respect to specific products or product groups, including with regard to forced labor imposed by state authorities (the information will be required to be sourced from international organizations, in particular the ILO and the United Nations Organization, or from institutional, research or academic institutions); The database must be publicly available by June 14, 2026. The database will not publicly disclose information that directly names Economic Operators. • A list of publicly available information sources of relevance for the implementation of the Regulation, including sources which make disaggregated data available on the impact and victims of forced labor, such as gender-disaggregated data or data about forced child labor, allowing age and gender-specific trends to be identified; • A dedicated centralized mechanism for the submission of information on alleged violations of the Regulation, including information on the Economic Operator or products concerned, reasons and evidence for substantiating the allegation and, where possible, supporting documents (the “Single Information Submission Point”); and • Any decisions taken under the Regulation to ban a particular product, as well as any withdrawal of such a ban and the result of reviews.
Investigations	<u>Enforcement Authorities</u> By December 14, 2025, Member States will be required to designate competent authorities responsible for enforcing the Regulation (the “Member State Authorities,” each a “Member State Authority”). If the suspected forced labor is taking place outside the territory of the EU, the Commission will act as the lead authority conducting investigations and taking decisions (the “Lead Competent Authority”). If the suspected forced labor is taking place in the territory of a Member State, the relevant Member State Authority will act as the Lead Competent Authority. In the event a submission is received through the Single Information Submission Point, the Commission will be required to discard any submissions that are manifestly incomplete or unfounded or made in bad faith and will distribute the remaining submissions to the Lead Competent Authority in charge of the assessment, who will be responsible for assessing the information, acknowledging receipt of the submission and providing information on the outcome of the assessment of the submission.

Risk-Based Approach

Member State Authorities and the Commission will be required to follow a risk-based approach in (1) assessing the likelihood of a violation of the Regulation, (2) initiating and conducting the preliminary phase of the investigation and (3) identifying the products and Economic Operators concerned.

Assessing the Likelihood of a Violation

In assessing the likelihood of a violation, Member State Authorities and the Commission will be required to use the following criteria to prioritize products suspected to have been made with forced labor:

- Scale and severity of the suspected forced labor, including whether forced labor imposed by state authorities could be a concern;
- Quantity or volume of products placed or made available on the EU market; and
- The relative share of the part of the product suspected to have been made with forced labor.

The assessment of the likelihood of a violation will be required to be based on all relevant, factual and verifiable information available, including, but not limited to, the following:

- Information and decisions encoded in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 (on market surveillance and compliance of products), including any past cases of compliance or non-compliance of an Economic Operator with the Regulation;
- The database of forced labor risk areas or products housed on the Forced Labor Single Portal;
- The risk indicators and other information provided pursuant to guidelines to be issued by the Commission;
- Submissions made via the Single Information Submission Point;
- Information received by the Member State Authority or the Commission from other authorities relevant for the implementation of the Regulation, such as Member States' due diligence, labor, health or fiscal authorities, on the products and Economic Operators under assessment; and
- Any issues arising from meaningful consultations with relevant stakeholders, such as civil society organizations and trade unions.

Preliminary Phase of Investigations

Before initiating an investigation, Lead Competent Authorities will be required to request from the Economic Operator under assessment and, where relevant, other product suppliers, information on their relevant actions taken to identify, prevent, mitigate, bring to an end or remediate risks of forced labor in their operations and supply chains with respect to the products under assessment. Lead Competent Authorities also may request information on those actions from other relevant stakeholders, including the persons or associations that have submitted relevant, factual and verifiable information to the Single Information Submission Point and any other natural or legal persons related to the products and geographical areas under assessment, as well as from the European External Action Service and EU Delegations in relevant third countries.

Within 30 business days from the date of receipt of a request from the Lead Competent Authority, the Economic Operator will be required to submit a response, including any other information they may deem useful to the investigation. Within 30 business days of receiving such response from the Economic Operator, the Lead Competent Authority will be required to conclude the preliminary phase of the investigation and determine whether there is a substantiated concern of violation of

the Regulation. For the purposes of the Regulation, a “**substantiated concern**” is defined as a reasonable indication based on objective, factual and verifiable information for the Lead Competent Authority to suspect that products were likely made with forced labor.

If the Lead Competent Authority determines that there is no substantiated concern of a violation of the Regulation or that the reasons that motivated the existence of a substantiated concern have been eliminated (e.g., due to the applicable legislation, guidelines, recommendations or any other due diligence in relation to forced labor being applied in a way that mitigates, prevents or brings to an end the risk of forced labor), the Lead Competent Authority will not be permitted to initiate an investigation.

“**Due diligence in relation to forced labor**” is defined as the efforts by an Economic Operator to implement mandatory requirements, voluntary guidelines, recommendations or practices to identify, prevent, mitigate or bring to an end the use of forced labor with respect to products that are to be placed or to be made available on the EU market or to be exported.

Investigations

If the Lead Competent Authority determines there is a substantiated concern of a violation of the Regulation, they will be required to initiate an investigation on the products and Economic Operators concerned and inform the Economic Operators subject to the investigation within three business days from the date of the decision to initiate the investigation, including information on the following:

- The initiation of the investigation and the possible consequences thereof;
- The products subject to the investigation;
- The reasons for the initiation of the investigation, unless it will jeopardize the outcome of the investigation; and
- The right of the Economic Operators to submit any other document or information to the Lead Competent Authority and the date by which such information must be submitted.

Upon request by the Lead Competent Authority, Economic Operators under investigation will be required to submit any information relevant and necessary for the investigation, including information identifying the products under investigation and, where appropriate, identifying the part of the product to which the investigations should be limited and the manufacture, producer or product supplier of those products or parts thereof. When requesting such information, Lead Competent Authorities will be required to focus on the Economic Operators, and, where relevant, product suppliers involved in the steps of the supply chain as close as possible to where the forced labor likely occurs, and with the highest leverage to prevent, mitigate and bring to an end the use of forced labor. They also will be required to take into account the size and economic resources of the Economic Operators, in particular whether the Economic Operator is a small or medium-sized enterprise (“**SME**”) and the complexity of the supply chain. Economic Operators will be provided between 30 and 60 business days to submit any such information, subject to the right to request an extension of that deadline with a justification.

During the investigation, Lead Competent Authorities will be permitted to collect information from or interview any relevant persons who consent to be interviewed for the purpose of collecting information relating to the subject matter of the investigation, including relevant Economic Operators and any other stakeholders.

In exceptional situations, Lead Competent Authorities may conduct field inspections. Where the risk of forced labor is located in the territory of a Member State, the Lead Competent Authority may conduct its own inspections. Where the risk of forced labor is located outside of the territory of the EU, the Commission may carry out all necessary checks and inspections,

provided that the Economic Operators concerned provide their consent and the government of the third country in which the inspections are to take place has been notified and raises no objection.

Decisions

Within a reasonable period of time, and ideally within nine months from the date of initiating the investigation, Lead Competent Authorities will be required to adopt a decision as to whether the products concerned have been placed or made available on the market or are being exported in violation of the Regulation (the “**Decision**”). If the Lead Competent Authority cannot establish a violation, they will be required to close the investigation and inform the Economic Operator of the Decision. If the Lead Competent Authority finds a violation of the Regulation, they will be required to adopt a Decision containing the following:

- A prohibition on placing or making the relevant products available on the EU market and exporting them from the European Union;
- An order requiring the Economic Operator to withdraw from the EU market the products concerned that have already been placed or made available on the EU market or to remove content from an online interface referring to the products or listings of the products concerned; and
- An order for the Economic Operator to dispose of the products or parts of the products concerned by recycling them or, in the case of perishable products, by donating the products concerned for charitable or public interest purposes (or, in each case, when that is not possible, by rendering those products inoperable).

In the event disposal of the product concerned will disrupt a supply chain of strategic or critical importance for the EU, the Lead Competent Authorities may instead order the product concerned to be withheld for a defined period of time, which shall be no longer than the time necessary to eliminate forced labor for the product concerned, at the cost of the Economic Operator. If, during this time, the Economic Operator demonstrates that they have eliminated forced labor from the supply chain of the product without changing the product and by having brought to an end the forced labor identified in the Decision, the Lead Competent Authority will review such Decision. If the Economic Operator does not demonstrate that they have eliminated forced labor from the supply chain of the products concerned, they will be required to dispose of the products in the manner set forth above.

In all cases, a Decision will be required to contain the following:

- The findings of the investigation and the information and evidence underpinning the findings;
- Reasonable time limits for the Economic Operator to comply with the orders, which shall not be less than 30 business days (in the case of perishable goods, animals and plants, not less than 10 business days);
- All relevant information and in particular the details allowing the identification of the product concerned, including details about the manufacturer, producer, product suppliers and, where appropriate, production site;
- Where available and applicable, information required under customs legislation; and
- Information on the possibilities for a judicial review against the Decision.

The Commission will be required to adopt implementing acts further specifying the details of the information to be included in the Decision.

	<u>Review of Decisions</u> Economic Operators affected by a Decision will be permitted, at any time, to submit a request for a review containing new substantial information that was not brought to the attention of the Lead Competent Authority during the investigation and which demonstrates that the products are in compliance with the Regulation. The Lead Competent Authority will be required to issue a decision on the request for a review within 30 business days of receipt of the request. If an Economic Operator is able to provide evidence it has complied with the Decision and eliminated forced labor from its operations or supply chain with respect to the products concerned, the Lead Competent Authority will be required to withdraw its Decision for the future, inform the Economic Operator and remove it from the Forced Labor Single Portal. Economic Operators that have been affected by a Decision of a Member State Authority pursuant to the Regulation will have access to a court or a tribunal to review the procedural and substantive legality of the decision.
Enforcement	If an Economic Operator fails to comply with a Decision by a Lead Competent Authority within the time limit provided, the relevant Member State Authority or the Commission, as applicable, will be responsible for enforcing the Decision by ensuring the following: • The prohibition on placing or making available the products concerned on the EU market and exporting them from the EU market; • The products concerned already placed or made available on the EU market are withdrawn by relevant authorities, in accordance with EU and national laws; • The products concerned remaining with the Economic Operator are disposed of in accordance with the Regulation, at the expense of the Economic Operator; and • Access to the products and to listings referring to the products concerned is restricted by requesting the relevant third party to implement such measures. Customs authorities will, in cooperation with the Lead Competent Authority, enforce the Regulation by controlling entry into or exit from the European Union of products made with forced labor. The Regulation will also empower the Commission to adopt delegated acts supplementing the Regulation that identify products or product groups for which information will be required to be provided to customs authorities in decisions. Where customs authorities identify a product entering or leaving the EU market that may, according to a Decision, be in violation of the Regulation, the customs authorities will be required to suspend the release for free circulation or export of that product until either of the following conditions has been satisfied: • The Member State Authorities or the Commission, as applicable, have not requested the customs authorities to maintain the suspension within four business days of the initial suspension (two business days for perishable products, animals and plants); or • The Member State Authorities or the Commission, as applicable, informed the customs authorities of their approval for release for free circulation or export pursuant to the Regulation. <u>Union Network Against Forced Labour Products</u> The Regulation also establishes a Union Network Against Forced Labour Products (the “Network”), a platform for coordination and cooperation between the Member State Authorities and the Commission and to streamline the practices of enforcement of the Regulation within the European Union. The Network will be composed of representatives from each

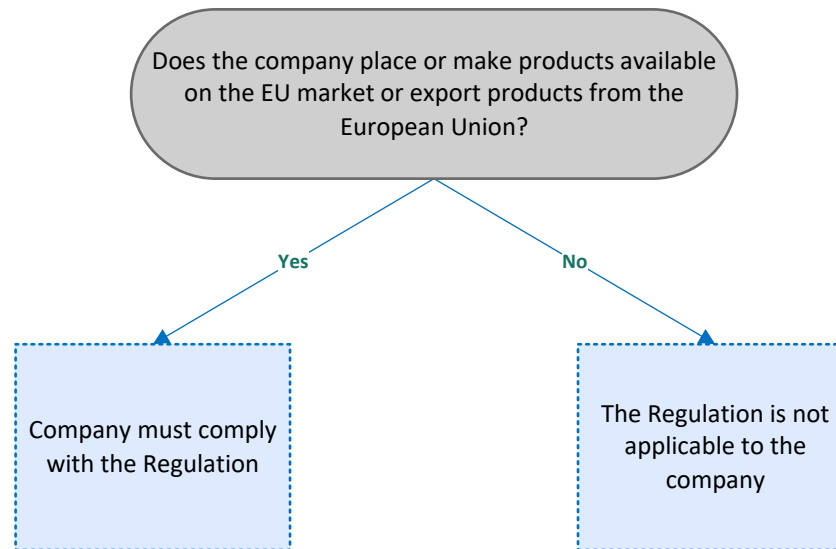
	Member State, the Commission and, where appropriate, customs authorities. The Network's tasks will include, among other things: • Facilitating the identification of common enforcement priorities to achieve the objectives of prohibiting products made with forced labor on the EU market and contributing to the fight against forced labor; • Facilitating the coordination of investigations; • Following up on the enforcement of Decisions; • Contributing to the development of guidelines to be issued by the Commission; • Contributing to uniform risk-based approaches and administrative practices for the implementation of the Regulation; and • Promoting best practices in the application of penalties.
Penalties	If an Economic Operator fails to comply with a Decision, the relevant Member State Authority or the Commission, as applicable, will be required to impose penalties on the Economic Operator. Member States will be required to lay down rules on penalties applicable to non-compliance with a Decision by December 14, 2026. The penalties will be required to give due regard to the following, as applicable: • The gravity and duration of the non-compliance; • Any relevant previous non-compliance with a Decision made by the Economic Operator; • The degree of cooperation with the Member State Authorities; and • Any other mitigating or aggravating factor applicable to the circumstances of the case, such as financial benefits gains, or losses avoided, directly or indirectly, from the infringement.
Guidelines	By June 14, 2026, the Commission, in consultation with relevant stakeholders, will be required to issue guidelines. The guidelines will be required to include the following, among other things: • Guidance for Economic Operators on due diligence in relation to forced labor, including forced child labor, that takes into account applicable national and EU legislation, setting out due diligence requirements with respect to forced labor, guidelines and recommendations from international organizations, the size and economic resources of Economic Operators, different types of suppliers along the supply chain and different sectors; • Guidance for Economic Operators on due diligence in relation to forced labor imposed by state authorities; • Guidance for Economic Operators on best practices for bringing to an end and remediating different types of forced labor; • Information on risk indicators of forced labor, including on how to identify them, based on independent and verifiable information, including reports from international organizations, in particular the ILO, civil society, business organizations and experience from implementing EU legislation setting out due diligence requirements with respect to forced labor; • Guidance for Economic Operators and product suppliers on how to engage in dialogue with Member State Authorities, in particular on the type of information to be submitted; • Guidance on how to submit information via the Single Information Submission Point; • Guidance for Member States on the method for calculating financial penalties and the applicable thresholds; and • Further information to facilitate Member State Authorities' implementation of the Regulation.

	The guidance referred to in the first, second and third bullet points above will focus in particular on assisting SMEs in complying with the Regulation.
Commission Evaluation	The Commission will be required to carry out an evaluation of the enforcement and implementation of the Regulation within two years of the Regulation entering into force, and every five years thereafter.
Additional Information/Resources	
Text of the Regulation	Text of the Regulation .
Ropes & Gray Resources	Client alerts related to the Regulation: • EU Forced Labor Regulation Published in Official Journal, Beginning the Countdown to Compliance – A Deep Dive and Compliance Take-aways (December 20, 2024) (link here). • European Parliament Approves EU-wide Ban on Products Produced with Forced Labor – More or Less a Done Deal (April 24, 2024) (link here). • European Commission Proposes Sweeping Regulation to Ban Products Made with Forced Labor (September 22, 2022) (link here).

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(Updated February 28, 2025)

Applying the Law



Administrative Regulation related to Forced Labor Mexico

Overview

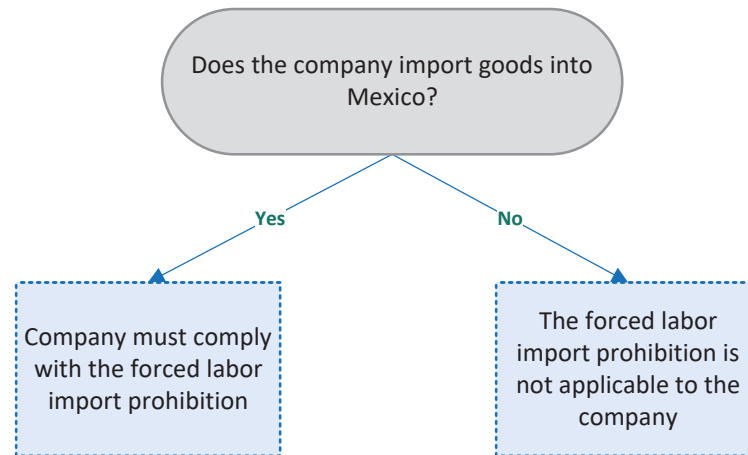
Law / State	Administrative regulation that sets forth the goods for which importation is subject to regulation by the Ministry of Labor and Social Welfare (the “ Regulation ”) (Acuerdo que establece las mercancías cuya importación está sujeta a regulación a cargo de la Secretaría del Trabajo y Previsión Social) (Mexico)
Goal	To prohibit imports produced or manufactured by forced or compulsory labor.
Adoption / Status	On February 17, 2023, Mexico’s Ministry of Economy published the Regulation. The Regulation implements Mexico’s obligation to prohibit imports produced with forced labor under the United States-Mexico-Canada Agreement, which is the successor to NAFTA. The Regulation became effective on May 18, 2023.
Issue Addressed	Forced labor
Covered Entities	Importers of goods into Mexico.
How It Works	
Mandatory?	Yes.
Prohibited Imports	Prohibits importing goods into Mexico that have been produced, in whole or part, through forced or compulsory labor, including child labor. Prohibited goods will be specified in a resolution, as further discussed below. If there is no resolution for a particular good, it is deemed to comply with the prohibition.
Enforcement	The Ministry of Labor and Social Welfare (the “ Ministry ”) may initiate, on its own or at the request of a private party, an investigation into whether goods were produced using forced labor. If a private person requests an investigation, such person will need to provide specified information to the Ministry, including the legal basis of the request, the nature and technical specifications of the goods in question and evidence supporting the claim that forced labor was used. If the Ministry finds that there is sufficient evidence to initiate an investigation, the Ministry will seek to confirm whether such goods are produced using forced labor. If the Ministry determines that the goods were made with forced labor, its finding, in the form of a resolution, will be published on the Ministry’s website. Thereafter the covered goods will be prohibited from entering Mexico.
Review Procedure	When the Ministry has formally admitted a request for review or unofficially determines that it has sufficient evidence to initiate an investigation, it will use the following procedure: Request relevant information from foreign authorities or institutions responsible for forced or compulsory labor in the applicable countries, including the country of origin of the goods under review or countries through which the goods passed.

	• If foreign authorities or institutions do not determine forced labor was used in the production of the goods under review, the Ministry will request that the importer of the goods provide any other relevant information or documentation related to the purchase and production of the goods within 20 business days. • The Ministry may submit follow-up requests to the importer of the goods, seek input from civil society organizations and other public entities or collaborate with local authorities in other countries. • The Ministry will issue a determination within 180 business days from the date of submission of the application. If a person requests the review of a prior determination to have it rescinded because the use of forced labor in the production of the goods has ceased, and the person provides all necessary documentation in support of such assertion, the Ministry will cooperate with trading partners and re-initiate the review procedure.
Additional Information/Resources	
Law	Text of the Regulation (in Spanish).
Guide for Implementation	For the Mexican government's guide for implementation of the Regulation (in Spanish), click here .
Ropes & Gray Resources	Client alert related to the Regulation: • Mexico Bans Imports Made with Forced Labor in Alignment with the USMCA (March 6, 2023) (link here).

Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Countering America’s Adversaries Through Sanctions Act, Section 321 United States

Overview

Law / Country	Section 321 of the Countering America’s Adversaries Through Sanctions Act (22 U.S.C. § 9241(a)) (the “ Act ”) (United States)
Goal	Intended to primarily address North Korean state-sponsored labor in other countries, which helps to mitigate the effect of sanctions by providing hard currency to the North Korean government through workers’ remittances.
Adoption / Status	The Act was signed into law on August 2, 2017.
Issue Addressed	Forced labor
Covered Entities	Importers of goods into the United States produced using North Korean national or citizen labor.
How It Works	
Mandatory?	Yes.
Prohibited Imports	If goods were produced, manufactured or mined by North Korean nationals or North Korean citizens in any country, the Act creates a rebuttable presumption that the goods involved forced labor. Goods produced using forced labor may not be imported into the United States under Section 307 of the Tariff Act. Under the Act, such goods may be imported into the United States only if the Commissioner of U.S. Customs and Border Protection (“ CBP ”) finds by clear and convincing evidence that the goods were not produced using slave or forced labor. The burden of proof is held by the importer of the goods in question and is difficult to satisfy.
Enforcement	CBP and U.S. Immigration and Customs Enforcement (“ICE”) enforce the Act through both civil and criminal enforcement actions. If CBP finds evidence that goods have been produced with North Korean forced labor, CBP will deny entry and may detain, seize or seek forfeiture of the goods. ICE Homeland Security Investigations (“HSI”) may commence a criminal investigation. CBP and HSI consider a company’s due diligence when contemplating enforcement action.
DHS Guidance – March 2018 (updated February 2021)	In March 2018, the U.S. Department of Homeland Security published FAQs relating to the Act. Updated FAQs were published on February 11, 2021. The FAQs recommend that companies review due diligence best practices and closely reexamine their entire supply chain with the knowledge of high-risk countries and sectors for North Korean workers. The FAQs provide the following examples of actions that may be taken to ensure due diligence: - A high-level statement of policy demonstrating the company’s commitment to respect human rights and labor rights; - A rigorous continuous risk assessment of actual and potential human rights and labor impacts or risks of company activities and relationships, which is undertaken in consultation with relevant stakeholders, such as governments,

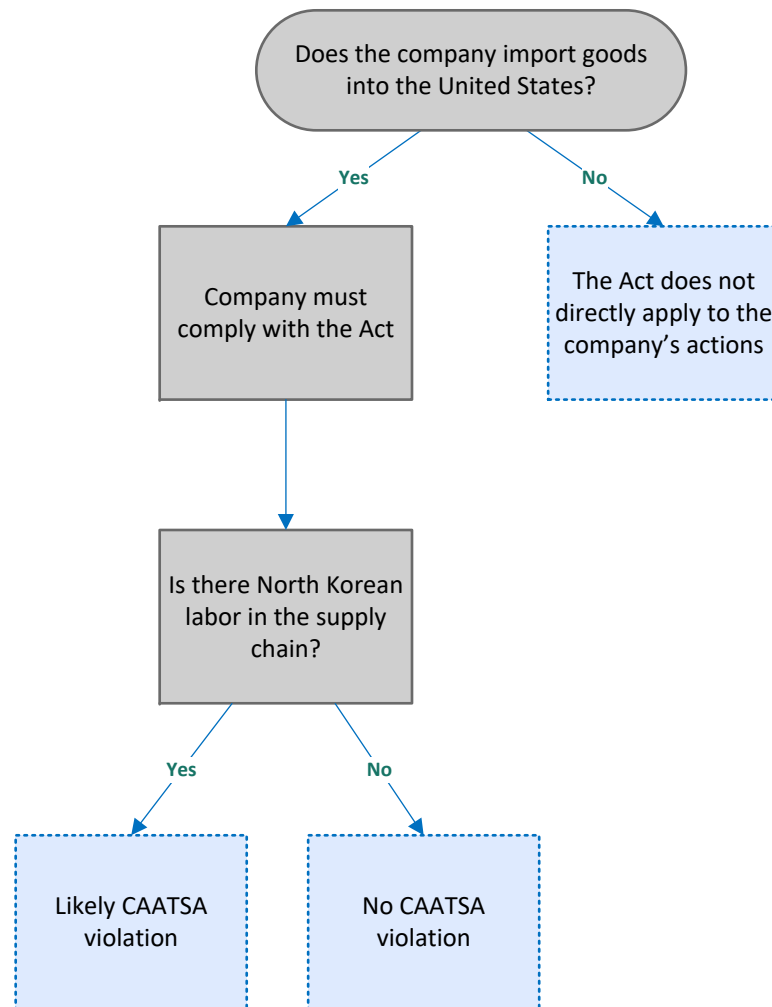
	local business partners and members of civil society such as local communities, workers, trade unions, vulnerable groups and NGOs; • Integrating the foregoing commitments and assessments into internal control and oversight systems of company operations and supply chains; and • Tracking and reporting on areas of risk. The FAQs also indicate that importers have the responsibility to exercise reasonable care. To demonstrate reasonable care, an importer may present any material that it chooses to, which may include comprehensive due diligence efforts that may have been undertaken, such as: • Information demonstrating meaningful engagement with affected stakeholders, including workers and trade unions, as part of the due diligence process; • Workforce composition at the location in question; • Training materials on North Korean forced labor prohibitions that have been provided to suppliers and sub-contractors; • Company policies, and evidence of implementation, on using North Korean laborers; • Contracts with suppliers and sub-contractors that state the company's policy on North Korean forced labor; • Publishing the full names of all authorized production units and processing facilities, the worksite addresses, the parent company of the business at the worksite, the types of products made, and the number of workers at each worksite; • Information on how and to whom wages are paid at the location; • Information demonstrating that recruitment agencies are within the scope of any third-party audit with suppliers; • Documents verifying the use of authorized recruitment agencies and brokers or that the company uses direct recruitment; • Documents verifying that the fee structure presented by the recruitment agency is transparent and has been verified through worker interviews; • If the company has reimbursed any fees paid, verification of such reimbursement; • Demonstrated commitment to human rights and labor due diligence at the highest levels of the company; and • Results of the company's human rights and labor impact assessments.
DoS Guidance – July 2018	In July 2018, the U.S. State Department, with Treasury's Office of Foreign Assets Control and CBP and ICE, issued a North Korea Sanctions & Enforcement Actions Advisory. The advisory identifies five areas of heightened risk for and potential indicators of goods and services with a North Korean nexus, including subcontracting or consignment firms, mislabeled goods, joint ventures, raw materials or goods provided at artificially low prices and information technology services and products. The advisory also discusses five categories of potential indicators of North Korean overseas labor, including: • Withholding wages, making unreasonable pay deductions, paying wages late and making in-kind payments;

	• Long-term contracts that require a large upfront payment to the North Korean government; • Unsafe and unsanitary housing conditions provided by the employer and excessive costs for those accommodations; collective housing and isolation from laborers of other nationalities; • No access to/control over bank accounts; the employer retains passports and/or confiscates or destroys laborers’ personal documents; little to no time off and required to attend mandatory self-criticism sessions; and • Contract details are hidden and it is difficult to determine the ultimate beneficiary of financial transactions; laborers cannot be interviewed without a “minder” present. In addition, the guidance identifies 12 industries and 41 countries in which North Korean overseas labor was present in 2017-2018.
Additional Information/Resources	
Law	Text of the Act .
Guidance	For the updated February 2021 DHS Guidance, click here. For the July 2018 DoS Guidance, click here.
Ropes & Gray Resources	Client alerts related to the Act: • Complying with Restrictions on North Korean Content and Labor in Supply Chains – U.S. Government Publishes New Advisory (July 30, 2018) (link here). • Department of Homeland Security Publishes FAQs on North Korean Labor in Supply Chains (April 5, 2018) (link here). • U.S. Legislation Requires Enhancements to Modern Slavery Compliance Procedures to Address North Korean Labor Risks (December 18, 2017) (link here).

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Customs Trade Partnership Against Terrorism (CTPAT) – Security and Trade Compliance Programs United States

Overview

Program / Country	Customs Trade Partnership Against Terrorism (“CTPAT”) – Security and Trade Compliance Programs (United States)
Goal	To promote U.S. border security and combat terrorism.
Adoption / Status	Originally, known as CTPAT Security, the program functioned as a voluntary collaboration between U.S. Customs and Border Protection (“CBP”) and supply chain stakeholders – including importers, carriers, consolidators, licensed custom brokers and manufacturers – to promote U.S. border security and combat terrorism. In 2016, CTPAT launched its Trusted Trader Strategy to incorporate trade compliance elements from the Importer Self-Assessment program (the “ISA”). The effort to integrate the ISA program resulted in the March 2020 establishment of CTPAT Trade Compliance, a program that allows importers to assume responsibility for monitoring their own compliance with trade laws and regulations. In 2022, new forced labor requirements were added to the CTPAT Security and Trade Compliance Programs. Note that this summary is largely limited to the forced labor requirements of the CTPAT programs.
Issues Addressed	• Border security • Forced labor • Terrorism
Eligibility	The eligibility and minimum security criteria for the CTPAT Security program vary according to industry. For an importer to be eligible to join the CTPAT Security program, the importer must meet the following threshold requirements: • Be an active U.S. importer or non-resident Canadian importer that has imported goods into the United States within the last 12 months of applying; • Have an active U.S. importer of record number; • Have a valid continuous import bond registered with CBP; • Operate a business office staffed in the United States or Canada; • Designate a company officer who will be the primary cargo security officer responsible for CTPAT; • Sign the CTPAT Importer Agreement, committing to maintain the CTPAT supply chain security criteria; • Create and provide a supply chain security profile in the CTPAT portal that identifies how the importer will meet and maintain CTPAT importer security criteria; and • Have no unpaid debt owed to CBP at the time of the application for which a final judgment or administrative disposition has been rendered.

	Eligibility for the CTPAT Trade Compliance program requires that importers have Tier II or Tier III account holder status including the following: • Be a U.S. or Canadian resident importer; • Have a minimum of two years import experience; and • Maintain no evidence of financial debt to CBP.
How It Works	
Mandatory?	No.
Compliance Requirements	<u>CTPAT Security</u> CTPAT Security partners are required to have a documented social compliance program in place that addresses how the partner ensures that goods imported into the United States were not mined, produced or manufactured, wholly or in part, with forced, imprisoned or indentured child labor. CTPAT partners are required to upload to the applicable CTPAT portal evidence that they have implemented a social compliance program addressing forced labor prevention, including a copy of the partner's code of conduct. <u>CTPAT Trade Compliance</u> CTPAT Trade Compliance partners must meet the following six forced labor prevention compliance requirements: • Risk-based mapping. Partners must conduct risk-based mapping that outlines supply chains in their entirety, including regions and suppliers that they feel pose the most risk for forced labor. CBP may request unredacted proof of supply chain mapping. • Code of conduct. Partners must put in place a code of conduct statement indicating their position against the use of forced labor in any part of their supply chains. FAQs published by CBP in July 2022 indicate that the commitment to business mapping (see above) should be included in the code of conduct. The code of conduct also must be included in the importer's social compliance program that focuses on forced labor. In addition, partners must have policies and procedures that operationalize the code of conduct. The code of conduct statement must be uploaded to the CTPAT online portal and published publicly. • Evidence of implementation. Partners must provide CBP with evidence of the implementation of their social compliance program, including, if requested, their risk assessment. Examples of evidence include unredacted audits of high-risk supply chains related to forced labor, internal training programs for employees on identifying signs of forced labor and mechanisms used to show the supply chain is free of forced labor. • Due diligence and training. Partners must provide training to suppliers on the partner's social compliance program requirements that identifies the specific risks and helps identify and prevent forced labor in the supply chain. Training should exemplify the partner's position against forced labor as stated in its code of conduct and must ensure that the supplier's business model and code of conduct expressly state that it will not partner with businesses that use forced labor. Proof of training must be made available to CBP upon request.

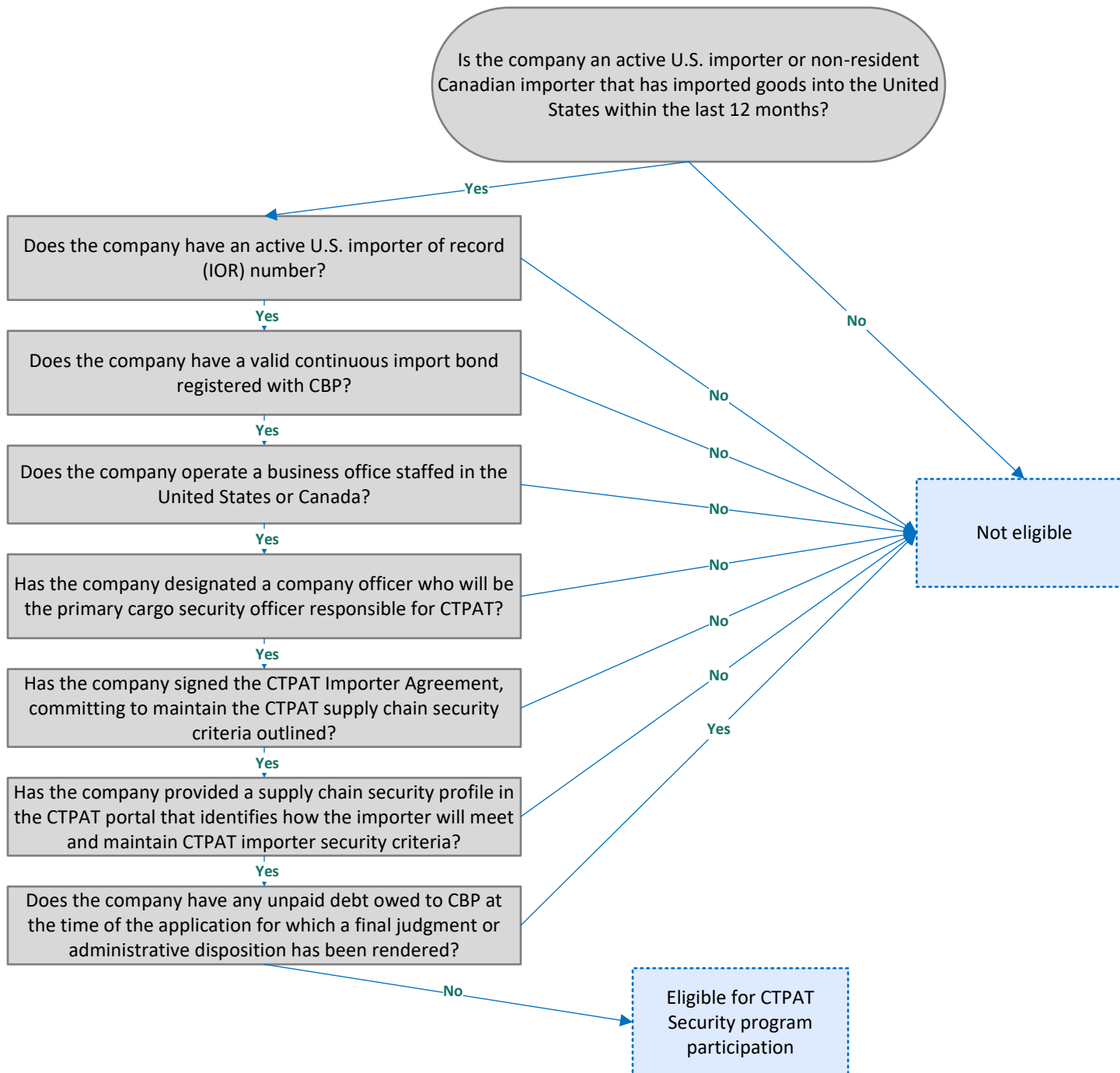
	• Remediation plan. Partners must have remediation plans in the event that forced labor is identified in their supply chains. A remediation plan must include the process for disclosing information to CBP and outline the necessary steps for the partner's employees and suppliers to correct the issue. Remediation plan information must be provided to CBP upon request. • Shared best practices. Partners are required to share best practices with the CTPAT Trade Compliance program, as appropriate, to help mitigate the risk of forced labor.
Enforcement	CTPAT partners who fail to comply with the forced labor requirements may be subject to suspension or removal from the program.
Benefits	Partner companies that demonstrate compliance with program requirements receive various trade facilitation benefits, including the following: • Reduced number of CBP examinations; • Front of the line inspections; • Possible exemption from Stratified Exams; • Shorter wait times at the border; • Assignment of a Supply Chain Security Specialist to the company; • Access to the Free and Secure Trade (FAST) Lanes at land borders; • Access to the CTPAT web-based portal system and a library of training materials; • Possibility of enjoying additional benefits by being recognized as a trusted trade partner by foreign customs administrations that have signed mutual recognition with the United States; • Eligibility for other U.S. government pilot programs, such as the Food and Drug Administration's Secure Supply Chain program; • Business resumption priority following a natural disaster or terrorist attack; • Importer eligibility to participate in the Importer Self-Assessment Program; and • Priority consideration at CBP's industry-focused Centers of Excellence and Expertise. In November 2022, CTPAT's Director sent a letter to trade partners announcing the addition, with immediate effect, of three forced labor compliance-related benefits for Trade Compliance partners: • Front of the line admissibility review. CTPAT Trade Compliance partners who have shipments detained due to forced labor will have their admissibility packages prioritized for review by the appropriate Center of Excellence and Expertise. • Redelivery hold. If a shipment that arrived at a CTPAT Trade Compliance partner's facility is later determined to be held due to ties to forced labor, the partner may hold the shipment at its facility, rather than redelivering the goods to CBP, until an admissibility determination is made or a physical inspection is required.

	• Movement of detained WRO shipments to a bonded facility. CTPAT Trade Compliance partners who have a shipment detained by CBP due to a Withhold Release Order will be allowed to move the goods to a bonded facility to be held intact until an admissibility determination is made by CBP.
Additional Information/Resources	
Program Application	For information on the CTPAT application process, click here .
FAQs	For FAQs related to applying for CTPAT, click here. For FAQs related to trade compliance, click here.
Trade Compliance Handbook	For the Trade Compliance Handbook, click here .
Importer's Minimum Security Criteria	For the Importer's Minimum Security Criteria, click here .
Ropes & Gray Resources	Client alert related to CTPAT: • Preparing for New CTPAT Forced Labor Compliance Requirements (December 5, 2022) (link here).

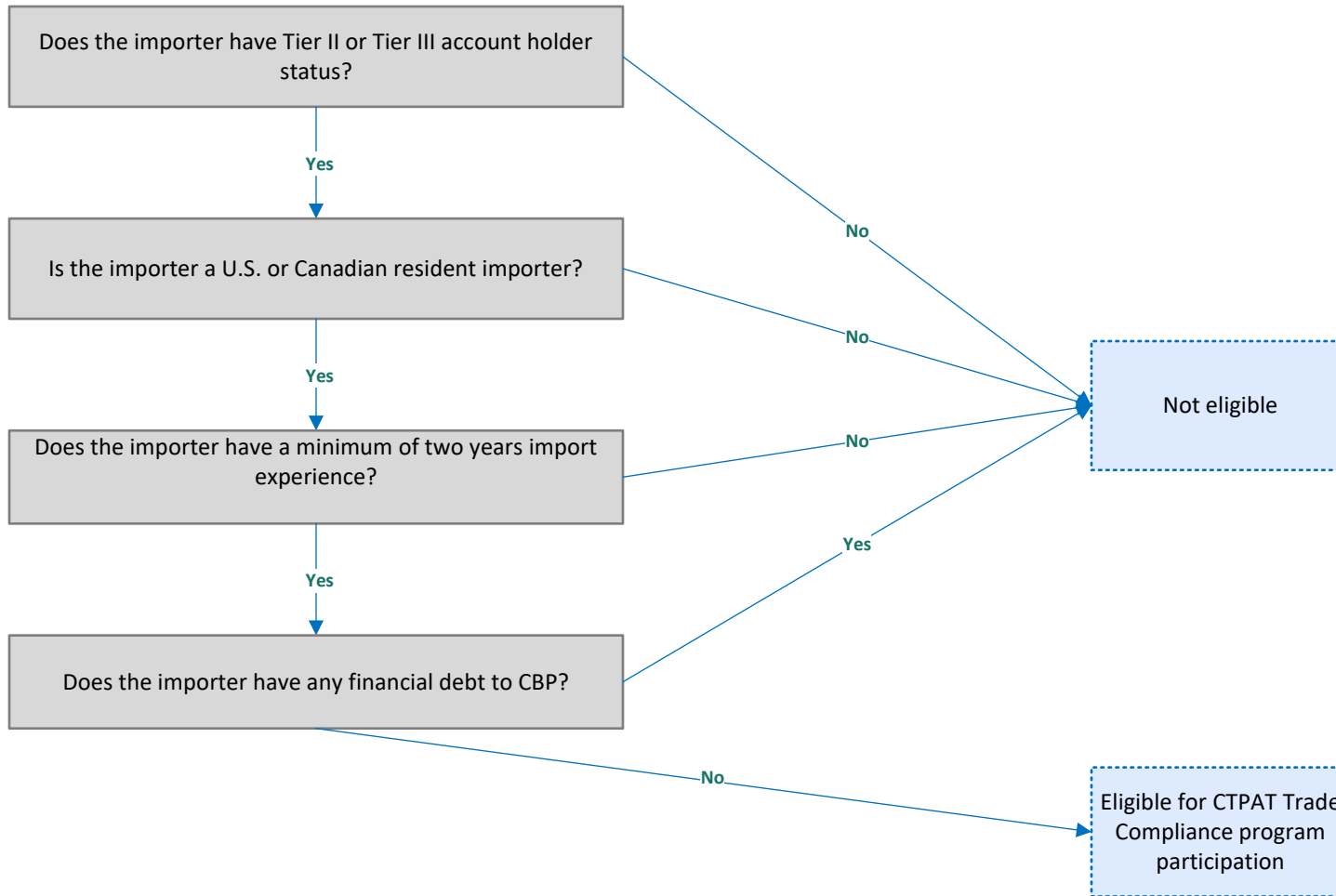
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(Updated February 28, 2025)

Eligibility for CTPAT Security Program



Eligibility for CTPAT Trade
Compliance Program



U.S. Tariff Act, Section 307

United States

Overview

Law / Country	Section 307 of the U.S. Tariff Act (19 U.S.C. § 1307) (United States)
Goal	To ensure that goods being imported into the United States are not being produced using forced labor.
Adoption / Status	The U.S. Tariff Act (the “ Act ”) came into force in 1930. However, an exception to Section 307, known as the “consumptive demand exception,” substantially curtailed the applicability of Section 307. The Trade Facilitation and Trade Enforcement Act of 2015 (“ TFTEA ”), which entered into force on March 10, 2016, eliminated the consumptive demand exception.
Issues Addressed	• Forced labor • Prison labor
Covered Entities	Importers of goods into the United States.
How It Works	
Mandatory?	Yes.
Prohibited Imports	Under Section 307, goods, wares, articles and merchandise mined, produced or manufactured wholly or in part in a foreign country by convict, forced or indentured labor under penal sanctions are not entitled to entry into the United States and its importation is prohibited. Forced labor is any work or service exacted from a person under the threat of penalty and the person has not offered to perform the work voluntarily. Forced labor and indentured labor include forced or indentured child labor.
Enforcement	Section 307 is enforced by U.S. Customs and Border Protection (“CBP”). After CBP receives a petition from customs officers or an interested party that goods have been produced by forced labor, CBP can begin an investigation into the goods in question. If CBP decides conclusively the goods were made with forced labor in another country, among other things, CBP may seize the goods and initiate forfeiture proceedings. If CPB decides the available information reasonably, but not conclusively, indicates that goods made with forced labor are being or will be imported, CPB may require the importing company to submit supplementary documentation. Violations of Section 307 can also result in fines. In addition, if the Commissioner of CBP finds the information provided “reasonably but not conclusively” indicates that the goods may be the product of forced labor, the Commissioner can issue a withhold release order (“WRO”), banning the goods’ entry into the United States. An importer has three months to contest a WRO and must demonstrate that “every reasonable effort” has been made to determine the source/type of labor used to produce the good and its components. If the importer is not successful in their case, then CBP may consider the goods abandoned and destroy them.

	Since the repeal of the consumptive demand exception, CBP has issued WROs covering the following goods (only active and partially active WROs listed below): • All products (March 2018, Huizhou Mink Industrial CO.LTD., China) • Artisanal rough cut diamonds (September 2019, Marange Diamond Fields, Zimbabwe) • Cotton (May 2018, all Turkmenistan cotton or products produced in whole or in part with Turkmenistan cotton) • Frankincense and frankincense-based products (November 2024, Asli Maydi, Somalia) • Fresh tomatoes (October 2021, Agropecuarios Tom S.A. de C.V. and Horticola Tom S.A. de C.V. and their subsidiaries, Mexico) • Garments (August 2020, Hero Vast Group, China) • Gold (September 2019, artisanal small mines in the DRC (CBP removed imports by the Chambers Federations from the order in May 2020)) • Palm oil and palm oil products (September 2020, FGV Holdings Berhad and its subsidiaries and joint ventures, Malaysia) • Peeled garlic (September 2016, Hongchange Fruits & Vegetable Products Co., Ltd., China) • Seafood (August 2020, Fishing Vessel: Da Wang; December 2020, Fishing Vessel: Lien Yi Hsing No. 12; May 2021, Fishing Vessels owned by Dalian Ocean Fishing Co. Ltd; August 2021, Fishing Vessel: Hangton No. 112) • Soda ash, calcium chloride and caustic soda (March 2016, Tangshan Sanyou Group and its subsidiaries, China) • Stevia and its derivatives (May 2016, Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC, China; October 2020, Inner Mongolia Hengzheng Group Baoanzhao Agriculture, Industry, and Trade Co., Ltd., China) • Tobacco and products containing tobacco (November 2019, Malawi (CBP removed products produced by Premium Tobacco Malawi Lt (PTML), Limbe Leaf Tobacco Company Limited (LLTC) and Alliance One International from the order in March 2021, July 2020 and June 2020, respectively) • Work gloves (April 2024, Shanghai Select Safety Products Company, Limited and its subsidiaries Select (Nantong) Safety Products Co. Limited and Select Protective Technology (HK) Limited, China) Enforcement of certain China-related WROs has been superseded by enforcement of the Uyghur Forced Labor Prevention Act's ("UFLPA") rebuttable presumption and these WROs are not included in the list above. The types of products connected to Xinjiang Uyghur Autonomous Region ("XUAR") labor and covered by such WROs include apparel and garments, computer parts, cotton and cotton products, hair products, tomatoes and downstream products and silica-based products. The UFLPA is discussed in a separate summary. In addition, since the repeal of the consumptive demand exception, CBP has published the following findings (only active findings listed below): • In December 2024, a finding was issued covering aluminum extrusions and profile products by Kingtom Aluminio S.R.L. (Dominican Republic)
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	• In January 2022, a finding was issued covering seafood from Da Wang fishing vessels • In October 2020, a finding was issued covering stevia extracts and derivatives produced by Inner Mongolia Hengzheng Group Baoanzhao Agriculture, Industry, and Trade Co., Ltd.
Reasonable Care Guidance	CPB's Informed Compliance Publication on Reasonable Care includes guidance to help companies comply with Section 307 of the Act. Under the guidance, the following can be evidence of reasonable care: • Have you established reliable procedures to ensure you are not importing goods in violation of Section 307 of the Act? • Do you know how your goods are made, from raw materials to finished goods, by whom, where, and under what labor conditions? • Have you reviewed CBP's "Forced Labor" webpage, which includes a list of active WROs and findings, as well as forced labor fact sheets? • Have you reviewed the Department of Labor's "List of Goods Produced by Child Labor or Forced Labor" to familiarize yourself with at-risk country and commodity combinations? • Have you obtained a "ruling" from CBP regarding the admissibility of your goods under Section 307 of the Act and, if so, have you established reliable procedures to ensure that you followed the ruling and brought it to CBP's attention? • Have you established a reliable procedure of conducting periodic internal audits to check for forced labor in your supply chain? • Have you established a reliable procedure of having a third-party auditor familiar with evaluating forced labor risks conduct periodic, unannounced audits of your supply chain for forced labor? • Have you reviewed the International Labour Organization's "Indicators of Forced Labour" booklet? • Do you vet new suppliers/vendors for forced labor risks through questionnaires or some other means? • Do your contracts with suppliers include terms that prohibit the use of forced labor, a time frame by which to take corrective action if forced labor is identified, and the consequences if corrective action is not taken, such as the termination of the contractual relationship? • Do you have a comprehensive and transparent social compliance system in place? Have you reviewed the Department of Labor's "Comply Chain" webpage? • Have you developed a reliable program or procedure to maintain and produce any required customs entry documentation and supporting information?
Xinjiang Supply Chain Advisory	In July 2021, the U.S. Department of State, along with the U.S. Department of the Treasury, the U.S. Department of Commerce, the U.S. Department of Homeland Security, the Office of the U.S. Trade Representative and the Department of Labor, issued an updated business advisory concerning forced labor risks associated with XUAR labor. This updates the original business advisory issued by U.S. government agencies on July 1, 2020. The updated advisory notes that, where evidence indicates that goods from Xinjiang are produced with forced, indentured or convict labor, CBP will deny U.S. entry to those goods, which could lead to the goods being seized and forfeited, or the issuance of civil penalties against the importer and other parties.

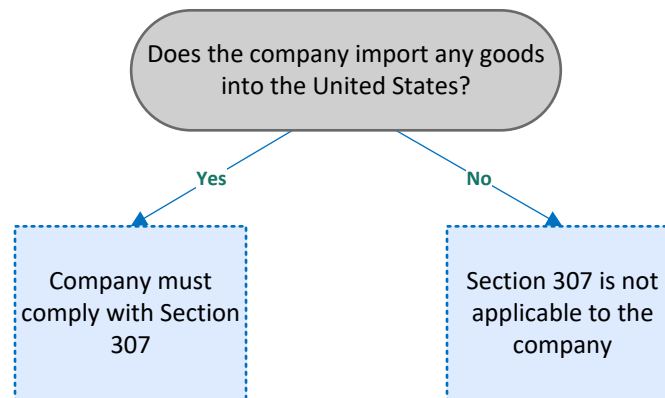
	In some respects, the advisory is superseded by the UFLPA and the strategy and guidance issued in connection with the UFLPA. CPB’s guidance advises importers to review the advisory as a resource for supply chain due diligence, tracing and management. As noted above, the UFLPA is discussed in a separate summary. On September 26, 2023, the same U.S. government agencies issued an addendum to the July 2021 advisory. The addendum highlights and summarizes reports from governmental and non-governmental resources about the continuing human rights abuses in the XUAR and the risks in supply chains posed by state-sponsored forced labor and other human rights abuses in the XUAR. The addendum also indicates that the strategy and guidance issued in connection with the UFLPA may be of interest to businesses, and it provides an update on UFLPA enforcement and other updates and U.S. government actions to address human rights abuses in the XUAR. The advisory notes the following warning signs of forced labor in the operating environment in the XUAR: • Lack of transparency. Companies operating in the XUAR using shell companies to hide the origin of their goods, writing contracts with opaque terms and conducting financial transactions in such a way that it is difficult to determine where the goods were produced, or by whom. • Social insurance programs. Companies operating in the XUAR disclosing high revenue but having very few employees paying into the government’s social security insurance program. • Terminology. Any mention of internment terminology (such as Education Training Centers or Legal Education Centers) coupled with poverty alleviation efforts, ethnic minority graduates or involvement in reskilling. • Government incentives. Companies operating in the XUAR receiving government development assistance as part of the government’s poverty alleviation efforts or vocational training programs and companies involved in the mutual pairing assistance program or companies receiving subsidies for energy, transportation, and labor costs. • Government recruiters. Companies operating in the XUAR implementing non-standard hiring practices and/or hiring workers through government recruiters. • Any XPCC Affiliates. XPCC-affiliated entities are part of the prison labor system and manufacture goods beyond cotton products. In July 2020, the Department of the Treasury sanctioned XPCC pursuant to its Global Magnitsky sanctions authority, and XPCC, including XPCC Public Security Bureau, is on the Department of Commerce’s Entity List (see further detail below). Exports, reexports or transfers (in-country) of items subject to the Export Administration Regulations (the “EAR”), where XPCC or XPCC Public Security Bureau are a party to the transaction (e.g., end-user, purchaser, intermediate or ultimate consignee), require a license from the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”). CBP has also issued a WRO against XPCC cotton (see below). • Business Location and Affiliation. Companies operating in the XUAR located within the confines of or near internment camps and prisons or within the confines of or adjacent to industrial parks involved in the government’s poverty alleviation efforts are at increased risk of forced labor. New factories built near internment camps and prisons are also suspect. Any businesses owned by or contracting with a prison enterprise are very likely engaged in forced labor. • Goods Included on the U.S. Department of Labor’s List of Goods Produced by Child Labor or Forced Labor. The Department of Labor maintains the Trafficking Victims Protection Reauthorization Act (“TVPRA”) List, a list of goods
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	and their source countries which it has reason to believe are produced by child labor or forced labor in violation of international standards. • <i>Companies on the U.S. Department of Commerce’s Entity List.</i> The Department of Commerce’s Entity List identifies entities reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. Exports, reexports or transfers (in-country) of items subject to the EAR where such entities are a party to the transaction (e.g., end-user, purchaser, intermediate or ultimate consignee) require a license from BIS. • <i>Companies and Products under Customs and Border Protection Withhold Release Orders.</i> WROs are issued based on information available that reasonably but not conclusively indicates that merchandise within the purview of Section 307 is being or is likely to be imported into the United States. • <i>Entities on the U.S. Department of Treasury’s Specially Designated Nationals and Blocked Persons List.</i> The Department of the Treasury’s Office of Foreign Asset Control’s (“OFAC”) List of Specially Designated Nationals and Blocked Persons (“SDN List”) includes Chinese officials and entities that are subject to economic sanctions. All property and interests in property with respect to such sanctioned entities (and any entities 50 percent or more owned, directly or indirectly, individually or in the aggregate, by one or more blocked persons) are blocked, and U.S. persons are generally prohibited from conducting transactions or dealings with such blocked persons unless the activity is exempt or authorized by OFAC. The advisory includes an illustrative, non-exhaustive list of industries in the XUAR in which public reporting has indicated labor abuses may be taking place. The advisory indicates that businesses should consider the list as an additional risk factor for human rights due diligence. The following industries are on the list: (1) agriculture (including products such as raw cotton, hami melons, korla pears, tomato products and garlic); (2) cell phones; (3) cleaning supplies; (4) construction; (5) cotton, cotton yarn, cotton fabric, ginning, spinning mills and cotton products; (6) electronics assembly; (7) extractives (including coal, copper, hydrocarbons, oil, uranium and zinc); (8) fake hair and human hair wigs and hair accessories; (9) food processing factories; (10) footwear; (11) gloves; (12) hospitality services; (13) metallurgical grade silicon; (14) noodles; (15) printing products; (16) renewable energy (polysilicon, ingots, wafers, crystalline silicon solar cells and crystalline silicon solar photovoltaic modules); (17) stevia; (18) sugar; (19) textiles (including apparel, bedding, carpets and wool); and (20) toys.
Uyghur Forced Labor Prevention Act	The UFLPA took effect on June 21, 2022. The UFLPA establishes a rebuttable presumption that goods produced or manufactured, wholly or in part, in the XUAR or by persons working with the XUAR government for purposes of pairing and other government-sponsored labor programs are produced using forced labor and therefore prohibited from being imported into the United States under Section 307 of the U.S. Tariff Act. Please see the separate summary of the UFLPA for more information.
Additional Information/Resources	
Law	Text of the Act. Text of the TFTEA.

CPB's Reasonable Care Guidance	For CPB's Reasonable Care Guidance, click here .
Xinjiang Supply Chain Advisory Update	For the Xinjiang Supply Chain Advisory Update, click here . For the Xinjiang Supply Chain Advisory Update Addendum, click here .
TVPRA List	For the TVPRA List, click here .
UFLPA Entity List	For the UFLPA Entity List, click here (updated January 2025).
WRO List	For the WRO List, click here .
OFAC SDN List	For the OFAC SDN List, click here .
Ropes & Gray Resources	Client alerts related to the Act: • UFLPA Entity List Significantly Expanded – Last Salvo of the Biden Administration or a Foreshadowing of Things to Come? (November 25, 2024) (link here). • U.S. Department of Homeland Security Releases Updated UFLPA Strategy (July 10, 2024) (link here). • A Big Week for Forced Labor Regulation: Record Expansion of the UFLPA Entity List and a New Florida Law (May 10, 2024) (link here). • U.S. Congressional Committee seeks stronger Uyghur Forced Labor Prevention Act enforcement (February 5, 2024) (link here). • Updated Uyghur Forced Labor Prevention Act enforcement stats released (September 26, 2023) (link here). • Recently Released UFLPA Enforcement Statistics Underscore the Need for Robust Due Diligence Processes (March 22, 2023) (link here). • Complying with the Uyghur Forced Labor Prevention Act – A detailed Compliance Roadmap (June 28, 2022) (link here). • President Biden Signs Uyghur Forced Labor Prevention Act – Overview and Near-Term Compliance Recommendations (January 4, 2022) (link here). • U.S., Canadian and U.K. Governments Put Additional Pressure on Xinjiang Sourcing and Related Corporate Compliance Programs (January 19, 2021) (link here). • House Passes Legislation that Would Restrict U.S. Imports of Xinjiang Goods and Require Disclosure of Xinjiang-related Activities by Public Companies (September 28, 2020) (link here). • U.S. Government Agencies Issue Xinjiang Supply Chain Advisory (July 22, 2020) (link here).

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(Updated February 28, 2025)

Applying the Law



Uyghur Forced Labor Prevention Act United States

Overview

Law / Country	Uyghur Forced Labor Prevention Act (Public Law 117-78) (the “Act”) (United States)
Goal	To address forced labor in supply chains.
Adoption / Status	The Act was signed into law by President Biden on December 23, 2021. The forced labor presumption went into effect on June 21, 2022.
Issue Addressed	Forced labor
Covered Entities	Importers of goods into the United States.
How It Works	
Mandatory?	Yes.
Prohibited Imports	The Act establishes a rebuttable presumption that goods, wares, articles and merchandise mined, produced or manufactured wholly or in part (for brevity, “goods” that are “produced”) in the Xinjiang Uyghur Autonomous Region of China (the “XUAR”), or by persons working with the XUAR government for purposes of pairing and other government-sponsored labor programs, are produced using forced labor and therefore are prohibited from being imported into the United States under Section 307 of the Tariff Act. Specific entities found by the Department of Homeland Security (“DHS”) to be associated with forced labor in the XUAR are set forth on a published list (the “Entity List”). DHS most recently expanded the Entity List on January 14, 2025. As framed in the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People’s Republic of China (the “Strategy”) which was issued by the Forced Labor Enforcement Task Force (the “FLETF”), U.S Customs and Border Protection (“CBP”) indicated it would initially focus on enforcement in four high-risk sectors and the highest-risk goods, which includes goods imported directly from the XUAR into the United States and from entities on the Entity List. The Strategy identified these four high priority sectors: (1) apparel, (2) cotton and cotton products, (3) silica-based products (including polysilicon) and (4) tomatoes and downstream products. The 2023 Strategy Updates reiterated these high priority sectors. The 2024 Strategy Updates add three new additional high-priority sectors: (5) polyvinyl chloride (“PVC”), (6) aluminum and (7) seafood. However, goods involving other sectors also are being detained, as further discussed in this Summary. The Act supersedes prior Withhold Release Orders relating to the XUAR for goods imported on or after June 21, 2022.

	The Act authorizes the Commissioner of CBP (the “ Commissioner ”) to amend any other regulations relating to Withhold Release Orders in order to implement this portion of the Act.
CBP Guidance	The Act directs the FLETF to issue enforcement strategies. On June 17, 2022, the FLETF issued the Strategy. In accordance with the Act, the FLETF provides annual updates to the Strategy, including updates on July 26, 2023 (the “ 2023 Strategy Updates ”) and July 9, 2024 (the “ 2024 Strategy Updates ”). In addition, on June 13, 2022, Customs and Border Protection issued Operational Guidance for Importers that complements the Strategy (the “ Operational Guidance ”). The Strategy and Operational Guidance, as updated, are further discussed in this Summary.
Rebutting the Forced Labor Presumption	The forced labor presumption established by the Act applies unless it is determined by the Commissioner that it has been rebutted. In order to find that an exception exists, the Commissioner must find that: • By clear and convincing evidence, the goods in question were not produced wholly or in part with forced labor; • The importer has fully complied with guidance and implementing regulations issued pursuant to the Act; and • The importer has completely and substantively responded to all inquiries for information submitted by the Commissioner to ascertain whether the goods were produced wholly or in part with forced labor.
Admissibility Submissions	In the event an importer wishes to import detained goods, the Operational Guidance organizes required documentation into five categories: 1. Due diligence system information; 2. Supply chain tracing information; 3. Information on supply chain management measures; 4. Evidence goods were not produced in the XUAR; and 5. Evidence goods originating in China were not produced with forced labor. For importers contending imports are not within the purview of the Act, the second (supply chain tracing information) and fourth (evidence goods were not produced in the XUAR) categories of information apply. Importers requesting an exception to the UFLPA’s forced labor presumption are to look to the first (due diligence system information), second (supply chain tracing information), third (information on supply chain management measures) and fifth (evidence goods originating in China were not produced with forced labor) categories. As noted above, importers seeking to import detained goods must respond to all inquiries for information submitted by the Commissioner to ascertain whether the goods were produced using forced labor. The Strategy and Operational Guidance provide examples of documentation that could be used to satisfy the required showing under each category above. The Operational Guidance is not intended to be an exhaustive list of the documentation CBP may request. In February 2023, CBP issued additional guidance for importers when submitting documentation for an applicability review by CBP: Best Practices for Applicability Reviews: Importer Responsibilities (the “Best Practices”) and Guidance on Executive Summaries and Sample Tables of Contents: Preparing a UFLPA Applicability Review Submission (the “Submission Guidance”). Like the Operational Guidance, neither the Best Practices nor the Submission Guidance are exhaustive, but they provide

examples of the document submissions that an importer may present to CBP when seeking to have a detention lifted. The examples set forth in the Best Practices include:

- **Documents Demonstrating the Parties Participating in the Transaction:** Records illustrating all parties involved in the sourcing, manufacture, manipulation, transportation, and/or export of a particular good (e.g., summaries of the roles of parties involved as substantiated by other supporting documents, and a flow chart of the supply chain);
- **Documentation Relating to the Payment and Transportation of Raw Materials:** Documents demonstrating the origin of the raw materials and records showing that business transactions related to the payment and transport of inputs (e.g., invoices, contracts, and purchase orders) have occurred, including financial documents substantiating the transaction (e.g., proof of payments) and documents demonstrating that the goods were physically transferred from one entity to another; and
- **Transaction and Supply Chain Records:** Full records of transactions and supply chain documentation that demonstrate the country of origin of the imported good and of its components (e.g., packing list, bill of lading, and manifest).

The Best Practices note that CBP takes into consideration the totality of the information provided by the importer. The Best Practices also give examples of documents that could be provided by a solar panel importer and an apparel importer.

The Submission Guidance provides illustrative guidance on executive summaries and tables of contents for importer applicability review submissions. The Submission Guidance notes that each package of documents should be well organized and include an executive summary explaining the documents contained in the package, including the following:

- **Annotated document list:** An index of the documents provided, listed out according to supply chain level, and a brief explanation of the purpose of the document and, in some cases, the significance of the document or a highlight of the relationship of the document to the others in the package. The executive summary should also mention any key pieces of information shown on a document (e.g., purchase order, contract number, or other relevant data). Documents should be numbered for ease of reference.
- **Summary of supply chain:** The executive summary should include key information that connects each step in the transportation and manufacturing processes, such as detention number, entry number, bill of lading number, container numbers, contract numbers, purchase order numbers, production or work order numbers and other relevant information. This information may be provided in a spreadsheet or other type of document that illustrates the flow of the supply chain across each level.
- **Additional summary information:** Additional context or other information that the importer believes will be helpful for CBP to understand the documentation provided.

In November 2024, CBP published new guidance on isotopic testing, which addresses the use of light stable isotopic analysis to verify the growing region of certain commodities or products, particularly cotton. According to the guidance, CBP will consider laboratory test results as part of the total package of information that an importer submits to document their supply chain. However, CBP explicitly states that isotopic testing reports alone are not sufficient to release shipments detained in accordance with the Act. Isotopic testing reports are just one consideration that CBP may evaluate during reviews of supply

	chain documentation and are generally not sufficient to obtain release of detained cargo without other information. If an importer wants to obtain any samples from a detained shipment in order to conduct isotopic testing, the importer can make a request with the Port Director who detained the shipment.
Due Diligence	The Act required the FLETF to provide guidance to importers on due diligence, effective supply chain tracing and supply chain management measures to ensure that importers do not import goods produced with forced labor from China, especially from the XUAR. As used in the Strategy, due diligence includes assessing, preventing and mitigating forced labor risk in the production of goods imported into the United States. This construct is consistent with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. While systems may vary from industry to industry, the Strategy indicates that an effective due diligence system in any industry may include the following elements: • Engaging stakeholders and partners; • Assessing risks and impacts; • Developing a code of conduct; • Communicating and training across the supply chain; • Monitoring compliance; • Remediating violations; • Independent review; and • Reporting performance and engagement.
Enforcement	CBP may detain, exclude and seize and forfeit shipments that are within the scope of the Act. Importers may request an exception to the rebuttable presumption during a detention, after an exclusion or during the seizure process. CBP has five business days after being presented with goods to determine whether to release or detain the goods. If not released within the five business days, then the goods are considered detained. If CBP detains goods under the Act, then it will issue a detention notice to the importer, detailing the reason for detention and the anticipated length of detention. An importer is allowed 30 days to address the detention by either exporting the detained goods or providing documentation to contest the detention. If additional time beyond this 30-day period is needed to provide requested documents, an importer may request an extension from the Port Director or the Director of the applicable Center. To request an extension, importers should email the point of contact identified on the detention notice prior to the expiration of the initial 30-day detention period. The 2024 Strategy Updates highlight CBP's efforts to expand the use of technology and utilize new analytical modeling to strengthen the enforcement of the Act. Specifically, the 2024 Strategy Updates note that CBP is improving the processes used to identify illegal shipment schemes and determine additional companies for inclusion on the Entity List.

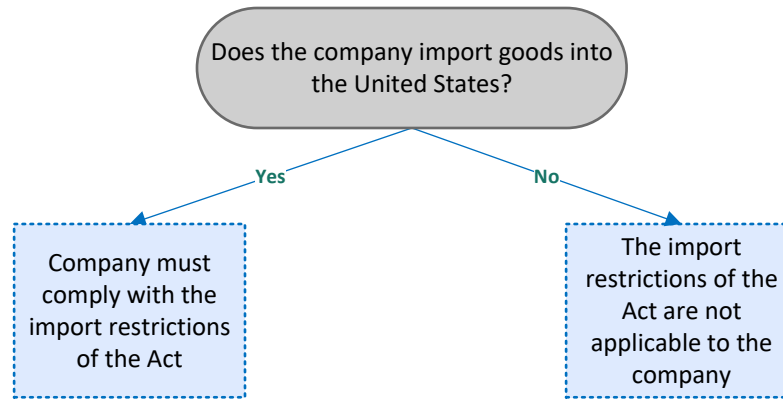
	CBP reports enforcement statistics on CBP.gov. This information includes an interactive dashboard containing data on the total number and value of shipments detained pursuant to the Act. <u>Selected Litigation</u> On June 9, 2023, the printing and imaging company Ninestar and its affiliates were added to the Entity List. Ninestar denies that it used forced labor and sued the U.S. government. On February 27, 2024, the U.S. Court of International Trade (the “CIT”) denied Ninestar’s request for a preliminary injunction to remove Ninestar from the Entity List. In July 2024, the CIT stayed Ninestar’s lawsuit for four months to allow the FLETF to review Ninestar’s petition for removal from the Entity List. The FLETF’s decision is still pending. This was the first case challenging an entity’s inclusion on the UFLPA Entity List. <u>Congressional Enforcement</u> On January 19, 2024, the House Select Committee on the Chinese Communist Party sent a letter to Department of Homeland Security Secretary regarding strengthening enforcement of the Act.
Additional Information/Resources	
Law	Text of the Act .
Entity List	For the Entity List, click here .
Enforcement Statistics	For the Uyghur Forced Labor Prevention Act Statistics, click here .
Strategy	Text of the Strategy. Text of the 2023 Strategy Updates. Text of the 2024 Strategy Updates.
Guidance Documents	For the Operational Guidance, click here. For the Best Practices, click here. For the Submission Guidance, click here. For the Isotopic Testing Guidance, click here.
FAQs	For Frequently Asked Questions about the Act, click here. For a Fact Sheet and additional Frequently Asked Questions from the U.S. Department of State, click here.
House Select Committee on the Chinese Communist Party Letter	For the House Select Committee on the Chinese Communist Party letter sent to Department of the Homeland Security Secretary, click here .

Ropes & Gray Resources	Client alerts related to the Act: • Biden Administration Makes Parting Record Additions to UFLPA Entity List. Trump 2.0 May Be Even Tougher (January 15, 2025) (link here). • UFLPA Entity List Significantly Expanded – Last Salvo of the Biden Administration or a Foreshadowing of Things to Come? (November 25, 2024) (link here). • U.S. Department of Homeland Security Releases Updates UFLPA Strategy (July 10, 2024) (link here). • A Big Week for Forced Labor Regulation: Record Expansion of the UFLPA Entity List and a New Florida Law (May 18, 2024) (link here). • U.S. Congressional committee seeks stronger Uyghur Forced Labor Prevention Act enforcement (February 5, 2024) (link here). • Updated Uyghur Forced Labor Prevention Act enforcement stats released (September 26, 2023) (link here). • Recently Released UFLPA Enforcement Statistics Underscore the Need for Robust Due Diligence Processes (March 22, 2023) (link here). • Complying with the Uyghur Forced Labor Prevention Act – a Detailed Compliance Roadmap (June 28, 2022) (link here). • President Biden Signs Uyghur Forced Labor Prevention Act – Overview and Near-term Compliance Recommendations (January 4, 2022) (link here).
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(Updated February 28, 2025)

Applying the Law



Federal Acquisition Regulation Anti-Human Trafficking Rule United States

Overview

Law / Country	Federal Acquisition Regulation Combating Trafficking in Persons Rule (42 CFR 22.17) (the “Rule”) (United States)
Goal	To ensure that contractors, subcontractors, their respective employees and agents do not engage in human trafficking or commercial sex acts or use forced labor in connection with U.S. federal contracts.
Adoption / Status	The effective date of the Rule was March 2, 2015. The Rule applies to contracts awarded on or after the effective date and new task orders under existing contracts. The Rule implements Executive Order 13627 (2012), “Strengthening Protections Against Trafficking in Persons in Federal Contracts.” On July 18, 2024, a new rule (FAR Case 2024-004, “Combating Trafficking in Persons--Definition and Agency Responsibilities”) was proposed to amend the Rule and clarify the definition of “sex trafficking” and update agency responsibilities. The proposed revisions clarify that patronizing or soliciting a person for the purpose of a commercial sex act, where the commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age, is a “severe form of trafficking in persons.” The proposed rule was approved by the Defense Acquisition Regulation on October 16, 2024 and is currently awaiting Civilian Agency Acquisition Council concurrence.
Issues Addressed	• Forced labor • Human trafficking
Covered Entities	The Rule applies to parties that contract with the U.S. federal government, their subcontractors and their respective employees and agents. The compliance plan and certification requirements (discussed below) apply to any portion of a contract or subcontract that: • Is for supplies, other than commercially available off-the-shelf (COTS) items, to be acquired outside the United States, or services to be performed outside the United States; and • Has an estimated value that exceeds \$550,000.
How It Works	
Mandatory?	Yes.
Prohibited Activities	The Rule prohibits contractors, subcontractors and their respective employees and agents from: • Engaging in severe forms of trafficking in persons during the contract performance period; • Procuring commercial sex acts during the period of contract performance; • Using forced labor in the performance of the contract;

	• Destroying, concealing, confiscating or otherwise denying access by an employee to the employee’s identity or immigration documents; • Using misleading or fraudulent practices during the recruitment of employees or offering of employment and using recruiters that do not comply with local labor laws; • Charging recruitment fees to employees; • Under certain circumstances, failing to provide or pay for return transportation upon the end of employment for employees brought into the country for the purpose of working on the contract or subcontract; • Providing or arranging housing that fails to meet the host country housing and safety standards; or • If required by law or contract, failing to provide an employment contract, recruitment agreement or other required work document in writing, and failing to satisfy certain other related requirements. The prohibited activities apply to all conduct, irrespective of dollar amount or location of performance. The contractor is required to contractually flow down the Rule’s requirements in its contracts with subcontractors and agents—including, if applicable, certification and compliance plan obligations. Subcontractors include both direct and indirect subcontractors.
Compliance Plan and Certifications	If a compliance plan is required (see test above), the contractor must certify: • That it has implemented a compliance plan and procedures to prevent any activities prohibited by the Rule and to monitor, detect and terminate the contract with a subcontractor or agent engaging in prohibited activities; and • After having conducted due diligence, either: - o To the best of the contractor’s knowledge and belief, neither it nor any of its agents or subcontractors are engaged in any such activities; or - o If abuses relating to any of the prohibited activities identified in the Rule have been found, the contractor, subcontractor or agent has taken the appropriate remedial and referral actions. Certifications are required in connection with the contract award and annually thereafter. At a minimum, a compliance plan must include the following: • An awareness program to inform contractor employees about the Rule or government policies relating to the Rule as well as consequences for violations. • A mechanism for employees to report, without fear of retaliation, any activities inconsistent with the Rule and related government trafficking policies. To satisfy this requirement, at a minimum, a Global Human Trafficking hotline and its email address must be provided. • A recruitment and wage plan that only authorizes the use of recruitment companies with trained employees, prohibits charging recruitment fees to employees and guarantees that wages meet host-country legal requirements or clarifies any discrepancy.

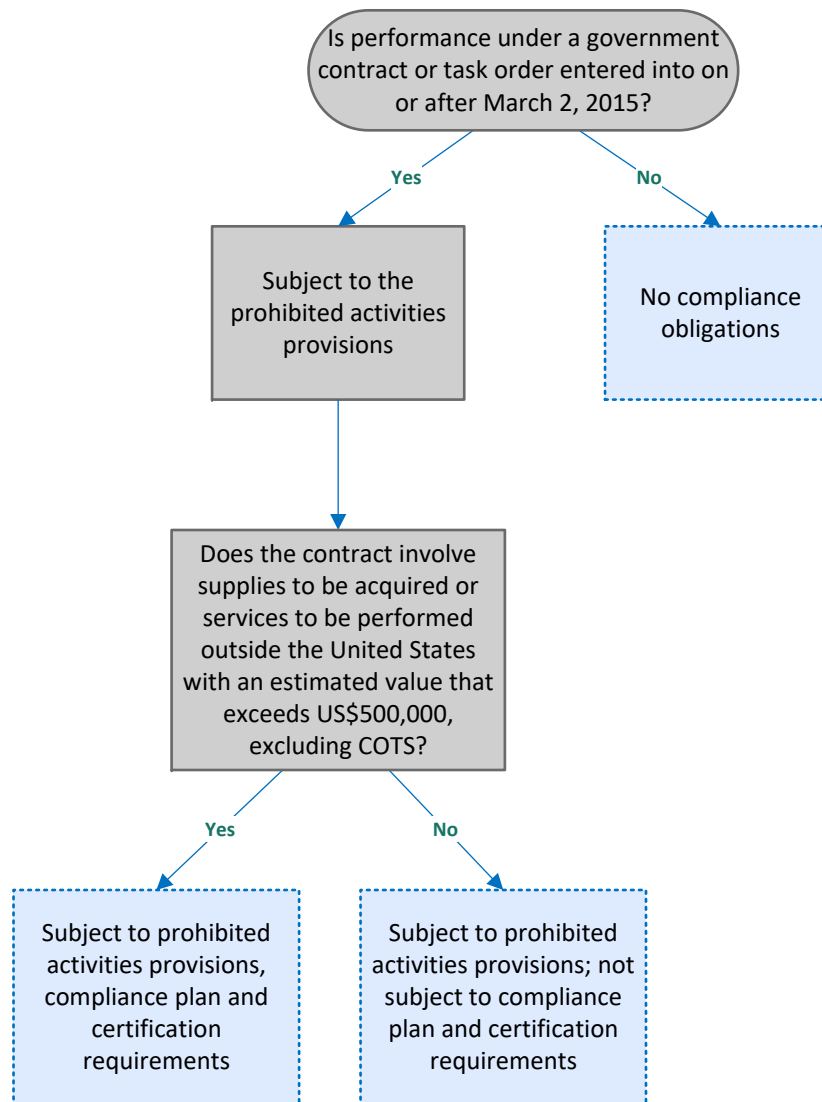
	• If the contractor or subcontractor intends to provide housing, any related housing plan must meet host-country housing and safety standards. • Procedures to prevent all subcontractors and agents from engaging in human trafficking and to observe, identify and terminate any subcontracts, subcontractor employees or agents that have engaged in such activities. The compliance plan must be proportional to the size and complexity of the contract, the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services or goods susceptible to human trafficking.
Recruitment Fees	On December 20, 2018, the Rule was amended to clarify the prohibition on charging employees recruitment fees. Recruitment fees include fees of any type, including charges, costs, assessments or other financial obligations, that are associated with the recruiting process, regardless of the time, manner or location of impositions or collection of the fee. Recruitment fees are prohibited whether paid directly, deducted from wages or collected by third parties, including agents, recruiters, staffing firms and subcontractors. The Rule applies, but is not limited to, fees (when associated with recruitment) for: • Soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, training, providing orientation to, skills testing, recommending or placing employees or potential employees; • Obtaining permanent or temporary labor certification; • Processing applications and petitions; and • Acquiring visas.
OMB Guidance	In October 2019, the U.S. Office of Management and Budget (“OMB”) issued a memorandum to support agency compliance with the Rule. The memorandum describes risk management best practices and mitigating factors for U.S. federal officials to take into account when working with contractors to address their obligations under the Rule. The stated purpose of the memorandum is to enhance the effectiveness of the Rule while helping federal government contractors manage and reduce the burden associated with meeting their compliance responsibilities. Although the memorandum is directed to personnel at U.S. executive departments and agencies, it provides helpful guidance for U.S. government contractors. The risk management best practices discussed in the memorandum include the following internal and external aspects of compliance by government contractors: (1) internal accountability; (2) the code of conduct and policies; (3) continuous improvement; (4) due diligence; (5) corrective action plans; and (6) subcontractor compliance. The memorandum notes that the risk management practices discussed are illustrative, not exhaustive, and that the memorandum is not intended to represent a compliance floor or to augment or otherwise change existing regulatory requirements.
Violations / Enforcement	The contractor is required to inform the contracting officer and the agency Inspector General of any credible information regarding an allegation that a contractor employee, subcontractor, subcontractor employee or their agent engaged in prohibited activities under the Rule.

	Remedies may include: • Requiring the contractor to remove an employee from the performance of the contract or terminate a subcontract; • Postponement of contract payments until the contractor has taken applicable remedial action; • Loss of award fees for the performance period during which the contractor was noncompliant; • Declining to implement available contract options; • Terminating the contract for default or cause based on the contract terms; or • Suspension or debarment. Failure to comply with the Rule may also result in criminal liability and liability under the False Claims Act. In considering remedies, the contracting officer may consider whether the contractor had a compliance or awareness program at the time of the violation, was in compliance with the program at the time of the violation and has taken applicable remedial action.
Additional Information/Resources	
Law	Text of the Rule. Text of the Definition of “Recruitment Fees” amendment. Text of FAR Case 2024-004.
OMB Guidance	For the U.S. Office of Management and Budget’s October 2019 memorandum, click here .
Ropes & Gray Resources	Client alerts related to the Rule: • Anti-human Trafficking Compliance Guidance for U.S. Government Contractors Published (December 9, 2019) (link here). • Modern Slavery Compliance For U.S.-based (and Other) Multinationals: A Review of Recent Compliance and Disclosure Developments in the United States and Abroad (April 22, 2019) (link here). • New FAR Rule Requires Federal Contractors and Subcontractors to Implement Compliance Programs Relating to Human Trafficking, Including Due Diligence (February 6, 2015) (link here).

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(Updated February 28, 2025)

Applying the Law



Trafficking Victims Protection Reauthorization Act United States

Overview

Law / Country	Trafficking Victims Protection Act (2000) (the “ TVPA ”) and Trafficking Victims Protection Reauthorization Act (2003 , as further amended) (collectively, the “ TVPRA ”) (United States)
Goal	To combat human trafficking and forced labor and ensure effective punishment of persons engaging in the foregoing conduct.
Adoption / Status	In 2000, Congress enacted the TVPA. In 2003, Congress reauthorized the TVPA as the TVPRA to include additional provisions that extended the U.S. government’s ability to combat and prosecute human trafficking. Congress has reauthorized and amended the TVPA multiple times since 2003 to allow for enhanced protective measures for U.S. citizen survivors, establish additional crimes and penalties and establish and strengthen anti-human trafficking programs, among other things. The TVPA and TVPRA, including all reauthorizations and amendments, are discussed in conjunction below.
Issues Addressed	• Forced labor • Human trafficking Note that this summary is focused primarily on the forced labor provisions of the TVPRA and related corporate litigation.
Covered Persons	U.S. persons and persons present in the United States. The TVPRA applies to both natural persons and legal entities.
How It Works	
Mandatory?	Yes.
Prohibited Conduct	Knowingly providing or obtaining the labor or services of a person by means of: • Force, threats of force, physical restraint or threats of physical restraint to that person or another person; • Serious harm or threats of serious harm to that person or another person; • The abuse or threatened abuse of law or legal process; or • Any scheme, plan or pattern intended to cause the person to believe that, if he/she did not perform the labor or services, they or another person would suffer serious harm or physical restraint. Knowingly benefitting, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in the list above, knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means. The TVPRA applies to conduct both within and outside of the United States.

	“Abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action. “Serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.
Annual Federal Contractor Certification	The 2022 reauthorization added a requirement that contractors to the U.S. federal government certify to their contracting officer on an annual basis after receiving an award that (1) to the best of their knowledge, neither the contractor nor any of its subcontractors has engaged in any activities prohibited by the TVPRA and (2) if any such violations were identified, appropriate remedial actions have been taken.
Jurisdiction and Liability	Under the TVPRA, U.S. courts have extra-territorial jurisdiction over any offense (or any attempt or conspiracy to commit an offense) if (1) the alleged offender is a U.S. national or permanent resident or (2) the alleged offender is present in the United States, irrespective of the nationality of the alleged offender. Violations of the TVPRA can result in criminal or civil liability. Criminal penalties include both fines and imprisonment, depending upon the nature of the conduct. Selected recent civil suits alleging TVPRA violations are discussed below. As earlier noted, liability is not limited to labor exploitation that occurs in the United States.
Selected Litigation	Civil suits have been filed alleging violations of the TVPRA by well-known large companies. These suits allege violations of the “venture” prong of the TVPRA. Selected suits are discussed below. <i>Doe v. Bumble Bee Foods, LLC (U.S., 2025)</i> On March 12, 2025, four Indonesian fishermen filed a lawsuit against Bumble Bee Foods, alleging that Bumble Bee knowingly benefited from forced labor and human trafficking within its tuna supply chain. The complaint details severe physical abuse, debt bondage, hazardous working conditions and denial of medical care that the plaintiffs allegedly endured while working on fishing vessels supplying tuna to Bumble Bee. The complaint includes claims under the TVPRA. <i>Doe (S.M.A.) v. Salesforce, Inc. (U.S., 2023)</i> In May 2023, plaintiffs filed a lawsuit against Backpage.com, an online marketplace used by sex traffickers to advertise and sell individuals for sex acts, Backpage.com’s former CEO Carl Ferrer and Salesforce for violating the TVPRA. The plaintiffs alleged that from 2013 to 2018, Salesforce and Backpage.com entered into a series of contracts pursuant to which Salesforce provided its support, services and tools to Backpage.com to run the Backstage.com platform. On March 28, 2024, a court granted Salesforce’s motion to dismiss the lawsuit because the plaintiffs did not establish that Salesforce had constructive knowledge that it assisted Backpage.com in violation of the TVPRA. The court also granted plaintiffs leave to amend their complaint in order to address the deficiency identified by the court. On December 19, 2024, the U.S. Court of Appeals upheld the decision permitting the plaintiffs to move forward with their lawsuit against Salesforce, Inc., despite Salesforce’s attempt to invoke immunity under Section 230 of the Communications Decency Act. On March 21, 2025, Judge Boyle of the Northern

	District of Texas issued a memorandum opinion and order granting in part and denying in part Salesforce's motion to dismiss. The court ruled that Salesforce is subject to personal jurisdiction in Texas. However, the court found that the plaintiffs failed to state a claim under 18 U.S.C. §1595 (the provision providing for civil remedy under the TVPRA), as they did not plausibly allege that Salesforce had constructive knowledge of the alleged sex trafficking activities. Consequently, the court dismissed the §1595 claims against Salesforce without prejudice, allowing the plaintiffs an opportunity to amend their complaint to address the identified deficiencies. <i>Coubaly et al. v. Nestle USA, Inc. et al. (U.S., 2021)</i> In February 2021, International Rights Advocates filed a class action lawsuit against Nestle, Cargill, Mars, Mondelez, Hershey, Barry Callebaut and Olam on behalf of eight Malian children for forced child labor and trafficking in their cocoa supply chains in Cote D'Ivoire. The plaintiffs are alleging the defendants have been participating in a venture using child labor in violation of the TVPRA. On June 28, 2022, the D.C. District Court dismissed the case, holding that the plaintiffs lacked standing. The decision is now under appeal. An oral argument took place on November 22, 2024. <i>Doe et al. v. Apple Inc. et al. (U.S., 2019)</i> In December 2019, International Rights Advocates filed a class action lawsuit in the D.C. District Court against Apple, Google, Dell, Microsoft and Tesla on behalf of 14 "John Doe" child plaintiffs from the Democratic Republic of the Congo ("DRC"). The plaintiffs alleged that the defendants knowingly participated in a supply chain for cobalt in the DRC that relies upon child labor in violation of the TVPRA. In November 2021, the D.C. District Court dismissed the case, holding that participation as a purchaser in the global cobalt supply chain is insufficient to support a claim under the TVPRA. In March 2024, the U.S. Court of Appeals for the D.C. Circuit affirmed the District Court's dismissal, concluding that while the plaintiffs had standing, purchasing an unspecified amount of cobalt through the global supply chain is not "participation in a venture" within the meaning of the TVPRA and thus the plaintiffs did not state a viable claim under the TVPRA. The case has been closed. <i>M.A. et al. v. Wyndham Hotels & Resorts Inc. et al. (U.S., 2019)</i> In March 2019, a sex trafficking survivor filed a lawsuit against hotel chains in Ohio. The plaintiff alleged that the defendants knowingly benefited from participating in a venture which they knew was engaged in illegal sex trafficking in violation of the TVPRA. The complaint noted that the defendants engaged in acts and omissions that were intended to support and facilitate the trafficking by ignoring multiple red flags. The complaint further alleged that the hotel chains failed to take appropriate measures to combat the trafficking while simultaneously accepting profits, thus making them directly complicit. On October 7, 2019, the U.S. District Court for the Southern District of Ohio denied the defendant's motions to dismiss, allowing the case to proceed. In August 2023, the court also denied a motion to intervene filed by Erie Insurance Exchange.
Additional Information/Resources	
TVPRA	Text of the TVPRA. Text of the 2023 TVPRA.

	For all reauthorizations of the TVPA, click here .
Additional Guidance	For the Fact Sheet “Understanding Human Trafficking” published by the U.S. Department of State (January 20, 2025), click here .

Note: This summary is for informational purposes only and does not constitute legal advice. We have not included a summary flow chart for this legislation because it largely operates as a general prohibition on specified conduct, rather than imposing specific compliance requirements on particular categories of persons.

(Updated February 28, 2025)

Corporate Sustainability Due Diligence Directive (Compliance Pending) European Union

Overview

Law / Country	Corporate Sustainability Due Diligence Directive (the “Directive”) (European Union)
Goal	To ensure that companies active in the EU internal market contribute to sustainable development and the sustainability transition of economies and societies through the identification, prevention and mitigation, cessation and minimization of potential and actual adverse human rights and environmental impacts connected with companies’ own operations, subsidiaries and chain of activities.
Adoption / Status	The Directive was published in the Official Journal of the European Union on July 5, 2024 and entered into force on July 25, 2024. On February 26, 2025, the European Commission (the “Commission”) published an omnibus package (the “Omnibus Package”) to streamline the requirements under the Directive, as well as under the EU Corporate Sustainability Reporting Directive (the “CSRD”) and EU Taxonomy Regulation. In order for the proposals related to the Directive in the Omnibus Package to go into effect, they will need to be approved by the European Parliament and Council. Selected provisions applicable to the Directive from the Omnibus Package are discussed herein in <i>italics</i>. The CSRD and Taxonomy Regulation are discussed in separate summaries. On February 26, 2025, House and Senate Republicans and officials from 26 U.S. states sent public letters to the Trump Administration, requesting that it take action to shield U.S. companies from certain provisions in the Directive and asking it to initiate an investigation under Section 301 of the Trade Act of 1974, which allows interested parties to petition the Trade Representative to investigate a foreign government act, policy or practice, and subsequently take action to respond to that government’s action if it is determined to be an unreasonable or discriminatory act, policy or practice that burdens or restricts U.S. commerce. EU Member States currently must transpose the Directive into national law by July 26, 2026. <i>Under the Omnibus Package, however, the transposition deadline would be delayed one year from the original deadline to July 26, 2027.</i> The Directive does not directly contain obligations binding on companies; however, for brevity, this summary refers to obligations under the Directive, rather than the EU Member State laws transposing the Directive.
Issues Addressed	• Climate change • Environmental • Human rights
Covered Entities	All companies above a certain size generally are covered, as well as parent companies of groups that reach these thresholds. Additionally, companies with a franchising or licensing business model that meet the specified size thresholds also are

captured. As described below, however, the applicability of the Directive will be phased in over five years after the Directive's entry into force, starting with the largest companies having to comply with the Directive first.

It is expected that approximately 6,000 EU-based companies and 900 non-EU-based companies will be covered by the Directive.

After phase-in, EU companies that fulfil one of the following will be covered:

- More than 1,000 employees on average and net worldwide turnover of more than €450 million for the last financial year for which annual financial statements have been or should have been adopted;
- The ultimate parent company of a group that reaches the thresholds set forth above in the last financial year for which consolidated annual financial statements have been or should have been adopted; or
- Entered into or is the ultimate parent company of a group that entered into franchising or licensing agreements in the European Union in return for royalties with independent third-party companies where (1) these agreements ensure a common identity, a common business concept and the application of uniform business methods, (2) the royalties exceed €22.5 million in the last financial year and (3) the company had or is the ultimate parent company of a group that had net worldwide turnover of more than €80 million in the last financial year.

After phase-in, non-EU companies that fulfil one of the following will be covered:

- Generated net turnover of more than €450 million in the European Union in the financial year preceding the last financial year;
- The ultimate parent company of a group that on a consolidated basis reaches the thresholds set forth above in the financial year preceding the last financial year; or
- Entered into or is the ultimate parent company of a group that entered into franchising or licensing agreements in the European Union in return for royalties with independent third-party companies where (1) these agreements ensure a common identity, a common business concept and the application of uniform business methods, (2) the royalties exceed €22.5 million in the European Union in the financial year preceding the last financial year and (3) the company generated or is the ultimate parent company of a group that generated net turnover of more than €80 million in the European Union in the financial year preceding the last financial year.

The requirements of the Directive only will apply if a company meets a compliance threshold for two consecutive financial years. Similarly, the Directive indicates it will no longer apply to a company previously subject if the compliance threshold ceases to be met for each of the last two applicable fiscal years.

An ultimate parent company that has as its main activity the holding of shares in operational subsidiaries and does not engage in taking management, operational or financial decisions affecting the group or one or more subsidiaries is exempt from the obligations under the Directive provided that one of its subsidiaries fulfills such obligations on behalf of the shell parent company, including with respect to other subsidiaries of the parent company. The parent company, however, will remain jointly liable with the designated subsidiary for the failure of the subsidiary to comply with the Directive.

	As noted above, the applicability of the Directive will be phased in, beginning in 2027, continuing through 2029. The current phase-ins are as follows: • As of July 26, 2027 (three years after the Directive’s entry into force), the following companies will be covered: ○ EU companies with more than 5,000 employees on average and that generated net worldwide turnover of more than €1.5 billion in the last financial year. ○ Non-EU companies that generated net turnover of more than €1.5 billion in the European Union in the financial year preceding the last financial year. • As of July 26, 2028 (four years after the Directive’s entry into force), the following companies will be covered: ○ EU companies with more than 3,000 employees on average and generated a net worldwide turnover of €900 million in the last financial year. ○ Non-EU companies that generated net turnover of €900 million in the European Union in the financial year preceding the last financial year. • As of July 26, 2029 (five years after the Directive’s entry into force), the Directive will apply to all covered companies (as described above). <i>The Omnibus Package would delay the initial phase-in by one year (i.e., to July 26, 2028).</i> “Company” is defined broadly, encompassing most types of legal entities. It also specifically includes, regardless of form, a long list of types of regulated financial undertakings, including among others alternative investment fund managers, UCITS management companies, insurance and reinsurance undertakings and crypto-asset service providers. For purposes of the employee thresholds, part-time employees are calculated on a full-time equivalent basis. Temporary agency workers and other workers in non-standard forms of employment are included in the employee count in the same manner as if they were workers employed directly for the same period of time by the company. Net turnover generally is the amount 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. If a company applies international accounting standards or was formed outside the European Union, net revenue instead is defined by or within the meaning of the financial reporting framework used in connection with the preparation of the company’s financial statements. Non-EU-based companies will be required to designate an authorized representative to be the point of contact with Member States.
How It Works	
Mandatory?	Yes.
Selected Definitions	“Adverse environmental impact” means an adverse impact on the environment resulting from the breach of a prohibition or obligation pursuant to one of sixteen specified international environmental conventions set forth on an Annex, taking into account national legislation linked to the provisions of the instruments listed therein.

“Adverse human rights impact” means an impact on a person resulting from:

- An abuse of one of the human rights listed in the Annex to the Directive, as those human rights are enshrined in listed international instruments;
- An abuse of a human right not listed in the Annex, but included in the listed human rights instruments, provided, that:
 - The human right can be abused by a company or legal entity;
 - The human right abuse directly impairs a legal interest protected in the listed human rights instruments; and
 - The company could have reasonably foreseen the risk that such human right may be affected, taking into account the circumstances of the specific case, including the nature and extent of the company’s business operations and its chain of activities, characteristics of the economic sector and geographical and operational context.

“Adverse impact” means an adverse environmental impact or adverse human rights impact.

“Appropriate measures” means measures that are capable of achieving the objectives of due diligence by effectively addressing adverse impacts in a manner commensurate to the degree of severity and the likelihood of the adverse impact, and reasonably available to the company, taking into account the circumstances of the specific case, including the nature and extent of the adverse impact and relevant risk factors.

“Business partner” means an entity (1) with whom the company has a commercial agreement related to the operations, products or services of the company or to whom the company provides services in the chain of activities (a **“direct business partner”**), or (2) which is not a direct business partner but which performs business operations related to the products or services of the company (an **“indirect business partner”**).

“Business relationship” means a relationship between the company and its business partner.

“Chain of activities” means (1) activities of a company’s upstream business partners related to the production of goods or the provisions of services by the company, including the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of the products and development of the product or the service, and (2) activities of a company’s downstream business partners related to the distribution, transport and storage of the product, where the business partners carry out those activities for the company or on behalf of the company, excluding the distribution, transport and storage of the product being subject to export control under the EU’s Dual-Use Export Controls or export control relating to weapons, munitions or war materials, after the export of the product is authorized.

“Severe adverse impact” means an adverse impact that is especially significant by its nature, such as an impact that entails harm to human life, health and liberty, or by its scale, scope or irremediable character, taking into account its gravity, including the number of individuals that are or may be affected, the extent to which the environment is or may be damaged or otherwise affected, its irreversibility and the limits on the ability to restore affected individuals or the environment to a situation equivalent to their situation prior to the impact within a reasonable period of time.

	“SME” means a micro, small or medium-sized undertaking, irrespective of its legal form, that is not part of a large group. “Stakeholders” means the company’s employees, the employees of its subsidiaries, trade unions and workers’ representatives, consumers and other individuals, groups, communities or entities whose rights or interests are or could be affected by the products, services and operations of the company, its subsidiaries and its business partners, including the employees of the company’s business partners, trade unions and workers’ representatives, national human rights and environmental institutions, civil society organizations whose purpose includes the protection of the environment, and the legitimate representatives of those individuals, groups, communities or entities. <i>Under the Omnibus Package, “Stakeholders” would mean the company’s employees, the employees of its subsidiaries and of its business partners, and their trade unions and workers’ representatives, and individuals or communities whose rights or interests are or could be directly affected by the products, services and operations of the company, its subsidiaries and its business partners and the legitimate representatives of those individuals or communities.</i>
Due Diligence	“Due diligence” generally is aligned with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. At a high level, risk-based due diligence consists of the following actions: • Integrating due diligence into policies and risk management systems; • Identifying and assessing actual or potential adverse impacts and, where necessary, prioritizing potential and actual adverse impacts; • Preventing and mitigating potential adverse impacts and bringing actual adverse impacts to an end and minimizing their extent; • Providing remediation to actual adverse impacts; • Carrying out meaningful engagement with stakeholders; • Establishing and maintaining a notification mechanism and complaints procedure; • Monitoring the effectiveness of the due diligence policy and measures taken; and • Publicly communicating on due diligence. Companies will be required to retain documentation regarding fulfilment of their due diligence obligations for five years. A parent company falling under the scope of the Directive may fulfil its obligations on behalf of its subsidiaries, subject to the following conditions: • The subsidiary and parent company provide each other with all the necessary information and cooperate to fulfil the obligations in the Directive; • The subsidiary abides by its parent company’s due diligence policy; • The subsidiary integrates due diligence into all its policies and risk management systems, clearly describing which obligations are to be fulfilled by the parent company, and, where necessary, communicating so to relevant stakeholders; • Where necessary, the subsidiary continues to take appropriate measures and fulfil its obligations under the Directive; and

- Where relevant, the subsidiary fulfils the obligation to seek contractual assurances or to temporarily suspend or terminate a business relationship.

Integrating Due Diligence into Policies and Risk Management

Companies will be required to integrate due diligence into their relevant policies and risk management systems and have in place a due diligence policy that ensures risk-based due diligence.

The due diligence policy will be required to be developed in prior consultation with the company's employees and their representatives, and contain all of the following:

- A description of the company's approach, including in the long term, to due diligence;
- A code of conduct describing rules and principles to be followed throughout the company and its subsidiaries, and by the company's direct and indirect business partners; and
- A description of the processes put in place to integrate due diligence into the relevant policies and to implement due diligence, including the measures taken to verify compliance with the code of conduct and to extend its application to business partners.

Companies will be required to update their diligence policy without undue delay after a significant change occurs, and review and, where necessary, update it at least every 24 months.

Identifying and Assessing Adverse Impacts

Companies will be required to take appropriate measures to identify and assess actual and potential adverse impacts arising from their own operations or those of their subsidiaries and, where related to their chains of activities, those of their business partners. As part of this obligation, taking into account relevant risk factors, companies will be required to take appropriate measures to:

- Map their own operations, those of their subsidiaries and, where related to their chains of activities, those of their business partners, in order to identify general areas where adverse impacts are most likely to occur and to be most severe; and
- Based on the results of that mapping, carry out an in-depth assessment of their own operations, those of their subsidiaries and, where related to their chains of activities, those of their business partners, in the areas where adverse impacts were identified to be most likely to occur and most severe.

Where information necessary for in-depth assessment can be obtained from business partners at different levels of the chain of activities, the company should prioritize requesting such information, where reasonable, directly from business partners where the adverse impacts are most likely to occur.

As part of the Omnibus Package, the risk assessment with respect to business partners would be limited to (1) direct business partners and (2) indirect business partners only if the subject company has plausible information to suggest that adverse impacts have arisen or may arise at such indirect partners. Additionally, the Omnibus Package provides that transposing

legislation would be required to limit the information that subject companies can seek from direct business partners with fewer than 500 employees to that which is specified in the CSRD voluntary sustainability reporting standards.

Prioritization of Identified and Potential Adverse Impacts

Where it is not feasible to prevent, mitigate, bring to an end or minimize all identified adverse impacts at the same time to their full extent, companies must prioritize the adverse impacts identified. The prioritization of adverse impacts must be based on their severity and likelihood of the adverse impact. Once the most severe and likely adverse impacts are addressed, the company is required to address less severe and less likely adverse impacts.

Preventing and Mitigating Potential Adverse Impacts

Companies will be required to take appropriate measures to prevent or, if prevention is not possible or immediately possible, adequately mitigate potential adverse impacts that have been, or should have been, identified through the measures required to identify these impacts. To determine the appropriate measures, companies should take due account of (1) whether the potential adverse impact may be caused only by the company, whether it may be caused jointly by the company and its subsidiary or business partner, through acts or omissions, or whether it may be caused only by the company's business partner in the chain of activities, (2) whether the potential adverse impact may occur in the operations of the subsidiary, direct business partner or indirect business partner and (3) the ability of the company to influence the business partner causing or jointly causing the potential adverse impact.

More specifically, companies will be required to take the following appropriate measures, where relevant:

- Where necessary due to the nature or complexity of the measures required for prevention, without undue delay develop and implement a prevention action plan, with reasonable and clearly defined timelines for the implementation of appropriate measures and qualitative and quantitative indicators for measuring improvement. Companies will be able to develop their actions plans in cooperation with industry or multi-stakeholder initiatives. The prevention action plan is required to be adapted to companies' operations and chain of activities.
- Seek contractual assurances from a direct business partner that the partner will ensure compliance with the company's code of conduct and, as necessary, prevention action plan, including by establishing corresponding contractual assurances from its partners to the extent their activities are part of the company's chain of activities.

If contractual assurances are obtained, the company must take measures to verify compliance.

- Make necessary financial or non-financial investments, adjustments or upgrades, such as into facilities, production or other operational processes and infrastructures.
- Make necessary modifications of, or improvements to, the company's own business plan, overall strategies and operations, including purchasing practices, design and distribution practices.
- Provide targeted and proportionate support for an SME which is a business partner of the company, where necessary in light of the resources, knowledge and constraints of the SME, including by providing or enabling access to capacity-building, training or upgrading management systems, and where compliance with the code of conduct or prevention

	action plan would jeopardize the viability of the SME, providing targeted and proportionate financial support, such as direct financing, low-interest loans, guarantees of continued sourcing or assistance in securing financing. • Collaborate with other entities, including where relevant to increase the company's ability to prevent or mitigate the adverse impact, in particular, where no other measure is suitable or effective. Companies may take, where relevant, appropriate measures in addition to those listed above, such as engaging with a business partner regarding the company's expectations with regard to preventing and mitigating the potential adverse impacts, or providing or enabling access to capacity-building, guidance, administrative and financial support such as loans or financing, taking into consideration the resources, knowledge and constraints of the business partner. If these measures cannot prevent or adequately mitigate potential adverse impacts, the company is expressly permitted to seek contractual assurances with an indirect business partner, with a view to achieving compliance with the company's code of conduct or prevention action plan. As a last resort, the company will be required to refrain from entering into new or extending existing relations with a business partner connected to or in the chain of activities of which the impact has arisen. In addition, where the law governing the relationship entitles the company to do so, it is required to take the following actions as a last resort: • Adopt and implement an enhanced prevention action plan for the specific adverse impact without undue delay, by using or increasing the company's leverage through the temporary suspension of business relationships with respect to the activities concerned, as long as there is reasonable expectation that these efforts will succeed. The action plan must include a specific and appropriate timeline for the adoption and implementation of all actions therein, during which the company may also seek alternative business partners. • If there is no reasonable expectation that these efforts would succeed, or if the implementation of the enhanced prevention action plan failed to prevent or mitigate the adverse impact, terminate the business relationship with respect to the activities concerned if the potential adverse impact is severe. Prior to temporarily suspending or terminating the business relationship, the company will be required to assess whether the adverse impacts of doing so can be reasonably expected to be manifestly more severe than the adverse impact that could not be prevented or adequately mitigated. Should that be the case, the company is not required to suspend or terminate the business relationship, and instead is required to report such decision to a supervisory authority. Under the Directive, Member States will be required to provide for the availability of an option to temporarily suspend or terminate the business relationship in contracts governed by their laws, except for contracts where parties are obliged by law to enter into them. Where the company decides not to temporarily suspend or terminate the business relationship, the company will be required to monitor the potential adverse impact and periodically reassess its decision and whether further appropriate measures are available. Where the company decides to temporarily suspend or terminate the business relationship, the company will be required to take steps to prevent, mitigate or bring to an end the impacts of suspension or termination, provide reasonable notice to the business partner and keep that decision under review.
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The Omnibus Package would eliminate the requirement to terminate business relationships, although it would keep the requirement to suspend business relationships in the circumstances described above.

Addressing an Actual Adverse Impact

Companies will be required to take appropriate measures to bring to an end actual adverse impacts that have been, or should have been, identified pursuant to the due diligence measures required to be taken. If the adverse impact cannot immediately be brought to an end, the company will be required to minimize the extent of the impact.

Companies specifically will be required to take the following appropriate measures, where relevant:

- Neutralize the adverse impact or minimize its extent. This action would be required to be proportionate to the severity of the adverse impact and the company's implication in the adverse impact.
- Where necessary due to the fact that the adverse impact cannot immediately be brought to an end, without undue delay, develop and implement a corrective action plan with reasonable and clearly defined timelines for the implementation of appropriate measures and qualitative and quantitative indicators for measuring improvement. Companies are permitted to develop their actions plans in cooperation with industry or multi-stakeholder initiatives. The corrective action plan is required to be adapted to the company's operations and chain of activities.
- Seek contractual assurances from a direct business partner that the partner will ensure compliance with the company's code of conduct and, as necessary, corrective action plan, including by establishing corresponding contractual assurances from its partners to the extent their activities are part of the company's chain of activities.
- Make necessary financial or non-financial investments, adjustments or upgrades such as to facilities, production or other operational processes and infrastructures.
- Make necessary modifications of, or improvements to, the company's own business plan, overall strategies and operations, including purchasing practices, design and distribution practices.
- Provide targeted and proportionate support for an SME which is a business partner of the company, where necessary in light of the resources, knowledge and constraints of the SME, including by providing or enabling access to capacity-building, training or upgrading management systems, and, where compliance with the code of conduct or the corrective action plan would jeopardize the viability of the SME, providing targeted and proportionate financial support, such as direct financing, low-interest loans, guarantees of continued sourcing or assistance in securing financing.
- Collaborate with other entities, including, where relevant, to increase the company's ability to bring the adverse impact to an end or minimize the extent of such impact, in particular where no other measure would be suitable or effective.
- Provide remediation.

Companies may carry out, where relevant, appropriate measures in addition to the measures listed above, such as engaging with a business partner regarding the company's expectations with regard to bringing adverse impacts to an end or minimizing the extent of such impacts, or providing or enabling access to capacity-building, guidance, administrative and

financial support such as loans or financing, taking into consideration the resources, knowledge and constraints of the business partner.

If the actual adverse impact cannot be brought to an end or the extent of which cannot be adequately minimized by the appropriate foregoing measures, the company expressly is permitted to seek contractual assurances with an indirect business partner, with a view to achieving compliance with the company's code of conduct or corrective action plan.

If the above measures cannot minimize or end an actual adverse impact, the company will need to, as a last resort, refrain from entering into new or extending existing relationships with the business partner connected to or in the chain of activities of which the impact has arisen. In addition, where the law governing the relationship entitles the company to do so, it will be required to take the following actions, as a last resort:

- Adopt and implement an enhanced corrective action plan for the specific adverse impact without undue delay, including by using or increasing the company's leverage through the temporary suspension of business relationships with respect to the activities concerned, as long as there is a reasonable expectation that these efforts will succeed. The action plan must include a specific and appropriate timeline for the adoption and implementation of all actions therein, during which the company may also seek alternative business partners.
- If there is no reasonable expectation that these efforts would succeed, or if the implementation of the enhanced corrective action plan failed to bring to an end or minimize the extent of the adverse impact, terminate the business relationship with respect to the activities concerned if the actual adverse impact is severe.

Prior to temporarily suspending or terminating the business relationship, the company is required to assess whether the adverse impacts of doing so can be reasonably expected to be manifestly more severe than the adverse impact that could not be brought to an end or the extent of which could not be adequately minimized. Should that be the case, the company is not required to suspend or to terminate the business relationship, but instead is required to report such decision to a supervisory authority.

Under the Directive, Member States will be required to provide for the availability of an option to temporarily suspend or terminate the business relationship in contracts governed by their laws, except for contracts where the parties are obliged by law to enter into them.

Where the company decides to temporarily suspend or terminate the business relationship, the company is required to take steps to prevent, mitigate or bring to an end the impacts of suspension or termination, provide reasonable notice to the business partner and keep that decision under review. Where the company decides not to temporarily suspend or terminate the business relationship in line with the foregoing, the company is required to monitor the potential adverse impact and periodically reassess its decision and whether further appropriate measures are available.

Remediation

Where a company has caused or jointly caused an actual adverse impact, that company will be required to provide remediation.

	Where the actual adverse impact is caused only by the company’s business partner, remediation voluntarily may be provided by the company. The company also may use its ability to influence the business partner causing the adverse impact to enable remediation. “Remediation” means restitution of the affected person or persons, communities or environment to a situation equivalent or as close as possible to the situation they would be in had the actual adverse impact not occurred, proportionate to the company’s implication in the adverse impact, including financial or non-financial compensation provided by the company to a person or persons affected by the actual adverse impact and, where applicable, reimbursement of the costs incurred by public authorities for any necessary remedial measures. <u>Monitoring</u> Companies will be required to carry out periodic assessments to assess the implementation and monitor the adequacy and effectiveness of the identification, prevention, mitigation, cessation and minimization of adverse impacts. The assessment must take into account the company’s own operations and measures, those of its subsidiaries and, where related to the chains of activities of the company, those of their business partners. The assessment will be required to be based, where appropriate, on qualitative and quantitative indicators. The assessment must be carried out without undue delay after a significant change occurs, but at least every 12 months and whenever there are reasonable grounds to believe that new risks of the occurrence of those adverse impacts may arise. <i>The Omnibus Package provides that the periodic monitoring would need to occur every five years, instead of every 12 months, and keeps the requirement for ad hoc assessments as needed.</i> Where appropriate, the due diligence policy, the identified adverse impacts and the derived appropriate measures will be required to be updated to take into account the outcome of the assessment and with due consideration of relevant information from stakeholders.
Compliance Verification	Contractual assurances from an indirect business partner in connection with addressing adverse impacts will be required to be accompanied by appropriate measures to verify compliance. The company is permitted to refer to independent third-party verification, including through industry or multi-stakeholder initiatives. If a contractual assurance is obtained from or a contract is entered into with an SME, the terms used will be required to be fair, reasonable and non-discriminatory. The company also will need to also assess whether the contractual assurances with an SME should be accompanied by other appropriate measures for SMEs. The company will be required to bear the cost of the independent third-party verification when verifying SME compliance. In case the SME requests to pay at least a part of the cost, or in agreement with the company, the SME is permitted to share the results of verifications with other companies. An “industry or multi-stakeholder initiative” is defined as a combination of voluntary due diligence procedures, tools and mechanisms, developed and overseen by governments, industry associations, interested organizations, including civil society organizations, or groupings or combinations thereof, that companies may participate in in order to support the implementation of due diligence obligations.

	“Independent third-party verification” means verification of the compliance by a company, or parts of its chain of activities, with human rights and environmental requirements resulting from the provisions of the Directive by an expert that is objective, completely independent from the company, free from any conflicts of interests and from external influence, has experience and competence in environmental or human rights matters, according to the nature of the adverse impact, and is accountable for the quality and reliability of the verification.
Stakeholder Engagement	Companies will be required to take appropriate measures to carry out effective engagement with stakeholders. When consulting with stakeholders, companies will be required, as appropriate, to provide relevant and comprehensive information to stakeholders, in order to carry out effective and transparent consultations. Consulted stakeholders will be allowed to make a reasoned request for relevant additional information, which the company must provide within a reasonable period of time and in an appropriate and comprehensible format. If the company refuses a request for additional information, the consulted stakeholder is entitled to written justification for that refusal. Companies will be required to consult stakeholders in the following steps of the due diligence process: • To gather the necessary information on actual or potential adverse impacts, in order to identify, assess and prioritize adverse impacts; • The development of prevention and corrective action plans, and the development of enhanced prevention and corrective action plans; • The decision to terminate or suspend a business relationship; • The adoption of appropriate measures to remediate adverse impacts; and • As appropriate, when developing qualitative and quantitative indicators for the monitoring. Where it is not reasonably possible to carry out effective engagement with stakeholders to the extent necessary to comply with the requirements of the Directive, companies should instead consult additionally with experts who can provide credible insights into potential or actual adverse impacts. <i>Under the Omnibus Package, stakeholder engagement only would be required at the impact identification stage, when developing prevention and corrective action plans and when designing remediation measures. Engagement would no longer be required in connection with deciding to terminate or suspend a business relationship or when developing quantitative or qualitative indicators for monitoring.</i> In consulting stakeholders, companies will be required to identify and address barriers to engagement and ensure that participants are not the subject of retaliation or retribution, including by maintaining confidentiality or anonymity. The use of industry and multi-stakeholder initiatives is not sufficient to fulfil the obligation to consult the company’s own employees and their representatives. Engagement with employees and their representatives is required to be without prejudice to relevant European Union and national legislation in the field of employment and social rights as well as applicable collective agreements.

Notification Mechanism and Complaints Procedure	Companies will be required to have a complaints mechanism available for submission of legitimate concerns regarding actual or potential adverse impacts in the companies’ own operations, the operations of their subsidiaries or the operations of their business partners in the companies’ chains of activities. Companies will be required to establish a fair, publicly available, accessible, predictable and transparent procedure for addressing complaints, including complaints the company considers to be unfounded. The company will be required to inform the relevant workers, representatives and trade unions of the complaints procedures. The mechanism would be required to ensure that notifications can be made either anonymously or confidentially in accordance with national law. Companies will need to take reasonably available measures to prevent any form of retaliation by ensuring the confidentiality of the identity of the person or organization submitting the complaint, in accordance with national law. The company may inform the persons submitting notifications about steps and actions taken or to be taken, where relevant. The company complaint mechanism will be required to enable the following to submit concerns: • Natural or legal persons affected or who have reasonable grounds to believe they might be affected by an adverse impact, and the legitimate representatives of such persons on behalf of them, such as civil society organizations and human rights defenders; • Trade unions and other workers’ representatives representing individuals working in the chain of activities concerned; and • Civil society organizations active and experienced in the areas related to the environmental adverse impact that is the subject matter of the complaint. Where the complaint is well founded, the company will be required to take remediation measures to address the adverse impact that is the subject matter of the complaint. Complainants will be entitled to request appropriate follow-up on the complaint from the company. In addition, they will be entitled to meet with the company’s representatives at an appropriate level to discuss potential or actual severe adverse impacts that are the subject matter of the complaint and potential remediation. Further, complainants will be entitled to be provided with the reasoning as to whether a complaint has been considered founded or unfounded and, where founded, to be provided with information on the steps and actions taken or to be taken. The company will be required to take reasonably available measures to prevent any form of retaliation by ensuring the confidentiality of the identity of the person or organization submitting the complaint, in accordance with national law. Where information needs to be shared, it will be required to be done in a manner that does not endanger the complainant's safety, including by not disclosing their identity.
Reporting	Companies will be required to annually report on the matters covered by the Directive. No later than March 31, 2027, the Commission is required to adopt delegated acts regarding reporting content and criteria. These are required to specify sufficiently detailed information on the description of due diligence, potential and actual adverse impacts identified and appropriate measures taken with respect to those impacts. Statements are required to be published on the company’s website in at least one of the official languages of the European Union of the Member State of the supervisory authority and, where different, in a language customary in the sphere of international business. Publication will be required to occur within a

	reasonable period of time, but no later than 12 months after the balance sheet date of the financial year for which it is drawn up, or, for companies voluntarily reporting, by the date of publication of the annual financial statements. Companies will not have to report under the Directive if they are required to report under the Corporate Sustainability Reporting Directive (the “CSRD”).
Climate Change Transition Plan	Companies will be required to adopt and put into effect a transition plan for climate change mitigation which aims to ensure, through best efforts, that their business model and strategy are compatible with the transition to a sustainable economy and with limiting global warming to 1.5°C in line with the Paris Agreement and compatible with the objective of achieving climate neutrality and 2050 climate neutrality targets, and where relevant, the exposure of the company to coal-, oil- and gas-related activities. <i>The Omnibus Package would remove the requirement that covered companies “put into effect” a climate change transition plan.</i> This transition plan would be required to contain: • Time-bound targets related to climate change for 2030 and in five-year steps up to 2050 based on conclusive scientific evidence and including, where appropriate, absolute emission reduction targets for greenhouse gas for scope 1, scope 2 and scope 3 greenhouse gas emissions for each significant category; • A description of decarbonization levers identified and key actions planned to reach the foregoing targets, including where appropriate changes in the undertaking’s product and service portfolio and the adoption of new technologies; • An explanation and quantification of the investments and funding supporting the implementation of the transition plan; and • A description of the role of the administrative, management and supervisory bodies with regard to the plan. The transition plan will be required to be updated every 12 months and contain a description of the progress the company has made towards achieving its targets. Companies that already have transition plans under the CSRD are deemed to have complied with the climate change provisions of the Directive. Companies that fail to adopt transition plans with the required components or fail to update their plans in accordance with the Directive may be subject to administrative sanctions.
Additional Guidance and Guidelines	The Commission, in consultation with Member States and stakeholders, is required to adopt guidance pertaining to voluntary model contractual clauses, no later than January 26, 2027. These clauses could be used if the company sought required contractual assurances as part of preventing or ending adverse impacts. The Commission, in consultation with Member States and stakeholders, the European Union Agency for Fundamental Rights, the European Environment Agency, the European Labour Authority, and where appropriate with international organizations and other bodies having expertise in due diligence, are required to issue guidelines to provide support to companies or Member State authorities on how companies should fulfill their due diligence obligations in a practical manner, and to provide

	support to stakeholders. Among other things, guidelines must be issued for specific sectors or specific adverse impacts. The guidelines will include: • Guidance and best practices on how to conduct due diligence, particularly, the identification process, the prioritization of impacts, appropriate measures to adapt purchasing practices, responsible disengagement, appropriate measures for remediation and on how to identify and engage with stakeholders, including through established mechanisms; • Practical guidance on climate change plans; • Sector-specific guidance; • Guidance on the assessment of company-level, business operations, geographic and contextual, product and service and sectoral risk factors, including those associated with conflict-affected and high-risk areas; • References to data and information sources available for compliance with the obligations in the Directive, and to digital tools and technologies that could facilitate and support compliance; • Information on how to share resources and information among companies and other legal entities for the purpose of compliance with national provisions adopted pursuant to the Directive, in line with the protection of trade secrets and the protection from potential retaliation and retribution; and • Information for stakeholders and their representatives on how to engage throughout the due diligence process. The Directive currently requires the guidelines to be published by January 26, 2027. <i>The Omnibus Package would accelerate this deadline by six months (i.e., July 26, 2026).</i> The guidelines will be made available in all the official languages of the European Union and be periodically reviewed and adapted by the Commission. The Commission, in collaboration with Member States, also is expressly empowered to issue guidance for assessing the fitness of third-party verifiers, and guidance for monitoring the accuracy, effectiveness and integrity of third party verification.
Enforcement	Each Member State is required to designate one or more supervisory authorities to supervise compliance with the due diligence and climate change-related obligations adopted under national law pursuant to the Directive. The Member State supervisory authorities must have adequate powers and resources to carry out their tasks, including the power to require companies to provide information and carry out investigations. Supervisory authorities generally must have at least the power to (1) order a company to end infringing conduct and abstain from future infringements and, where appropriate, order remedial action proportionate to the infringement necessary to bring it to an end, (2) impose penalties and (3) adopt interim measures in case of imminent risk of severe and irreparable harm. In addition, the Commission is required to establish a European Network of Supervisory Authorities composed of representatives of the Member State supervisory authorities. The Network will facilitate the cooperation of the supervisory authorities and the coordination and alignment of regulatory, investigative, sanctioning and supervisory practices of the supervisory authorities and, as appropriate, sharing of information. However, the Network is not an enforcement body.

Penalties	The Directive does not specify particular penalties. Instead, it provides a framework for determining penalties. Under the Directive, Member States are required to establish rules on penalties, including pecuniary penalties, in the event of a violation of national provisions adopted pursuant to the Directive. Penalties are required to be effective, proportionate and dissuasive. In deciding whether to impose penalties and, if so, in determining their nature and appropriate level, due consideration must be given to: • The nature, gravity and duration of the infringement, and the severity of the impacts resulting from that infringement; • Any investments made and any targeted support provided; • Any collaboration with other entities to address the impacts concerned; • Where relevant, the extent to which prioritization decisions were made; • Any relevant previous infringements by the company of national provisions adopted pursuant to the Directive found by a final decision; • The extent to which the company carried out any remedial action with regard to the concerned subject matter; • The financial benefits gained from or losses avoided by the company due to the infringement; and • Any other aggravating or mitigating factors applicable to the circumstances of the case. The Directive provides for pecuniary sanctions and, if the company fails to comply with the decision imposing a pecuniary penalty within the applicable time-limit, a public statement indicating the company responsible and the nature of the infringement. If pecuniary sanctions are imposed, they are required to be based on the company's net worldwide turnover. The maximum limit of pecuniary penalties must be not less than 5% of the net worldwide turnover of the company in the financial year preceding the fining decision. <i>The 5% minimum cap is eliminated in the Omnibus Package, which would require that fines be effective, proportionate, dissuasive and in-line with guidelines to be developed by the Commission.</i> If a supervisory authority identifies a failure by a company to comply with national requirements adopted pursuant to the Directive, the company is required to be given an appropriate period of time to take remedial action, if possible. However, remedial action does not preclude a supervisory authority from imposing penalties or civil liability if there are damages. A company's compliance status with respect to the Directive, as transposed into national law, will qualify as an environmental or social aspect that contracting authorities may take into account as part of the award criteria for public and concession contracts. The Member State competent supervisory authority for non-EU-based companies that fall within the scope of the Directive but do not have a physical presence in the EU will be deemed to be that of the Member State in which the company generated most of its net turnover in the EU.
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Civil Liability of Companies and a Right to Full Compensation	Victims are able to bring a civil liability claim in appropriate Member State courts. Member States are required to ensure that companies could be held liable for damage caused to a natural or legal person, provided that: • The company intentionally or negligently failed to comply with the obligations under the Directive, when the right, prohibition or obligation is aimed to protect the natural or legal person; and • As a result of a failure, as referred to in the previous bullet point, a damage to the natural or legal person’s legal interest protected under national law was caused. A company cannot be held liable if the damage was caused only by its business partners in its chain of activities. If a company is held liable, a natural or legal person has the right to full compensation for the damage occurred in accordance with national law, which does not include overcompensation, whether by means of punitive, multiple or other types of damages. The limitation period for bringing actions for damages under the Directive must be at least five years and, in any case, not lower than the limitation period laid down under general civil liability national regimes. Member States are required to provide for reasonable conditions under which an alleged injured party may authorize a trade union, non-governmental organization or national human rights’ institution to bring actions to enforce the rights of the alleged injured party. <i>This requirement would be removed under the Omnibus Package.</i> Companies that participated in industry or multi-stakeholder initiatives, or used third-party verification or contractual clauses to support the implementation of due diligence obligations can still be held liable. <i>The Omnibus Package would remove the requirement for Member States to provide for companies to be held liable for third-party damages. However, the Omnibus Package provides that, if a company is held liable under national law for a failure to comply with the due diligence requirements under the Directive, the injured party would have a right to full compensation.</i>
Transposition into National Law	The Directive currently requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by July 26, 2026. <i>The Omnibus Package would delay this deadline by one year (i.e., by July 26, 2027).</i> <i>The set of proposals in the Omnibus Package that relate to the timing of the Directive would be required to be transposed into national law of EU Member States by December 31, 2025. The rest of the proposals in the Omnibus Package would be required to be transposed into national law within one year after entry into force by the directive containing the proposals.</i> As noted above, applicability of the Directive is phased in between three and five years after the Directive’s entry into force (or four and five years under the Omnibus Package). See the “Covered Entities” section for the phased in applicability thresholds. The Directive currently prohibits Member States from introducing into their national laws requirements that expand obligations relating to identifying and assessing actual and potential adverse impacts, preventing potential adverse impacts

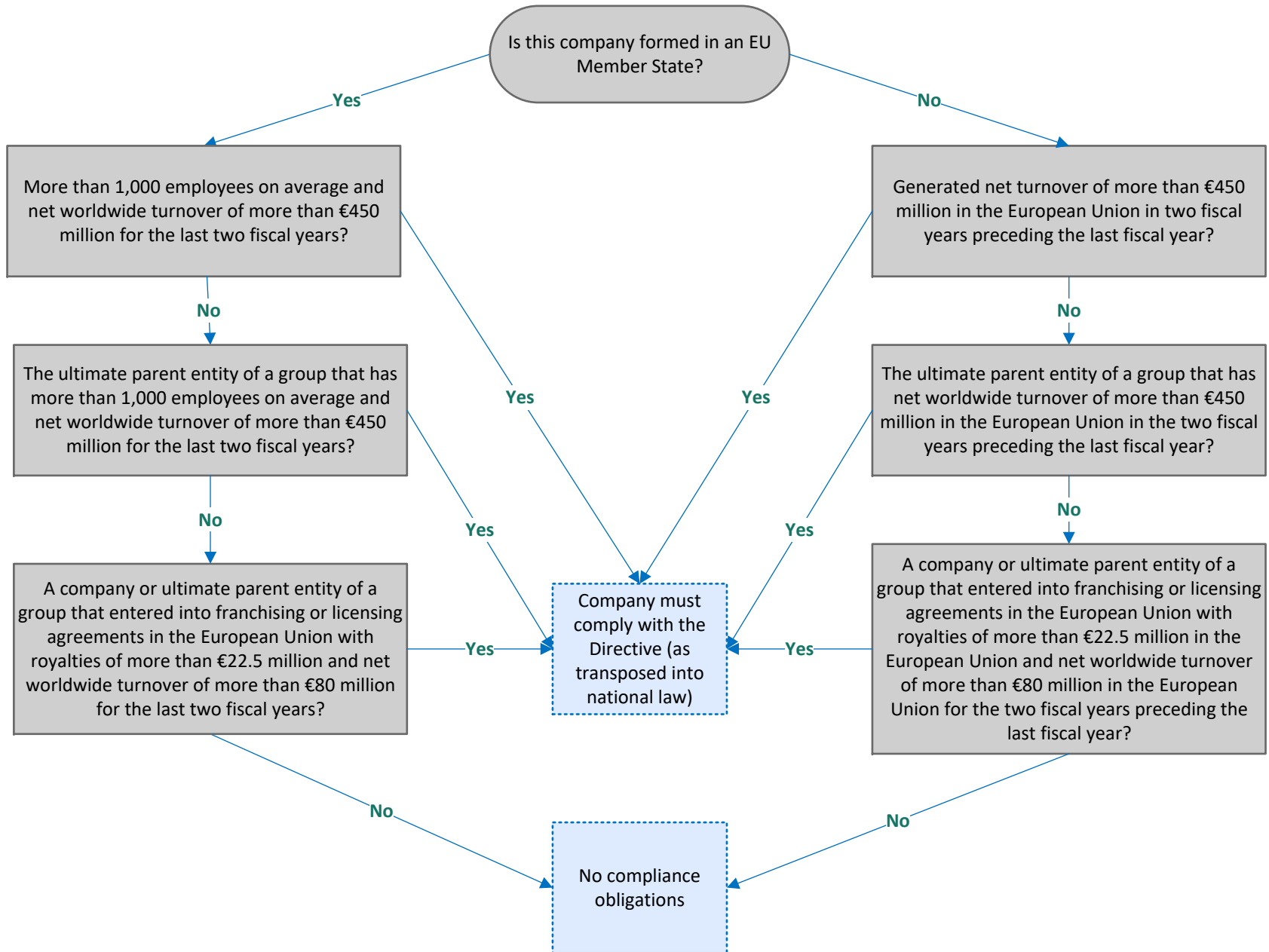
	and ending actual adverse impacts. <i>Under the Omnibus Package, additional elements of the Directive would be subject to this harmonization requirement, including provisions relating to due diligence support at the group level and the complaints notification mechanism.</i>
Relationship to Other Existing Requirements	By its terms, the Directive does not constitute grounds for reducing the level of human rights, environmental or climate protection under EU Member State laws or applicable collective agreements in effect when the Directive is adopted. By its terms, the Directive also does not modify obligations relating to human, employment and social rights, protection of the environment or climate change under other EU legislation. If the Directive conflicts with a provision of another EU law providing for more extensive or specific obligations, the more restrictive requirement applies.
Additional Information/Resources	
The Directive	For the text of the Directive .
Omnibus Package	For the text of the Proposal postponing the application of some reporting requirements under the CSRD and the transposition deadline and application of the CSDDD - Omnibus I - COM(2025)80, click here. For the text of the Proposal for a Directive amending the Directives: Accounting, Audit, CSRD and CSDDD - Omnibus I - COM(2025)81, click here.
Additional Resources	For Frequently Asked Questions on the Directive, click here. For Frequently Asked Questions on the Omnibus Package, click here.
Ropes & Gray Resources	Client alerts related to the Directive: • A Fleet of Omnibuses and Other Takeaways from Monday’s Responsible Business Alliance Conference on the CSDDD in Brussels (March 26, 2025) (link here). • The Omnibus is Beginning to Look More Like a Minivan – The PROTECT USA Act Seeks to Scale Back the Corporate Sustainability Due Diligence Directive for U.S. Companies (March 14, 2025) (link here). • Stop the Omnibus and Let Us Off – Members of U.S. Congress and State Officials Call for Action Against the EU CSDDD and CSRD (February 28, 2025) (link here). • The Omnibus Picks Up Speed – An In-Depth Look at the European Commission’s February 26 Proposal (February 27, 2025) (link here). • Boarding the Omnibus – An In-depth Look at the Leaked Draft Directive (February 24, 2025) (link here). • European Commission Publishes FAQs on the Corporate Sustainability Due Diligence Directive (July 29, 2024) (link here). • EU Corporate Sustainability Due Diligence Directive Effective Date Set – A Deep-dive and Baker’s Dozen of Takeaways for U.S.-based Multinationals (July 8, 2024) (link here). • Provisional agreement reached on EU Corporate Sustainability Due Diligence Directive – Christmas gift or lump of coal for U.S.-based multinationals? (December 15, 2023) (link here).

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| | <ul style="list-style-type: none">• European Commission (Finally) Proposes Mandatory Human Rights and Environmental Due Diligence Directive – A Deep Dive Q&A on the Commission Proposal (February 28, 2022) (link here). |
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Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Corporate Duty of Vigilance Law France	
Overview	
Law / Country	Corporate Duty of Vigilance Law (No. 2017-399) (the “Law”) (France)
Goal	To prevent severe human rights violations and violations of the health and safety of people or the environment, including those associated with subsidiaries, subcontractors and supply chain members.
Adoption / Status	The Law was adopted on February 21, 2017 by the French National Assembly and became effective on March 27, 2017. On March 23, 2017, the French Constitutional Council struck down, as failing to comply with constitutional principles, the portion of the Law that calls for imposing fines on subject companies not in compliance with the Law. The European Union’s Corporate Sustainability Due Diligence Directive (the “CSDDD”) entered into force on July 25, 2024. Member States currently are required to transpose the CSDDD into national law by July 26, 2026. This would change to July 26, 2027 if a recent European Commission omnibus package to simplify the CSDDD is adopted. Applicability of the CSDDD will phase in for covered companies between 2027 and 2029 (or in 2028 and 2029, if the omnibus package is adopted). The Law will need to be harmonized with the CSDDD. The CSDDD is discussed in a separate summary.
Issues Addressed	• Environment • Health and safety • Human rights
Covered Entities	Any company with its registered office in France that employs, for a period of two consecutive financial years: • At least 5,000 employees itself and in its direct or indirect subsidiaries with registered offices in France; or • At least 10,000 employees itself and in its direct or indirect subsidiaries with registered offices located within French territory or abroad. A company is considered to be a subsidiary if another company owns more than 50% of its capital. Up-the-chain affiliates and sister companies are not subject to the Law unless they independently meet its requirements. A controlled company independently required to comply with the Law is exempt if it comes under the vigilance plan of a parent entity.
How It Works	
Mandatory?	Yes.
Vigilance Plan Requirements	Subject companies must establish a reasonable vigilance plan to allow for risk identification and prevention of severe violations of human rights, health and safety or environmental damage resulting from the operations of the company, its subsidiaries and subcontractors and suppliers with which the company has an established relationship.

	The vigilance plan must include: • Procedures to identify and analyze the risks of human rights violations or environmental harms in connection with the company's operations; • Procedures to regularly assess risks associated with subsidiaries, subcontractors and suppliers with which the company has a commercial relationship; • Actions to mitigate identified risks or prevent the most serious violations; • Mechanisms to alert the company to risks and collect signals of potential or actual risk; and • Mechanisms to assess measures that have been implemented as part of the company's plan and their effectiveness. The plan must be drafted in association with the company stakeholders involved and, where appropriate, within multi-party initiatives that exist in the subsidiaries or at the territorial level. The alert mechanism must be developed in partnership with the company's trade union representative.
Reporting	Companies must make public their vigilance plan and a regular report on the implementation of the plan. Companies must include their vigilance plan and report on implementation in their annual management report.
Enforcement	If a subject company fails to create, implement or publish a vigilance plan, an interested person may send a formal notice to the company detailing its non-compliance. After receiving a formal notice of non-compliance, the company has three months to meet its obligations. If the company fails to meet its obligations after the three-month period, any person with a demonstrable interest (i.e., the claimant has suffered harm and there is loss causation) may demand a court take action to enforce the law, at which point a judge may issue an injunction requiring compliance. The judge may also rule on whether a vigilance plan is complete and appropriately fulfills the obligations described in the Law. Companies may also be subject to civil liability. If an individual is harmed by a company's non-compliance, the individual can seek damages for corporate negligence. After much debate over which court has jurisdiction to hear lawsuits concerning the Law, the Paris Judicial Court has been given jurisdiction. On December 15, 2021, in the <i>Total in Uganda</i> case, the Commercial Chamber of the Court of Cassation (the French Supreme Court) ruled that the Law's vigilance plan does not constitute a commercial transaction and that, while the preparation and implementation of such a plan has a direct link with the management of a company—justifying the jurisdiction of the Commercial Court—the non-trading plaintiff had the choice of bringing the matter either before the Judicial Court or the Commercial Court. Then, on December 24, 2021, Article L. 211-21 was implemented by the French legislature, providing that the Paris Judicial Court has jurisdiction over actions relating to the Law. <u>Selected Litigation and Enforcement Activity</u> Civil society organizations have been seeking to compel compliance by companies they believe are not meeting their obligations under the Law.

Sherpa, ActionAid France, Petrol-İş & former employees v. Yves Rocher: In March 2022, Sherpa, ActionAid France, the Turkish trade union Petrol-İş and 34 former employees of a Turkish subsidiary of the Yves Rocher Group filed a lawsuit against Yves Rocher in the Paris Judicial Court for failing to meet its obligations under the Law with respect to trade union freedom and fundamental rights of workers in its subsidiary in Turkey. In November 2023, an additional 47 former employees joined the lawsuit.

Comissao Pastoral da Terra & Notre Affaire a Tous v. BNP Paribas: In February 2023, a Brazilian NGO and a French NGO filed a lawsuit under the Law against BNP Paribas, a French bank, for providing financial services to companies that allegedly contribute to the deforestation of the Amazon rainforest and violate human and indigenous rights in the region.

Oxfam, Friends of the Earth, & Notre Affaire a Tous v. BNP Paribas: In February 2023, three French NGOs also filed a lawsuit under the Law against BNP Paribas, a French bank, for its alleged loans to oil and gas firms. The NGOs argue that the bank's loans both directly and indirectly support new fossil fuel projects and thus the bank breached its duty under the Law to ensure its activities do not harm the environment. In October 2022, the NGOs provided the bank with a formal notice requesting that the bank comply with the Paris Agreement 1.5°C goal by immediately halting support for new fossil fuel projects and threatened to take legal action if the bank failed to comply with the Law.

MENA Rights Group v. TotalEnergies: In February 2023, a Swiss NGO filed a lawsuit under the Law against TotalEnergies, a French oil company, on behalf of two people who said they were subjected to detention and torture by UAE forces at a gas liquefaction plant operated by Yemen LNG, of which the oil company is the biggest shareholder with a 39.6% stake.

ClientEarth, Zero Waste France & Surfrider Foundation Europe v. Danone: In January 2023, three NGOs filed a lawsuit against Danone over its plastic use, accusing it of failing to sufficiently account for all the plastic used along its production cycle. Prior to filing the claim in Paris, ClientEarth served "legal warnings" on Danone and certain other French companies, including Auchan, Carrefour, Casino, Lactalis, McDonald's France, Les Mousquetaires, Picard and Nestlé France. On September 18, 2023, the claimants and Danone announced an agreement to enter into a mediation procedure ordered by the court. On February 21, 2025, Danone issued a press release announcing that the parties had reached an agreement to end the proceedings. According to the press release, the agreement involves reinforcing the vigilance plan, which now gives a more detailed description of the consequences of the use of plastic packaging and sets out in detail all the actions that Danone is implementing in this respect (such as reducing, reusing, recycling, and recovering plastic packaging), in line with the objectives defined in relation to its status as a Société à Mission.

Sud PTT v. La Poste: In December 2021, the French labor union Sud PTT filed a lawsuit against La Poste, alleging breaches of the duty of vigilance for La Poste's failure to include in its vigilance plan a mapping of the risks and serious violations on human rights, fundamental freedoms, health and safety resulting from its activities. In December 2023, the Paris Civil Court ruled in favor of Sud PTT, ordering La Poste to: (1) amend its vigilance plan by including a risk map designed to identify, analyze and prioritize La Poste's risks; (2) implement procedures for assessing subcontractors based on the risks identified under the risk map; (3) amend its vigilance plan by including an alert mechanism after collaborating with relevant stakeholders; and (4) publish an appropriate system for monitoring vigilance measures. La Poste appealed the ruling.

Observatorio Ciudadano et al v. Suez: In July 2021, four NGOs filed a summons for Vigie Groupe SAS (formerly Suez Groupe SAS) to appear before the civil court in Nanterre, France, alleging that Vigie Groupe SAS's 2021 Vigilance Plan did not meet

expectations to comply with the Law, and that Vigie Group SAS did not take the necessary measures to remedy the deficiencies and unlawful practices of a treatment plant controlled by a subsidiary in Chile. On July 1, 2023, a judicial tribunal ruled that the claims brought against Vigie Groupe SAS were inadmissible because Vigie Groupe SAS could not be considered a defendant in the action. On June 18, 2024, the Paris Court of Appeal upheld the tribunal's ruling and declared the case against Vigie Groupe SAS inadmissible because the plaintiffs had not named the correct company within the corporate structure, and had referred to two different vigilance plans during the process.

Data Rights et al v. Idemia: In April 2021, Data Rights and its Kenyan partner organisations (the Kenya Human Rights Commission and the Nubian Rights Forum) sent Idemia a formal notice to revise its vigilance plan by identifying and addressing human rights risks related to its provision of a technology to capture the population's biometric data in Kenya. The claimants filed a lawsuit against Idemia in July 2022 for failure to address risks in its products and design appropriate mitigating measures. On July 24, 2023, the parties agreed on amendments to Idemia's vigilance plan.

Envol Vert et al v. Groupe Casino: In March 2021, a coalition of indigenous activists in Brazil and Colombia, backed by NGOs in France and the United States, filed a lawsuit under the Law against a French supermarket company for its supply chain practices and alleged purchases from farms involved in deforestation in South America. In September 2020, a group of French, American, Brazilian and Colombian NGOs had issued a formal notice to the same French supermarket company under the Law, due to alleged violations under the Law with respect to the company's supply chain practices and alleged purchases from farms involved in deforestation in South America. The NGOs also requested that the company establish risk-mapping and traceability protocols throughout its supply chains, and introduce an alert system to protect the rights of Amazonian peoples.

Union Hidalgo v. Électricité de France: In October 2020, Mexican and international human rights organizations brought suit against a French energy company, alleging that the company has not consulted nor obtained informed consent from the indigenous community affected by the company's planned wind farm project in Mexico. The groups initially issued a notice of non-compliance to the French company in October 2019. In July 2021, it was reported that residents in the state of Oaxaca, Mexico sought a court-ordered injunction against the company. On November 29, 2021, the civil court in Paris declared a request to immediately suspend the construction of the wind farm project in Oaxaca, Mexico inadmissible because the formal notice issued did not relate to the same vigilance plan as the one that was the subject of the court summons. In June 2024, the Paris Court of Appeal declared the case admissible, concluding that it is not necessary for the formal notice to refer to the same vigilance plan as the court summons.

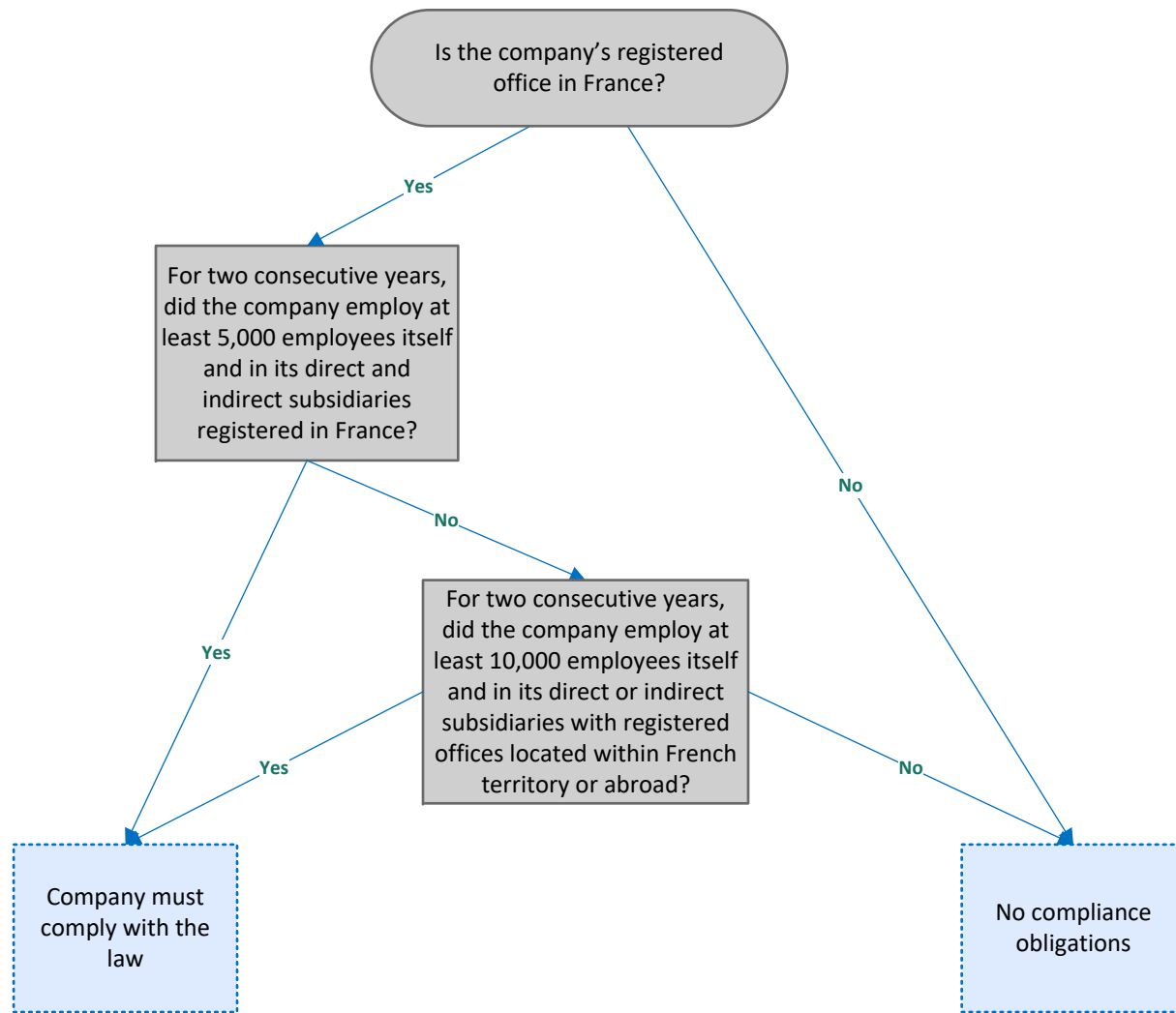
Notre Affaire a Tous and Others v. TotalEnergies: In January 2020, 14 French local authorities and several NGOs filed a lawsuit under the Law against TotalEnergies, a French oil company, alleging that it is failing to limit its carbon emissions or to mitigate the effects of climate change caused by its operations, and that its climate change plan falls short of the goals set out in the 2015 Paris Agreement. In September 2022, the cities of Paris and New York joined the coalition of associations suing. There have been jurisdictional disputes regarding this case, but in February 2023, NGOs and local authorities asked the court to implement provisional measures against the oil company while the outcome of the case is pending. In July 2023, the court ruled the lawsuit inadmissible, holding that TotalEnergies was not sufficiently notified before the lawsuit was filed. In June

	2024, the Paris Court of Appeal found the case admissible, concluding that for litigation under the Law to proceed, the grounds listed in the formal notice do not have to be identical to the grounds specified in the writ of summons. <i>Friends of the Earth et al. v. TotalEnergies</i>: In October 2019, French and Ugandan environmental groups sued TotalEnergies, a French oil company, in the Nanterre High Court in France, alleging that it failed to abide by its human rights and environmental diligence plan due to the negative environmental and social impacts of a Ugandan oil project. The court concluded that it did not have jurisdiction to hear the complaint and that the case should instead be pursued in a French commercial court. The plaintiffs appealed the decision to the Court of Appeal of Versailles, France and asked the court to rule on both the jurisdictional issue and the merits of the case. On December 10, 2020, the Court of Appeal of Versailles issued its decision, confirming the judgment of the Nanterre High Court that jurisdiction is proper in the commercial court. On December 15, 2021, the Supreme Court of France rejected the jurisdiction of the commercial courts. On February 28, 2023, a French civil court dismissed the case as “inadmissible”. The court noted that the plaintiffs did not correctly follow court procedures against Total because the accounts the plaintiff submitted to the court in December 2022 were “substantially different” from those that were presented in 2019 when the case was initiated. In June 2023, French and Ugandan activist groups led by Friends of the Earth filed a new lawsuit against TotalEnergies under the Law against TotalEnergies, alleging that TotalEnergies failed to protect people and the environment from its Talenga oil development and the \$3.5 billion East African Crude Oil Pipeline. <i>XPO Logistics Europe</i>: In October 2019, a notice of non-compliance was submitted to the French subsidiary of a U.S.-based company. Several unions alleged the company was not meeting the minimum requirements of the Law, particularly with respect to workers' rights.
Additional Information/Resources	
Law	Text of the Law .
Constitutional Council Decision	For the Constitutional Council Decision, click here .
UN Guiding Principles	For the UN Guiding Principles on Business and Human Rights in multiple languages, click here .
Ropes & Gray Resources	Client alerts related to the Law: • An Overview of French Corporate Social Responsibility Legislation for U.S.-Based Multinationals (January 14, 2021) (link here). • Corporate Social Responsibility Disclosure and Compliance: An Overview of Selected Legislation, Guidance and Voluntary Initiatives (October 31, 2019) (link here).

Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Due Diligence in the Supply Chain Act Germany

Overview

Law / Country	Due Diligence in the Supply Chain Act (the “Act”) (Germany)
Goal	Mitigate human rights and specified environmental-related risks that can lead to human rights violations.
Adoption / Status	The Act was approved by the German Parliament on June 11, 2021. The Act took effect on January 1, 2023. In its 2025 budget and growth initiatives meeting held in July 2024, the German government announced plans to modify the Act as part of the process of harmonizing it with the standards of the EU Corporate Sustainability Due Diligence Directive (the “CSDDD”), which entered into force on July 25, 2024. Under the CSDDD, EU Member States currently are required to transpose the CSDDD into national law by July 26, 2026, with applicability of the CSDDD currently phasing in for covered companies between 2027 and 2029. As part of CSDDD alignment, the government announced that, as of January 1, 2025, the Act would apply to less than one-third of the currently in-scope companies. The German government indicated that it may pause compliance requirements under the Act until the CSDDD is transposed into national law. Further, reporting under the EU Corporate Sustainability Reporting Directive (the “CSRD”), which took effect on January 1, 2025 for certain companies, is expected to satisfy the reporting requirements under an updated version of the Act. On February 26, 2025, the European Commission published an omnibus package (the “Omnibus Package”), which would amend the requirements for covered companies under the CSDDD and CSRD. The Omnibus Package would make changes to the CSDDD and CSRD, which would result in substantive changes to the Act when it is amended to harmonize with the CSDDD and CSRD. The CSDDD and CSRD, and how the Omnibus Package would alter both, are discussed in separate summaries.
Issues Addressed	• Environmental damage • Human rights
Covered Entities	A company is subject to the Act if it meets two threshold requirements: • The company has its head office, principal place of business, administrative headquarters, registered office or branch office in Germany. • The company has 1,000 or more employees in Germany (down from 3,000 in 2023). This count includes full-time and part-time employees, employees posted abroad and temporary workers (if the period of deployment with the company exceeds six months). Employees in Germany at subsidiary companies are also included.
Key Definitions	A “human rights risk” means a condition in which, on the basis of factual circumstances, there is a sufficient probability that a violation of a human rights-related prohibition is imminent. Prohibitions include (but are not limited to): • Child labor; • Forced labor;

	• Slavery; • Disregard of occupational health and safety; • Disregard of freedom of association; • Unequal treatment in employment; • Withholding adequate living wage; • Environmental damage or excessive consumption; • Unlawful eviction or taking of lands/water; and • Improper use of security forces. An “environmental risk” means a condition in which, on the basis of factual circumstances, there is a sufficient probability that a violation of an environmental-related prohibition is imminent. Prohibitions include (but are not limited to): • Manufacture of mercury-added products; • Use of mercury and mercury compounds in manufacturing; • Illegal treatment of mercury waste; • Illegal production and use of chemicals; • Improper storage, handling, collection and disposal of waste; and • Illegal export or import of hazardous waste. A “violation” of a human rights- or environmental-related obligation is a violation of one of the aforementioned prohibitions.
How It Works	
Mandatory?	Yes.
Due Diligence Obligations	Under the Act, subject companies must comply with various due diligence obligations (described below) with the aim of preventing or minimizing human rights and environmental risks. The due diligence obligations of the Act generally apply to a subject company (i.e., its own business area) and its direct suppliers. There is a lower duty of care for indirect suppliers, as discussed in this summary. The manner in which the duty of care must be exercised depends on (1) the subject company’s business activities, (2) its ability to influence the direct cause of the injury, (3) the typically expected severity of the injury, the ability to remedy the injury and the likelihood of its occurrence and (4) the subject company’s relationship to the adverse impact. The duty of care is based on the UN Guiding Principles on Business and Human Rights. Subject companies must fulfill their due diligence obligations in a manner that is both appropriate and effective. <u>Risk Management System</u> Subject companies must establish an appropriate and effective risk management system to identify, minimize, prevent and end covered adverse impacts if the subject company has caused or contributed to the risks or violation in its supply chain.

- A **“supply chain”** is all products and services of a subject company, and includes all steps in Germany and abroad necessary to produce the products and services, from extraction of raw materials to delivery to the end customers, including actions of an enterprise in its own business area and the actions of direct and indirect suppliers.
- **“Own business area”** includes all activities of a company aimed at achieving its business objectives, covering both domestic and foreign operations. In affiliated companies, the parent company’s own business area includes group companies where it has significant influence.

The risk management system must consider the subject company’s employees, the employees in its supply chain and other persons directly affected by its economic activity or the economic activity of an enterprise in the supply chain. Specific requirements include:

- Designating a responsible person (e.g., appointing a human rights officer);
- Senior management must seek information on a regular basis (at least once per year) about the work of the person responsible for monitoring risk management; and
- Incorporation of preventative measures and remedial measures.

In February 2025, the Federal Office for Economic Affairs and Export Control (**“BAFA”**) published a new FAQ to provide companies with guidance on how to conduct risk analysis in accordance with the Act (the **“February FAQ”**). According to the FAQ, the mere assurance of a supplier’s adherence to standards throughout the entire supply chain (e.g., signing on to a supplier code of conduct) will generally not be deemed to be appropriate and effective risk management.

Complaint Mechanism

Subject companies must adopt a complaint mechanism that enables persons to report risks/violations of human rights and environment-related obligations that have arisen as a result of the economic actions of the company, its direct suppliers and indirect suppliers. The procedure for the complaint mechanism must be (1) written and publicly available, (2) impartial and confidential and (3) reviewed annually for effectiveness. As part of the complaint mechanism:

- Receipt of reported information must be confirmed to the person having reported the information.
- The persons entrusted by the enterprise with the implementation of the procedure must discuss the facts with the persons having reported the information.
- The persons entrusted to conduct the proceedings must: (1) offer a guarantee of impartiality; (2) be independent (e.g., not bound by instructions); (3) maintain confidentiality of identity; and (4) ensure effective protection against disadvantage or punishment as a result of a complaint.

BAFA has issued additional guidance on complaint mechanisms. According to this guidance, the written complaint procedure should contain the following information:

- The scope of application of the procedure or the type of complaints or information the procedure can be used for.
- The complaint channels that can be used (e.g., emails, links to websites, phone numbers).
- How the complaints procedure proceeds. This includes the expected time frame of the individual procedural steps and at which point or at which times the notifying person will be informed of the progress of the procedure.

- Whether there is an option to settle a dispute by mutual agreement.
- Who are the contact persons for the person making the complaint and which department(s) are responsible for the appeal procedure.
- How the company provides effective protection against discrimination or punishment arising from a complaint.

Risk Analysis

Subject companies must conduct a risk analysis, at least annually, to identify human rights and environmental risks in the subject company's own business area and at its direct suppliers. A risk analysis should also be carried out on an as-needed basis if the company expects a significant change or significant expansion of the risk situation in its supply chain. The results of the analysis must be communicated internally to relevant decision-makers (e.g., the Board or the purchasing department).

A **"direct supplier"** is a partner to a contract for the supply of goods or services whose supplies are necessary for the production of the subject company's products or the provision and use of the relevant services.

According to the February FAQ, companies should use a risk-based approach. The FAQ contemplates a four-step risk analysis process:

- **Develop an overview understanding:** A company should obtain an overview understanding of: (1) its procurement processes and supply chain business relationships; (2) internal responsibilities and existing information in the company's possession; (3) the structure and actors among its direct suppliers; and (4) the key groups of people that may be affected by the company's business activities.
- **Conduct a general risk assessment:** A company should seek to identify potential general human rights and environmental risks in the company's industry and countries of operation and procurement. In this step, the company determines typical and relevant risks while identifying areas with little or no risk.
- **Conduct a specific risk assessment:** A company should conduct a more in-depth analysis of the general risks identified in step 2, specific to the company and its suppliers. The purpose of this step is to confirm whether the identified general risks are actual risks in the company's business and supply chains. Suppliers can be excluded from this step of the risk assessment if no general risks were identified, unless a specific risk is indicated, such as through findings from complaint procedures, actual evidence of potential violations at indirect suppliers or there are relevant insights from the implementation of corrective actions. Stated another way, the FAQ indicates priority should be given to suppliers with severe and/or probable risks or unclear risk situations.
- **Prioritize risks:** A company must assess and prioritize those risks for the implementation of preventive measures, applying the criteria for appropriateness contemplated by the Act. A company has discretion when prioritizing risks, but they must be able to justify why a particular risk is addressed as a priority.

According to the February FAQ, companies cannot replace their risk analysis with contractual assurances or certificates of risk-free supply chains from suppliers. BAFA may consider this to be an indication of an inadequate risk analysis and, at its discretion, may reach out to the company for further clarification.

Preventative Measures

Subject companies must engage in preventive measures to prevent potentially negative human rights and environmental impacts in the subject company's own business and at its direct suppliers. At the subject company level, these measures must include (1) issuance of a policy statement (discussed later in this summary) regarding implementation of the human rights strategy, (2) procurement strategies and practices intended to avoid or mitigate identified risks, (3) training to manage risks and (4) risk-based control measures to verify compliance. At the direct supplier level, these measures must include (a) the consideration of human rights and environmental expectations in supplier selection, (b) contractual representations from direct suppliers to comply with human rights obligations and enforce them in the supply chain, (c) training to manage risks and (d) risk-based control measures to verify compliance. The subject company must evaluate the effectiveness of the preventative measures at least annually.

According to the February FAQ, preventive measures must align with the risk analysis results. BAFA cautioned that indiscriminately assigning suppliers preventive measures such as training, contractual obligations or codes of conduct, regardless of the identified risks, may be deemed inappropriate and generally ineffective by BAFA. Companies should also consider suppliers' capacity to implement preventive measures. For example, measures that clearly overwhelm a supplier (e.g., because the supplier cannot afford implementation) are generally ineffective. Measures should take into account a supplier's resources, size, industry, position in the supply and value chain and the specific local circumstances.

Remedial Action

If a violation has occurred or is imminent at the business or a direct supplier, the subject company must take remedial action to prevent, end or minimize the violation. If the violation occurs at a direct supplier and the subject company cannot end the violation in the foreseeable future, it must (1) implement a plan to end/minimize the violation, including a concrete timeline, (2) consider working with the direct supplier to develop and implement the plan to end/minimize the violation, and (3) consider temporary suspension of the direct supplier. Termination of a direct supplier is only required if (a) the violation is very serious, (b) the remediation plan does not remedy the situation and (c) the subject company has no less severe means at its disposal and increasing the ability to exert influence has no prospect of success. The subject company must evaluate the effectiveness of the remedial measures at least annually.

Indirect Suppliers

There is a lower duty of care for indirect suppliers. For indirect suppliers, due diligence obligations only apply if the subject company has substantiated knowledge of a possible human rights or environmental violation. If a subject company has reason to believe a violation at an indirect supplier may be possible (substantiated knowledge), it must (1) carry out a risk analysis, (2) lay down appropriate preventative measures for the indirect supplier, (3) take steps to prevent, cease or minimize the violation and (4) update its policy statement, if necessary.

Policy Statement

A subject company must have a policy statement on the company's human rights strategy that addresses, among other things, the subject company's risk management system, the risk analysis process (including how risks are weighed, prioritized and

	communicated), preventative measure at the business and its direct suppliers, remedial action, the complaint process, risks identified and expectations on employees and suppliers. <u>Documentation and Records Maintenance</u> Subject companies are required to document their due diligence. Records are required to be maintained for at least seven years.
Reporting	Subject companies are required to annually report on their diligence. The report is required to discuss: • The human rights and environmental risks identified; • The measures taken to fulfill the duties of care, including arising out of complaints received through the complaint procedure; • How the subject company assesses the impact and effectiveness of the measures taken; and • The conclusions drawn from the assessment for future measures. By the terms of the Act, the report is required to be published on the subject company's public website no later than four months after each fiscal year end and kept available for seven years. The report also is required to be submitted to BAFA. BAFA has published on its website a questionnaire to satisfy annual reporting under the Act. According to BAFA's website, beginning on January 1, 2026, BAFA will begin enforcing the submission and publication of annual reports. Even if a report was technically required to be submitted before that date, BAFA will not sanction the failure to meet such deadline (provided that the report is submitted by December 31, 2025). The fulfilment of the other due diligence obligations under the Act has not been postponed.
Enforcement	BAFA is charged with reviewing whether a subject company has complied with the Act. Among other things, it can require the subject company to address reporting deficiencies within a reasonable time period. It also is empowered to, with three months' notice, require a subject company to submit a plan to remedy substantive compliance deficiencies, as well as to provide a subject company with specific action items to fulfill its obligations. Subject companies that fail to comply with the requirements of the Act, either intentionally or negligently, also are subject to administrative fines. Depending upon the nature of the violation, the fine can be up to €8 million. However, if the subject company has an average annual turnover over the last three years of more than €400 million, the fine for failing to take remedial measures to address adverse human rights or environmental impacts in the subject company's own business and at its direct suppliers can be up to 2% of average annual sales. If a potential fine exceeds €175,000, the subject company also can be excluded from public procurement for up to three years. According to the February FAQ, BAFA will monitor and enforce implementation of a subject company's risk-based approach through inspections, which will typically occur through broad-based reviews of controls, or when there is a specific trigger, such as a media report or tip received. BAFA also provides an email for suppliers to contact BAFA if they believe they are being asked to provide information indiscriminately and not in a risk-based manner. Anonymous submissions can be made by

	suppliers to BAFA. Upon receipt of a supplier complaint, BAFA may initiate an investigation, starting with a written request for information from the subject company. Non-governmental organizations and trade unions are entitled to sue subject companies in German courts on behalf of persons that suffer harm. However, the Act does not create an additional basis for liability. As noted above, BAFA announced that it will refrain from sanctioning companies that do not comply with reporting requirements under the Act until January 1, 2026. <u>Selected Litigation and Enforcement Activity</u> On April 24, 2023, the Bangladeshi union National Garments Workers Federation, with support from the European Center for Constitutional and Human Rights (“ECCHR”) and the African Women’s Development and Communication Center, filed a complaint with BAFA against Amazon, IKEA and Tom Tailor, arguing that factories supplying goods to these retailers do not have adequate safety measures in place to protect factory workers and therefore the companies are not in compliance with their due diligence obligations under the Act. The complaint remains under review by BAFA. On June 21, 2023, the ECCHR filed a complaint with BAFA against Volkswagen, BMW and Mercedes-Benz, arguing that the carmakers have not presented supporting documents to demonstrate they are adequately responding to the risk of forced labor in supplier factories in the Xinjiang Autonomous Uyghur Region and therefore the companies are not in compliance with their due diligence obligations under the Act. The complaint remains under review by BAFA. On November 3, 2023, international aid organization Oxfam filed a complaint with BAFA against Rewe and Edeka, two of Germany’s key supermarkets, alleging human rights abuses on banana and pineapple plantations in Latin America. The complaint alleges that ample evidence was put forward to expose low wages, disastrous working conditions and suppression of trade unions and, while competitors addressed the concerns, Rewe and Edeka ignored them. BAFA found the complaint to be substantiated at the end of January 2024 and initiated an investigation. On June 21, 2024, the International Union Working Group Cologne, on behalf of BİRTEK-SEN, filed a complaint against Levi’s, Hugo Boss and Inditex for alleged violation of their obligations under the Act. On November 27, 2024, five Palestinian plaintiffs, along with the Palestinian villages of Iskaka, Marda and Taybeh, represented by the Jerusalem Legal Aid and Human Rights Centre, filed a legal complaint against German media publishing group Axel Springer S.E. for allegedly “contributing to land grabbing and human rights abuses in the occupied Palestinian territory through their Israeli subsidiary.” On February 5, 2025, the Romero Initiative, along with affected individuals and groups from Mexico and Panama, filed a complaint and a report against the metal company Aurubis. The complaint alleges that Aurubis imports copper ore from mines associated with drinking water contamination, health risks and violent repression and is therefore not in compliance with due diligence obligations under the Act.
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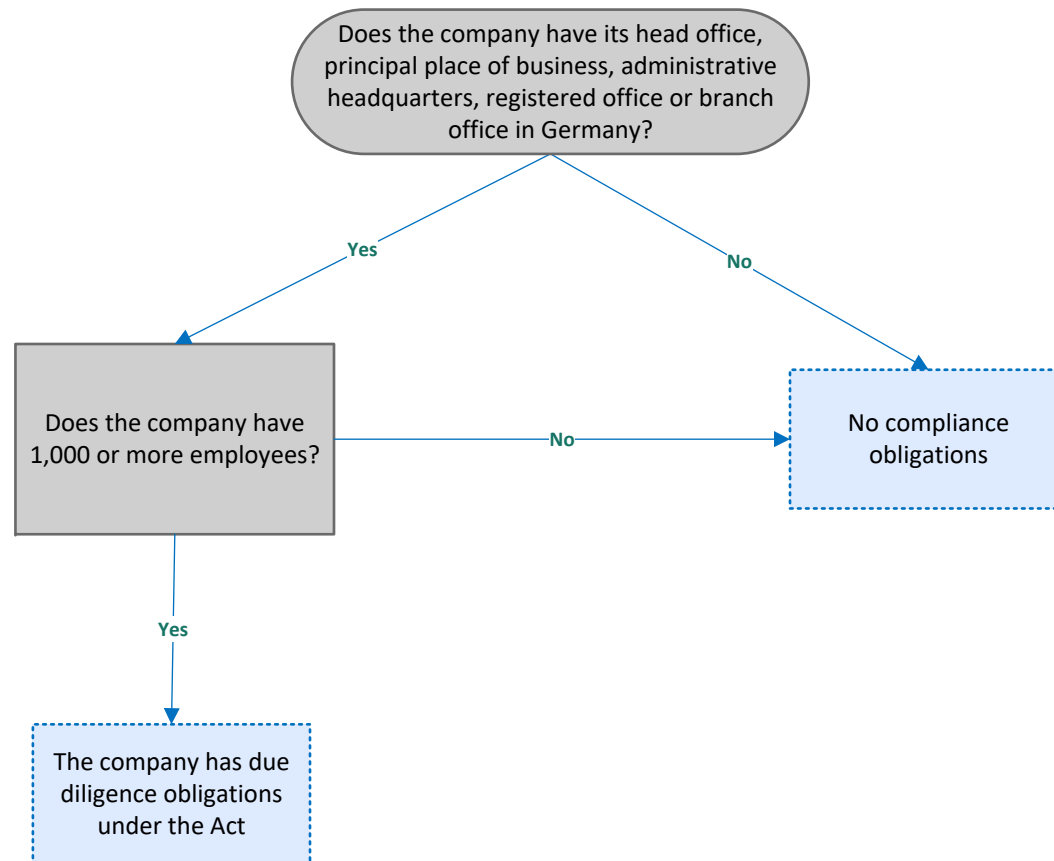
	On March 7, 2025, the China Labor Bulletin filed a complaint with BAFA against Volkswagen AG. The complaint alleges labor rights violations by one of Volkswagen’s Chinese suppliers, Qiao Feng Technology Industrial (Shenzhen) Co., Ltd. Unless noted above, BAFA has not publicly disclosed any findings or actions taken in response to the aforementioned complaints. On the Act’s one-year anniversary, BAFA issued a release summarizing enforcement of the Act to date. BAFA conducted 486 checks on companies during 2023, focusing on the automotive, chemicals, pharmaceuticals, mechanical engineering, energy, furniture, textiles and food and beverage industries. Through its complaints procedure, BAFA received 38 complaints, of which 20 were unrelated to the Act’s due diligence obligations or were not sufficiently substantiated; BAFA contacted companies in six cases.
Further Regulation and Guidance	The Federal Ministry of Labor and Social Affairs (“BMAS”), in agreement with the Federal Ministry for Economic Affairs and Climate Action (“BMWK”), is authorized to issue ordinances that further flesh out the Act’s due diligence requirements. BMWK, BMAS and BAFA jointly published, and periodically update, Q&A guidance on the Act. BMAS also has published information on complying with the Act.
Additional Information/Resources	
Act	Text of the Act. An unofficial English translation of the Act, click here.
Additional Guidance	For FAQs on the Act, click here. For BMAS’s overview of diligence obligations and recommendations, click here. For BAFA’s Guidelines on the risk analysis, the complaint procedure, the principle of “appropriateness,” collaboration in the supply chain, etc., click here. For the February FAQs (on the risk analysis) (in German), click here. For BAFA’s questionnaire on the reporting obligation (in German), click here.
Reporting Questionnaire	For the BAFA questionnaire (available only in German), click here.
Ropes & Gray Resources	Client alerts related to the Act: - Assessing and Prioritizing Risks under the German Due Diligence in Supply Chains Act – New Guidance Issued (March 12, 2025) (link here). - The Omnibus Picks Up Speed – An In-Depth Look at the European Commission’s February 26 Proposal (February 27, 2025) (link here). - Boarding the Omnibus – An In-depth Look at the Leaked Draft Directive (February 24, 2025) (link here).

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| | <ul style="list-style-type: none"> • Managing the coming reset in corporate social responsibility legislation (Or, just because a law says it, that may not make it so) (July 16, 2024) (link here). • EU Corporate Sustainability Due Diligence Directive Effective Date Set – A Deep-dive and Baker’s Dozen of Take-aways for U.S.-based Multinationals (July 8, 2024) (link here). • ESG disclosures in 2024 – key compliance dates for U.S.-based multinationals (January 22, 2024) (link here). • German Parliament Approves Mandatory Human Rights and Environmental Due Diligence Legislation – Near-term Steps for U.S.-based Multinationals (June 22, 2021) (link here). • The Pressure in Germany Is Rising: Corporate Social Responsibility Requirements are Increasing Compliance Considerations for U.S.-based Multinationals (May 11, 2021) (link here). |
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Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Transparency Act Norway	
Overview	
Law / Country	Transparency Act (Innst. 603 L (2020–2021)) (the “Act”) (Norway)
Goal	To promote the respect of businesses for fundamental human rights and decent working conditions in connection with the production of goods and the provision of services, and to provide public access to information about how businesses deal with adverse impacts of fundamental human rights and decent working conditions.
Adoption / Status	The Act took effect on July 1, 2022 and the first public reports were required to be published by June 30, 2023. The EU Corporate Sustainability Due Diligence Directive (the “CSDDD”) entered into force on July 25, 2024. EU Member States currently are required to transpose the CSDDD into national law by July 26, 2026, with applicability of the CSDDD currently phasing in for covered companies between 2027 and 2029. As a European Free Trade Association country, Norway is expected to adopt the CSDDD. If the CSDDD is adopted by Norway, the Act will need to be harmonized with the CSDDD. On February 26, 2025, the European Commission published an omnibus package (the “Omnibus Package”), which would amend the requirements for covered companies under the CSDDD. The CSDDD, and how the Omnibus Package would alter it, are discussed in a separate summary.
Issue Addressed	• Decent working conditions • Fundamental human rights “Decent working conditions” are work that safeguards fundamental human rights in accordance with the foregoing instruments and health, safety and the environment and provides a living wage. “Fundamental human rights” are internationally recognized human rights pursuant to, among other things, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the ILO core conventions on fundamental principles and rights at work. The NNHRI Guidance (as defined below) notes that, at a minimum, this covers the prohibition of slavery, the right to work and to fair and favorable working conditions, non-discrimination and equal treatment for equal work, the right to rest and leisure, reasonable limitation of working hours and regular holidays with pay.
Covered Entities	The following enterprises are subject to the Act: • Large enterprises domiciled in Norway, irrespective of where they provide goods and services. • Large foreign enterprises that offer goods and services in Norway that are taxable in Norway pursuant to internal Norwegian legislation. Goods and services are interpreted broadly. They are not limited to conventional commercial activities provided to third-parties. Furthermore, it is not necessary for the enterprise to receive monetary compensation or other advantages for the

	goods and services provided. Internal services within a group of companies come within the Act's scope according to the NCA Guidance (as defined below). The same also is the case for intra-group loans or administrative services within the group. Large enterprises are enterprises covered by Section 1-5 of the Norwegian Accounting Act, or which on the applicable balance sheet date exceed two of the following thresholds: • Sales of NOK 70 million. • Balance sheet amount of NOK 35 million. • Average number of employees during the fiscal year of 50. Under Section 1-5 of the Norwegian Accounting Act, large enterprises include: • Public limited companies; • Reporting entities, the shares, units, primary capital certificates or bonds of which are listed on a securities exchange, authorized marketplace or corresponding regulated market outside Norway; or • Other reporting entities if stipulated in regulations laid down by the Ministry of Finance Subsidiaries are taken into account for determining whether a parent company domiciled in Norway is a large enterprise. This same consolidation rule does not apply to foreign parent companies. For a foreign enterprise without a subsidiary company organized in Norway through which it conducts its Norwegian activities, the assessments of the thresholds should be considered based on the enterprise's activities within Norway. The Ministry of Children and Families is also authorized to exempt large enterprises from compliance with the Act.
How It Works	
Mandatory?	Yes.
Due Diligence Requirement	Subject enterprises are required to carry out due diligence in accordance with the OECD Guidelines for Multinational Enterprises. Due diligence is intended to include the following: • Embedding accountability in the enterprise's policies; ◦ The NCA Guidance states that enterprises must create, or update their existing, guidelines and policies so that they are in line with the Act. Specifically, the guidelines must include: (1) how to act responsibly; (2) the enterprise's expectations of supplier and business partner accountability; and (3) the enterprise's due diligence plans. The NCA Guidance also notes that an enterprise's guidelines should be clearly communicated to employees, suppliers and business partners. • Mapping and assessing actual and potential adverse impacts on fundamental human rights and decent working conditions that the business has caused or contributed to, or that are directly related to its activities, products or services through suppliers or business partners; • Implementing appropriate measures to cease, prevent or limit adverse impacts based on the enterprise's mapping and risk assessment;

	- Tracking the measures implemented and their results; - The Guidance states that enterprises must investigate: (1) how many of the measures were implemented on time; (2) how well the measures have worked; and (3) whether harm to individuals or groups has been averted or managed. Enterprises are also encouraged solicit stakeholder feedback as part of this investigation. - Communicating with affected stakeholders regarding how adverse impacts are addressed; and - The Guidance states that enterprises must provide stakeholders with information about the negative consequences that affect them and what measures the enterprise has taken. This information must be communicated in a manner that takes into account the recipient’s culture, language, literacy, location, time zone and level of knowledge. - Cooperating with remediation where required. Due diligence is to be carried out regularly and in relation to the size of the enterprise, the nature of the enterprise, the context within which its business takes place and the severity and likelihood of adverse impacts on fundamental human rights and decent working conditions. The NNHRI Guidance provides a non-exhaustive list of examples of human rights and ways in which enterprises could potentially have negative impacts on those rights as a reference point for risk assessments. The NNHRI Guidance further states that enterprises should focus in particular on rights that are disproportionately threatened in certain industries or contexts. In the event of armed conflicts or other situations of increased risk of serious human rights abuses, enterprises should carry out stricter due diligence assessments.
Disclosure Requirement	<u>Content</u> Subject enterprises must publish a statement containing at least the following: - A general description of the business, its area of operation and guidelines and procedures for addressing actual and potential adverse impacts on fundamental human rights and decent working conditions; - Adverse impacts and significant risks of adverse impacts uncovered through due diligence; and - The measures the enterprise has implemented or plans to take to cease or limit the adverse impacts, and the results or expected results of the measures. The NCA Guidance states that the statement must be published in Norwegian (subject to the limited exceptions noted below), but the enterprises may publish the statement in additional languages as well. <u>Timing</u> The statement must be updated and published by June 30 each year and otherwise in the event of significant changes in the enterprise’s risk assessment.

	<u>Publication</u> The statement must be made available on the enterprise’s website. If the enterprise does not have a website, the statement must be made readily available by other means. It also may be included in the enterprise’s corporate social responsibility report pursuant to Section 3-3(c) of the Accounting Act. The statement generally must be published in Norwegian. If an enterprise has an exemption to present its corporate social responsibility report in a language other than Norwegian, the enterprise may publish its statement in the same language. In addition, if the enterprise provides its accounting documents pursuant to Section 8-2 of the Accounting Act in Norwegian, Danish, Swedish or English, the enterprise may publish its statement in the same language that it provides its accounting documents. The NCA Guidance states that information regarding where the statement may be accessed must be included in the enterprise’s annual report. <u>Signature</u> The statement must be signed by the full board of directors or equivalent body of the subject enterprise in accordance with Section 3-5 of the Accounting Act. The NCA Guidance states that if a joint statement has been prepared, the parent company may not sign the joint statement on behalf of the subsidiaries covered by the joint statement. All subject enterprises have a duty to publish a statement and therefore each enterprise covered by a joint statement must independently sign the statement.
Third-party Information Rights	Upon written request, third parties are entitled to information from the enterprise concerning how it addresses identified actual and potential adverse impacts. The NCA Guidance states that the answer to such request must be adequate and comprehensible. According to the NCA Guidance, the answer must be provided in Norwegian but the enterprise may also respond to the request in the language in which the request was received. A request for information may be denied if: • The request does not contain sufficient information to identify what the request applies to; • The request is manifestly unreasonable; however, this cannot be used as a basis to exclude information concerning actual adverse impacts relating to fundamental human rights; • The request is for personal information; or • The requested information involves facilities and procedures or other operational or business matters that are competitively sensitive. <u>Timing</u> The enterprise must provide the requested information in writing within a reasonable time, but generally no later than three weeks after the request is received. However, if the request is burdensome, the enterprise has up to two months to provide the information. In the case of a burdensome request, the enterprise must, within the three-week period, notify the requesting party in writing of the extension, the reasons for the extension and when the information is expected to be provided.

	If the information request is denied, the enterprise must provide the basis for the denial. If a request for information is denied, within three weeks after receipt of the rejection, the requesting party may request a more detailed justification for the rejection, which must be provided in writing within three weeks after receipt of that request.
Further Regulation	The Ministry of Children and Families has the authority to adopt additional regulations concerning fundamental human rights and decent working conditions for purposes of the Act, due diligence, reporting, access to information and the processing of information requests, and fines.
Guidance	The Norwegian Consumer Authority issued guidance on the Act on its website (the “NCA Guidance”). Selected information from the NCA Guidance has been incorporated in this summary. In October 2023, the Norwegian National Human Rights Institution, in partnership with the National Contact Point for Responsible Business Conduct Norway, published guidance on certain human rights risks (the “NNHRI Guidance”). Selected information from the NNHRI Guidance has been incorporated in this summary.
Enforcement	The Norwegian Consumer Authority is responsible for enforcement of the Act. If there is a violation, it may issue an order requiring compliance or enjoin the violation and impose fines if the order or injunction is not complied with. In the case of repeated violations, individuals acting on behalf of the enterprise who intentionally or negligently violate the Act may be fined. On February 14, 2023, the Ministry of Children and Families announced a new regulation setting forth the factors to consider when determining the fine for a violation of the Act. Under the regulation, the maximum fine for a violation of the Act is 4% of the enterprise’s annual turnover, up to NOK 25 million. When determining the amount of a fine, consideration may be given to: • The preventative effect of the sanctions; • The nature, seriousness, extent and duration of the infringement, and whether anyone acting on behalf of the enterprise has demonstrated guilt; • Whether the enterprise could have prevented the violation by means of guidelines, instruction, training, control or other measures; • Whether the infringement has been committed in furtherance of the interests of the enterprise; • Any measures taken by the enterprise to limit or remedy the damage suffered by consumers; • Whether the enterprise has had or could have obtained financial or other benefits as a result of the infringement; • The enterprise’s possible previous violations and whether there is a recurrence; • The financial ability of the enterprise; • Whether other sanctions are imposed or imposed as a result of the offence, including whether the enterprise has been sanctioned for the same offence in other EU Member States in cross-border cases;

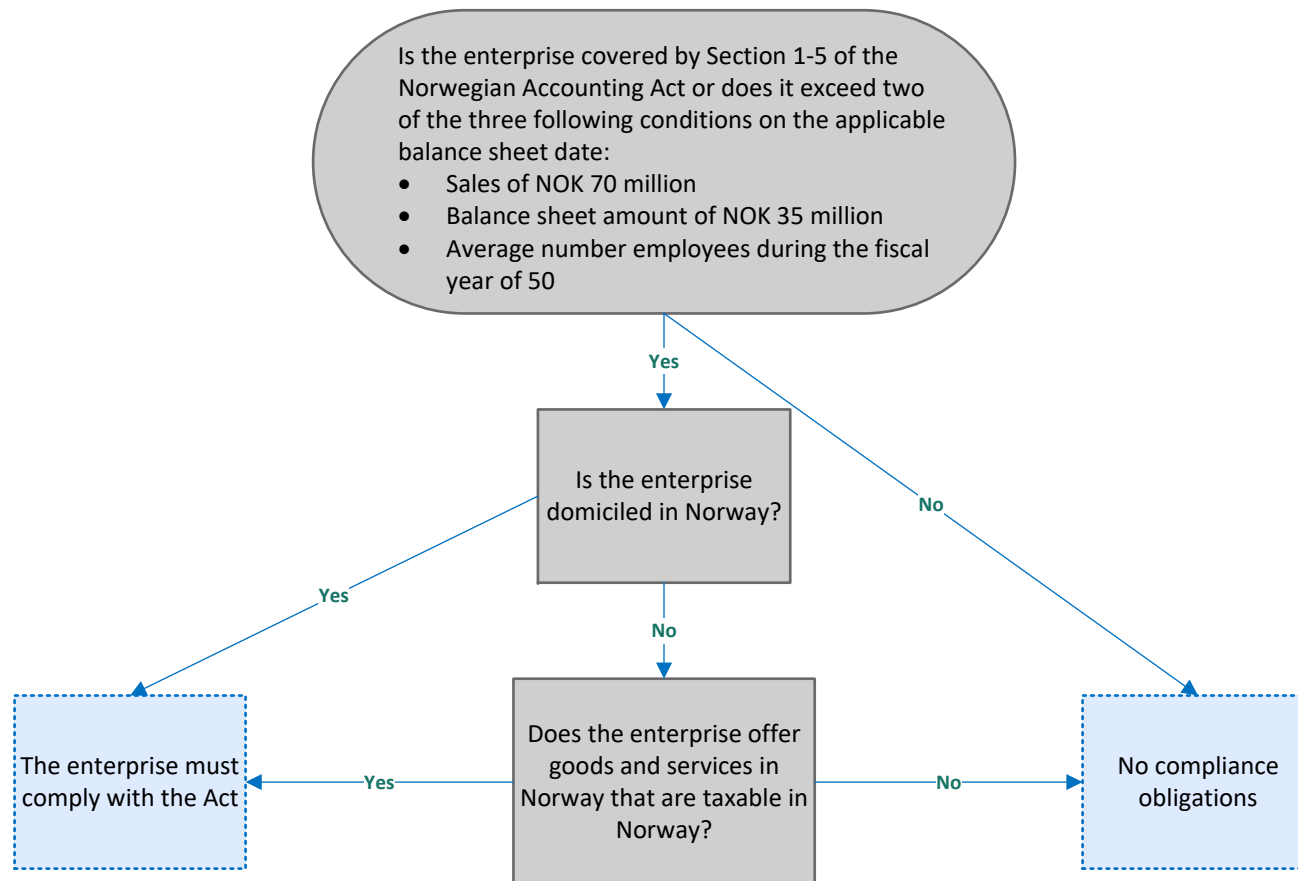
	• Whether an agreement with a foreign state or international organization presupposes the use of administrative sanctions or corporate penalties; and • Any other aggravating or extenuating circumstances in the case. When assessing compulsory fines, emphasis will be placed on: • The type of order that has not been complied with; • The seriousness of the failure to comply with the order in relation to the considerations that the order is intended to safeguard; • How burdensome it will be for the enterprise to comply with the order; • The financial ability of the enterprise; and • Any benefits of not complying with the order. In September 2024, the Norwegian Consumer Protection Authority (the “NCP”) issued its first penalty for non-compliance with the Act. A retail company was fined NOK 450,000 (equivalent to 0.2% of the company’s turnover) for failing, in two separate instances, to respond to third party information requests. However, on February 12, 2025, the Market Council upheld the retail company’s appeal, effectively overturning the NCP’s penalty. The Market Council ruled that infringement penalties should only be used as a “subsidiary enforcement measure,” and that two instances of non-compliance were insufficient to meet the legal threshold for “repeated” infringements.
Additional Information/Resources	
Law	Text of the Act .
Regulation Relating to Fines	For the Regulation on the Determination of Penalty Fines and Administrative Fines, click here .
OECD Guidelines	For the OECD Guidelines for Multinational Enterprises, click here .
Guidance	For the NCA Guidance, click here. For the NNHRI Guidance, click here.
Ropes & Gray Resources	Client alerts related to the Act: • The Omnibus Picks Up Speed – An In-Depth Look at the European Commission’s February 26 Proposal (February 27, 2025) (link here). • Boarding the Omnibus – An In-depth Look at the Leaked Draft Directive (February 24, 2025) (link here). • Managing the coming reset in corporate social responsibility legislation (Or, just because a law says it, that may not make it so) (July 16, 2024) (link here). • EU Corporate Sustainability Due Diligence Directive Effective Date Set – A Deep-dive and Baker’s Dozen of Take-aways for U.S.-based Multinationals (July 8, 2024) (link here). • ESG disclosures in 2024 – key compliance dates for U.S.-based multinationals (January 22, 2024) (link here).

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| | <ul style="list-style-type: none">• Complying with the Norwegian Transparency Act in year 2 – an update for U.S.-based multinationals (November 27, 2023) (link here).• New Norwegian Mandatory Human Rights Due Diligence Law Creates Obligations for U.S.-based Multinationals Doing Business in Norway (December 15, 2021) (link here). |
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Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Conflict Minerals and Child Labor Due Diligence Provisions Switzerland

Overview

Law / Country	Swiss Code of Obligations Section 221.433: Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labor (collectively, the “Provisions”) (Switzerland)
Goal	To further responsible business practices by Swiss companies by implementing mandatory human rights due diligence requirements for conflict minerals and child labor.
Adoption / Status	Swiss Code of Obligations Section 221.433 was adopted on December 3, 2021. On December 3, 2021, the Federal Council (i.e., the Swiss executive branch) published an ordinance under the Swiss Code of Obligations regarding conflict minerals and child labor due diligence. The Provisions entered into effect on January 1, 2022, with its requirements becoming applicable for the first time for fiscal year 2023. The Provisions also require broader-based ESG reporting by public companies and larger financial institutions supervised by the Swiss Financial Market Supervisory Authority. Those requirements are not discussed in this summary.
Issues Addressed	• Child labor • Conflict minerals and metals
Key Definitions	“Conflict minerals and metals” applies to tin, tantalum, tungsten and gold (“3TG”) from conflict-affected or high-risk areas. These minerals and metals are specified in more detail on an Annex to the Ordinance. The in-scope 3TG minerals and metals are limited to specified tariff numbers and consist of ores, concentrates, powders, rods, wires and other forms of 3TG at a similar stage of processing. “Conflict-affected and high-risk areas” are areas in a state of armed conflict or fragile post-conflict as well as areas witnessing weak or non-existent governance and security and in which widespread and systematic violations of international law, including human rights abuses, take place. “Child labor” includes the following, whether carried out within or outside of an employment relationship: • Work performed by persons under 18 that comes under the International Labour Organization’s (the “ILO”) Worst Forms of Child Labour Convention (“Convention No. 182”); • If a jurisdiction has ratified the ILO’s Minimum Age Convention (“Convention No. 138”), child labor prohibited by that jurisdiction’s laws in conformity with Convention No. 138; • If a jurisdiction has not ratified Convention No. 138, work performed by persons who are subject to compulsory schooling or who are 15 or under; and

	• If a jurisdiction has not ratified Convention No. 138, work performed by persons who have not yet reached the age of 18 if that work is expected to be dangerous to life, health or morals of the worker by its nature or the conditions under which the work is performed.
Covered Entities	Enterprises with their registered office, central administration or principal place of business in Switzerland, if certain thresholds are met for doing business relating to conflict minerals or offering products or services that induce a justified suspicion of an involvement of child labor.
Due Diligence and Reporting Exceptions	<u>Child Labor</u> There are three exceptions specific to the child labor due diligence and reporting requirements of the Provisions. However, these exceptions do not apply if the products or services are conclusively made or provided with child labor. Small or medium-sized enterprise. An enterprise generally is not subject to the child labor due diligence and reporting requirements of the Provisions if it is a small or medium-sized enterprise (an “SME”). An enterprise is an SME if it and its controlled entities are under two of the following thresholds for two consecutive fiscal years: • Total assets of SFr20 million; • Sales of SFr40 million; and • An annual average of 250 full-time employees. Low risk of child labor. An enterprise also generally is not subject to the child labor due diligence and reporting requirements of the Provisions if it presents a low risk of child labor. Under these circumstances, the enterprise is not required to assess whether there is a reasonable suspicion of child labor. An enterprise is considered to be “low risk” for child labor if the products the enterprise purchases or manufactures or the services it procures or provides are from countries designated as “Basic” in UNICEF’s Children’s Rights in the Workplace Index. This assessment must be conducted annually. An enterprise that is low risk for child labor must document its conclusion. The conclusion is not required to be published or filed with a regulator. Lack of reasonable suspicion. If an enterprise concludes that it cannot utilize the above-mentioned exemptions, it may be exempted from the child labor due diligence and reporting requirements if there is not a reasonable suspicion of child labor. There is a reasonable suspicion of child labor if there is specific information available that would lead a reasonable person to believe that a product or service involves child labor. If the enterprise concludes there is not a reasonable suspicion of child labor, it must document its finding. The finding is not required to be published or filed with a regulator. <u>Conflict Minerals and Metals</u> De minimis 3TG usage. An enterprise is not subject to 3TG due diligence and reporting requirements if the 3TG it imports or processes does not exceed the levels specified on an Annex to the Ordinance. For purposes of calculating whether a threshold is exceeded, the undertakings consolidated under the enterprise are included. 3TG not from a conflict-affected or high-risk area. If an enterprise concludes that 3TG exceeding the thresholds set out in Annex 1 of the Ordinance do not originate from a conflict-affected or high-risk area. The Federal Council’s guidance refers to

	the European Union’s 2018 recommendations for determining whether areas are conflict-affected and high-risk for purposes of the EU Conflict Minerals Regulation and the list of conflict-affected and high-risk areas periodically published by Rand International. According to the Federal Council’s guidance, this assessment must be done on a regular basis since conflict-affected and high-risk areas are not static. If the enterprise concludes its 3TG is not from a conflict-affected or high-risk area, it must document its finding. The finding is not required to be published or filed with a regulator. <u>Compliance with an Equivalent Regulation or Instrument</u> If none of the above exemptions are available, an enterprise will be exempt from due diligence and reporting if it complies with an internationally equivalent regulation or instrument. The regulations and instruments that currently qualify are listed on an Annex to the Ordinance (the “Specified Instruments”). The current Specified Instruments for child labor and conflict minerals and metals are: • Child labor ◦ Convention No. 182, Convention No. 138 and the ILO-IOE Child Labour Guidance Tool for Business; and ◦ The OECD Due Diligence Guidance for Responsible Business Conduct or the UN Guiding Principles on Business and Human Rights. • Conflict minerals and metals ◦ The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas; or ◦ The EU Conflict Minerals Regulation. To utilize this exception, the enterprise must prepare a report that identifies the Specified Instrument and comply with its requirements in their entirety.
How It Works	
Mandatory?	Yes.
Due Diligence	Enterprises that are not exempt from due diligence will be required to conduct risk-based due diligence in respect of child labor and conflict minerals and metals, as applicable. This will include putting in place the following systems, subject to a partial exception if the subject enterprise only imports and processes recycled metals, as discussed in this summary.

Supply Chain Policy

Under the policy, the enterprise must, as applicable:

- Ensure it complies with due diligence obligations in its supply chains, when (1) offering products or services that are reasonably suspected of having been manufactured or provided using child labor and/or (2) procuring 3TG originating from conflict-affected and high-risk areas;
- Communicate up-to-date information on the policy to its suppliers and the public;
- Integrate the supply chain policy into contracts and agreements with suppliers;
- Ensure that concerns about child labor and conflict minerals in its supply chain can be reported; and
- Investigate concrete indications of child labor and/or identify and assess risks of adverse impacts of 3TG originating from conflict-affected and high-risk areas in the supply chain, and in each case take appropriate measures to avoid or mitigate adverse impacts, evaluate the results of measures taken and communicate the results of the measures taken.

The policy is required to specify the tools used by the enterprise to identify, assess, eliminate and/or mitigate adverse impacts in its supply chain. These include in particular the following:

- On-the-spot checks;
- Information from public authorities, international organizations and civil society;
- Use of experts and specialist literature;
- Assurances from supply chain economic operators and other business partners; and
- Use of recognized standards and certification schemes.

The “**supply chain**” is defined as a process covering both the enterprise’s own business activities and those of all upstream economic operators that (1) have minerals or metals originating from conflict-affected or high-risk areas in their custody and that are involved in their movement, preparation and processing in the final product or (2) offer products or services for which a reasonable suspicion exists that such products or services were produced using child labor.

Traceability System

Enterprises must establish a supply chain traceability system for child labor and/or conflict minerals and metals, as applicable. The requirements differ for each of these subject areas.

- **Child labor.** The traceability system must contain and document the following information where there is a reasonable suspicion of child labor:
 - The description of the product or service and, if any, trade name; and
 - The name and address of the supplier and the production sites or the service provider to the enterprise.

- **Conflict minerals and metals.** The traceability system must contain and document the following information for 3TG originating from a conflict-affected and high-risk area:
 - The description of the mineral or metal, including its trade name;
 - The name and address of the supplier;
 - The country of origin of the mineral;
 - For metals, the name and address of the smelters and refiners in the supply chain;
 - For minerals, to the extent available, the volume or weight and the date mined;
 - For minerals originating from conflict-affected and high-risk areas or for which the enterprise has identified other supply chain risks specified in the conflict minerals-related Specified Instruments, additional information in accordance with the supply chain recommendations in those instruments, such as mine of origin, where the mineral is combined with other minerals, traded or processed and the taxes, duties and fees paid; and
 - For metals, (1) where available, assessments of smelters and refiners carried out by third parties, (2) where these assessments are not available, the country of origin of the mineral and the location of the smelter or refiner and (3) for metals originating from conflict-affected and high-risk areas or if other supply chain risks specified in the previously listed conflict minerals-related Specified Instruments have been identified, additional information relating to downstream undertakings in accordance with the recommendations in those Specified Instruments.

By-products are required to be traced back only to the point at which they were first separated from their primary mineral or metal.

Grievance Mechanism

In addition to referring to grievance reporting in the policy requirements, as an early warning mechanism for risk identification, the enterprise must provide a reporting mechanism that allows all interested persons to express reasonable concerns regarding actual or potential adverse impacts relating to child labor or 3TG. The enterprise must document any complaints received.

Risk Mitigation

The probability and severity of adverse impacts must be taken into account in connection with the identification and assessment of supply chain risks. Risks are to be identified and assessed based on the Specified Instruments. The probability and severity of adverse impacts also is to be taken into account in the elimination, prevention or mitigation of identified supply chain risks. The effectiveness of the measures taken is required to be assessed on a regular basis.

Audit Requirements Relating to 3TG

If conflict minerals and metals due diligence is conducted, an annual third-party audit is required. The scope of the audit is to provide negative assurance concerning the enterprise's compliance with its 3TG-related diligence obligations under the

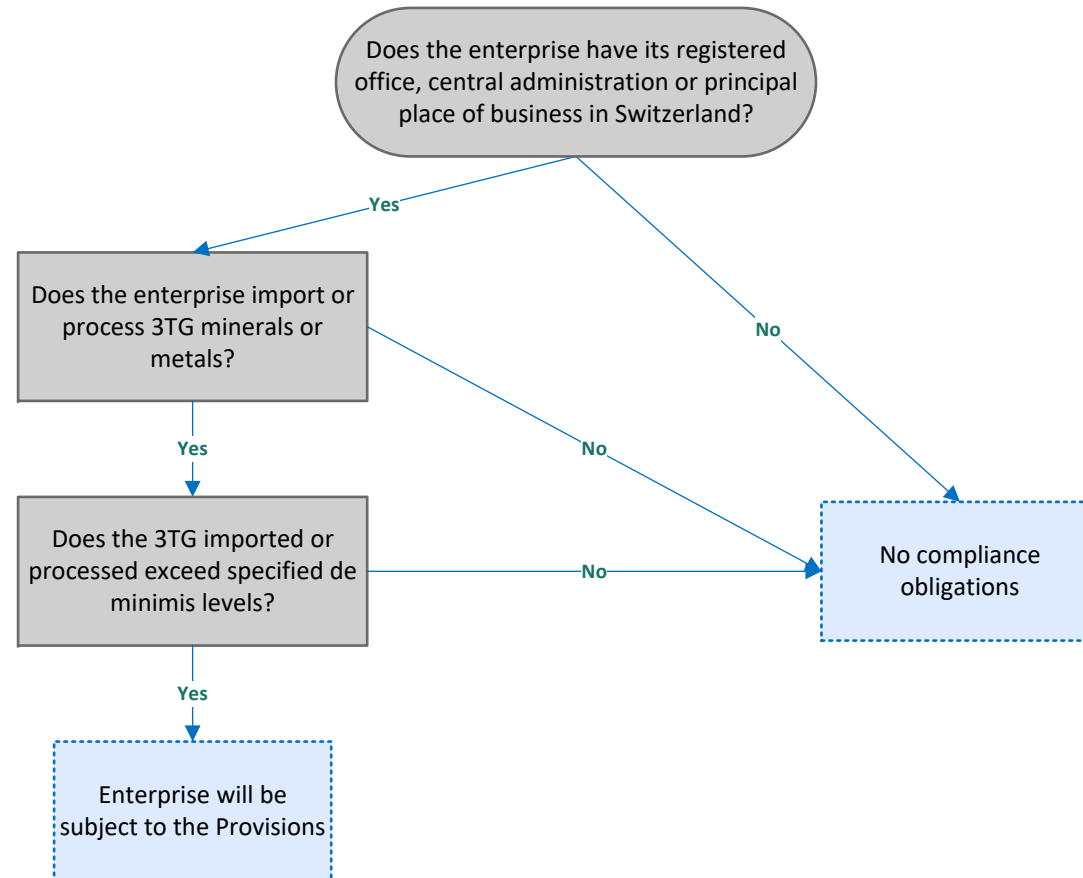
	Provisions. The auditor must be admitted as an audit expert pursuant to the Swiss Audit Oversight Act. The audit requirement does not extend to child labor due diligence.
Partial Due Diligence Exception	An enterprise is exempt from the requirements to establish a grievance mechanism and risk management plan and obtain an audit report if it imports and processes only recycled metals.
Reporting	Subject enterprises that are required to conduct due diligence will be required to annually report on their compliance with the due diligence obligation, subject to the reporting exceptions described in this summary. The first report is due in 2024 in respect of the fiscal year that began in 2023. The report is required to be posted on the enterprise's website within six months after the end of the fiscal year and must be accessible for at least ten years.
Reporting Exceptions	Enterprises based in Switzerland are exempt from the reporting requirement if they are controlled by a company established abroad that publishes a similar report. The Swiss enterprise must include a note in its financial statements indicating the controlling company that includes the Swiss enterprise in its report. The enterprise also is required to publish the controlling company's report. Enterprises that offer products or services from enterprises that already have published a report are exempted from the duty to publish a report.
Enforcement	Intentional (1) violations of the reporting or traceability documentation obligations and (2) false statements in a report will carry a fine of up to SFr100,000. In the case of negligence only (i.e., no willful misconduct), the maximum fine will be SFr50,000.
Additional Information/Resources	
Law	For the Swiss Code of Obligations (in German), click here. For the Ordinance, click here (unofficial translation).
Specified Instruments	For the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, click here. For the OECD Due Diligence Guidance for Responsible Business Conduct, click here. For the EU Conflict Minerals Regulation (Regulation 2017/821), click here. For ILO Convention No. 138, click here. For ILO Convention No. 182, click here. For the ILO-IOE Child Labour Guidance Tool for Business, click here. For the UN Guiding Principles on Business and Human Rights, click here.

Ropes & Gray Resources	Client alerts related to the Provisions: • ESG disclosures in 2024 – key compliance dates for U.S.-based multinationals (January 22, 2024) (link here). • Swiss Conflict Minerals and Child Labor Due Diligence Legislation Takes Effect – Will Require Due Diligence and Reporting by Many U.S.-Based Multinationals Doing Business in Switzerland (February 2, 2022) (link here). • Mandatory Human Rights Due Diligence Initiative Brought to a Public Vote in Switzerland – Initiative Fails, Parliament Indirect Counterproposal Moves Forward (December 1, 2020) (link here). • Mandatory Human Rights Due Diligence to Be Brought to a Public Vote in Switzerland (June 16, 2020) (link here).
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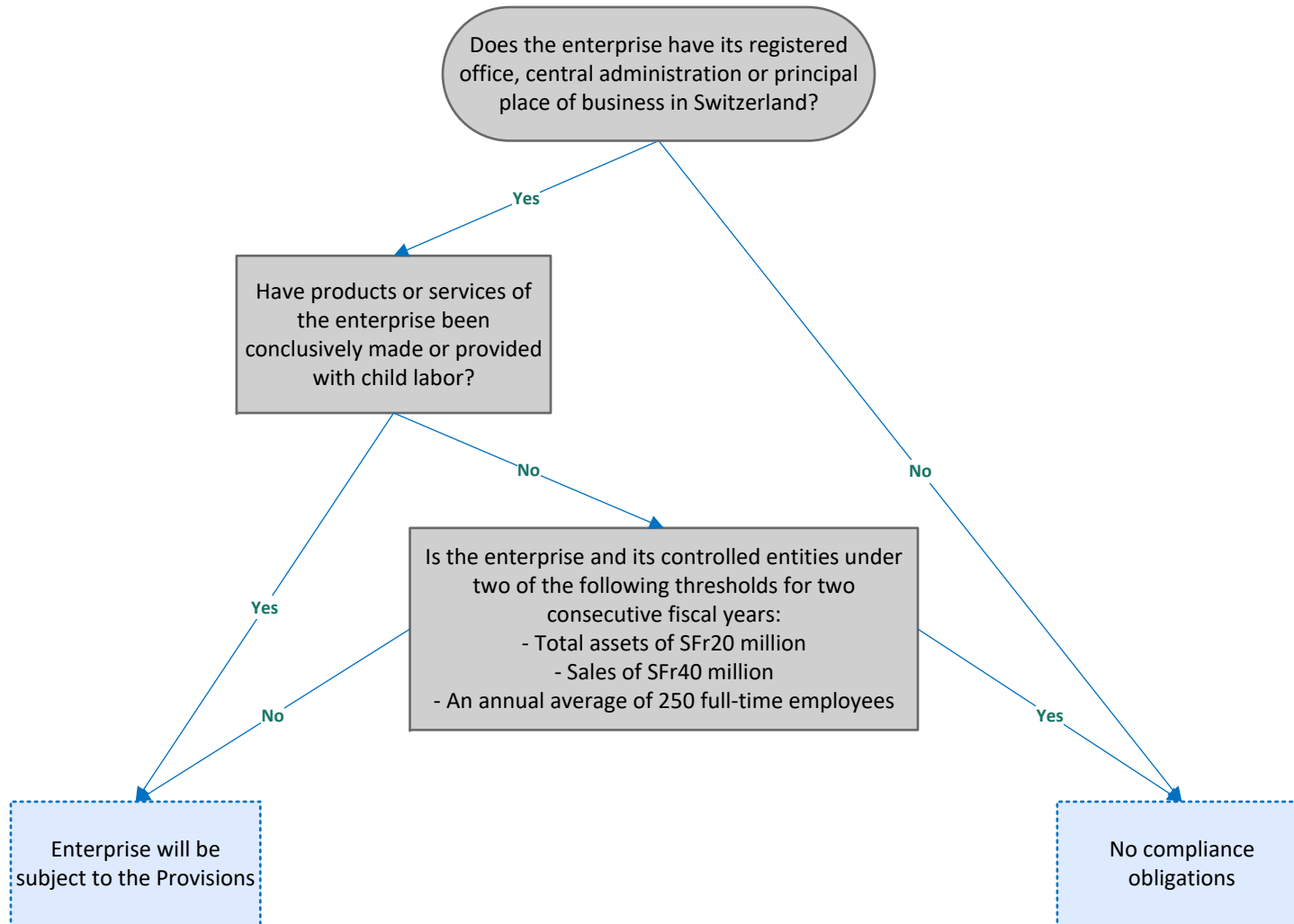
Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Applying the Law



Corporate Sustainability Reporting Directive European Union

Overview

Law / Country	Corporate Sustainability Reporting Directive (amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting) (the “ Directive ”) (European Union)
Goal	Enhanced reporting on sustainability issues.
Adoption / Status	The Directive entered into force on January 5, 2023. EU Member States were required to transpose the Directive into their national laws by July 6, 2024, however, many EU Member States are still working on transposition. The Directive does not directly contain obligations binding on companies; however, for brevity, this summary refers to obligations under the Directive, rather than the EU Member State laws transposing the Directive. The reporting standards under the Directive are developed by the European Financial Reporting Advisory Group (“EFRAG”) at the direction of the European Commission (the “Commission”). The standards are referred to as European Sustainability Reporting Standards (the “ESRS”). The Commission has adopted twelve ESRS, consisting of two general cross-cutting ESRS and ten topical ESRS, as further described below. EFRAG is developing, and the Commission may adopt, additional sector-specific and other ESRS, as described below. 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. In September 2024, EFRAG published draft exposure drafts for the mining, quarry and coal and oil and gas sectors. In November 2024, EFRAG published early stage working papers of the standards specifying reporting obligations for Third-Country Companies (the “NESRS”), which have been revised in subsequent releases by EFRAG. On October 17, 2023, the Commission adopted a delegated directive that adjusted the reporting threshold for large undertakings (the “EU Accounting Directive”). The new thresholds apply for financial years beginning on or after January 1, 2024. However, EU Member States may allow undertakings to apply the new thresholds for the financial year beginning on or after January 1, 2023. On December 21, 2023, the EU Accounting Directive was published in the European Official Journal. On August 7, 2024, the Commission published Frequently Asked Questions (the “Commission FAQs”) to provide guidance on compliance with the Directive. On February 26, 2025, the Commission published an omnibus package (the “Omnibus Package”) in an effort to streamline the requirements for covered companies under the Directive, as well as the EU’s Corporate Sustainability Reporting Directive (the “CSDDD”) and the EU Taxonomy Regulation. The Omnibus Package includes a proposed directive focused on delaying the reporting timeline of the Directive and the CSDDD and a proposed directive containing substantive changes to the Directive and the CSDDD. Among other things, the Omnibus Package would increase thresholds for entities required to comply with the Directive (reducing the number of companies subject to reporting under the Directive by approximately 80%), eliminate the sector-specific standards, postpone the initial reporting timeline by two years, make EU Taxonomy reporting voluntary for

	many companies required to report under the Directive and simplify reporting under the EU Taxonomy and eliminate the Commission’s authority to require companies to obtain reasonable assurance rather than limited assurance. The Omnibus Package will need to be reviewed and approved by both the European Parliament and the European Council before entering into force. Selected provisions applicable to the Directive from the Omnibus Package are discussed herein in <i>italics</i>. The CSDDD and Taxonomy Regulation are discussed in separate summaries. The timing directive would be required to be transposed into national law generally by December 31, 2025, while the substantive amendments would be required to be transposed within one year after the amended directive enters into force. In its commentary to the Omnibus Package, the Commission indicated that it also plans to reduce the ESRS disclosure requirements. The Commission intends to “without delay” adopt a delegated act to revise the first set of ESRS, at the latest six months after the entry into force of the amended Directive. The revised ESRS would be intended to simplify and streamline the ESRS and provide clarity and legal certainty to undertakings, substantially reducing the number of mandatory ESRS data points by, among other things, removing those deemed least important for general purpose sustainability reporting, prioritizing quantitative data points over narrative text and further distinguishing between mandatory and voluntary data points, without undermining interoperability with global reporting standards and without prejudice to the materiality assessment of each undertaking. Additionally, the revisions would be intended to improve consistency with other pieces of EU legislation and provide clearer instructions on how to apply the materiality principle, ensure undertakings only report material information and reduce the risk that assurance service providers inadvertently encourage undertakings to report information that is not necessary or dedicate excessive resources to the materiality assessment process.
Issues Addressed	• Environmental rights • Governance factors • Social and human rights
Covered Entities	Subject to the phased-in approach described below, the reporting requirements under the Directive will apply to each of the below. • EU companies that meet at least two of the following three criteria (a “large undertaking”): ◦ An average of at least 250 employees annually; ◦ At least €50 million annual net turnover; and/or ◦ A balance sheet of at least €25 million. • Non-EU companies that meet the following two criteria (a “Third-Country Company”): ◦ Over €150 million in EU annual turnover for the trailing two financial years; and ◦ At least one subsidiary that is a large undertaking (or listed entity that is not a micro undertaking) or EU branch that generated net turnover of more than €40 million in the prior financial year.

- Companies with securities listed on an EU regulated market, including small- and medium-sized enterprises (“SMEs”).
- Captive insurance and reinsurance undertakings as well as small and non-complex institutions provided that they are also large-, medium- or small-sized enterprises (the phase in for those undertakings is not discussed in this summary).

“**Net turnover**” means 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.

The Omnibus Package includes a proposal to increase the Directive’s compliance thresholds. Under the proposed amendment to the Directive, reporting would only be required for companies that meet the following thresholds:

- *An average of at least 1,000 employees annually; and either*
- *At least €50 million annual net turnover; or*
- *A balance sheet of at least €25 million.*

SMEs with securities listed on an EU regulated market would no longer be subject to mandatory reporting.

Additionally, the criteria for Third-Country Companies would be increased to cover companies that meet the following thresholds:

- *Over €450 million in EU annual turnover for the trailing two financial years; and*
- *At least one subsidiary that is a large undertaking or an EU branch that generated net turnover of more than €50 million in the prior financial year.*

Companies are currently required to comply with the requirements of the Directive on the following timeline:

- For companies already subject to the Non-Financial Reporting Directive (the “**NFRD**”) as adopted by the EU, more specifically, large undertakings and parent undertakings of a large group that are public interest entities with an average of 500 employees during the financial year: Financial years starting on or after January 1, 2024, with the first report to be produced in 2025.
- For large undertakings not subject to the NFRD: Financial years starting on or after January 1, 2025, with the first report to be produced in 2026.
- For SMEs: 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.
- For Third-Country Companies: Financial years starting on or after January 1, 2028, with the first report to be produced in 2029.

The Omnibus Package includes a proposal to postpone the reporting requirements for fiscal year 2025 and fiscal year 2026 first-time reporters (i.e., large undertakings not subject to NFRD and SMEs) by two years, with large undertakings not subject to the NFRD required to produce reports for financial years starting on or after January 1, 2027, with first reports due in 2028, and SMEs required to produce reports for financial years starting on or after January 1, 2028, with first reports due in 2029.

The Commission has not proposed delaying the reporting timeline for Third-Country Companies or modifying the reporting

	<i>deadline for companies already subject to the NFRD with reporting requirements beginning with financial years starting on or after January 1, 2024.</i>
How It Works	
Mandatory?	Yes.
Reporting Requirements	Companies generally are required to include in their management report a non-financial statement containing information necessary to understand the company's impacts on sustainability matters and how sustainability matters affect the company's development, performance and positions. "Sustainability matters" broadly encompass environmental, social and human rights and governance factors. Such information must be clearly identifiable through a dedicated section of the management report. The Directive provides an exemption for subsidiaries, if the subsidiary's parent company includes the subsidiary in the parent company's consolidated management report. As noted above, the specific disclosures required to be made are set out in the ESRS. The Directive 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: ◦ The resilience of the company's business model and strategy to risks related to sustainability matters; ◦ The opportunities for the company related to sustainability matters; ◦ The plans of the company, including implementing actions and related financial and investment plans, to ensure that its business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5°C in line with the Paris Agreement and the objective of achieving climate neutrality by 2050 and, where relevant, the exposure of the company to coal, oil and gas-related activities; ◦ How the company's business model and strategy take account of the interests of the company's stakeholders and of the impacts of the company on sustainability matters; and ◦ How the company's strategy has been implemented with regard to sustainability matters; • A description of the time-bound targets related to sustainability matters set by the company, including where appropriate absolute greenhouse gas emission reduction targets at least for 2030 and 2050, a description of the progress the company has made towards achieving those targets and a statement of whether the company's targets related to environmental matters are based on conclusive scientific evidence; • A description of the role of the administrative, management and supervisory bodies with regard to sustainability matters, and of their expertise and skills to fulfil this role or access to such expertise and skills; • A description of the company's policies in relation to sustainability matters; • Information about the existence of incentive schemes offered to members of the administrative, management and supervisory bodies which are linked to sustainability matters;

- A description of:
 - The due diligence process implemented by the company with regard to sustainability matters, and where applicable in line with EU requirements on companies to conduct a due diligence process;
 - The principal actual or potential adverse impacts connected with the company's own operations and with its value chain, including its products and services, its business relationships and its supply chain, actions taken to identify and track these impacts, and other adverse impacts which the company is required to identify according to other EU requirements on companies to conduct the due diligence process; and
 - Any 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;
- A description of the principal risks to the company related to sustainability matters, including the company's principal dependencies on such matters, and how the company manages those risks; and
- Indicators relevant to the disclosures referred to above.

Under the Directive, companies are required to report on the process used to identify the information included in the management report. The information listed above must include information related to short-, medium- and long-term time horizons, as applicable. Additionally, where applicable, the information referred to above must contain details about the company's operations and its value chain, including products and services, its business relationships and its supply chain. For the first three years of the application of the Directive, in the event that not all the necessary information regarding the value chain is available, the company can explain the efforts made to obtain the information about its value chain, the reasons why this information could not be obtained and the plans of the company to obtain such information in the future.

Under the Omnibus Package proposal, in connection with value chain reporting, reporting entities would only be permitted to request from non-reporting entities information contemplated by a voluntary reporting standard to be adopted by the Commission.

SME Reporting Requirements

There are reduced reporting requirements for SMEs. SMEs are only be expected to provide sustainability reporting that is proportionate to their size and resources. The reduced reporting standards for SMEs are to be included in the ESRS referenced below.

Under the Omnibus Package proposal, SMEs would not be subject to mandatory reporting. SMEs would be permitted to report according to a voluntary standard for SMEs to be developed by EFRAG and adopted by the Commission as a delegated act (as further discussed below).

Third-Country Company Reporting Requirements

The Directive also contemplates different reporting standards for Third-Country Companies – the NESRS; however, Third-Country Companies may choose to report according to the same standards that apply to EU companies or according to standards that are deemed equivalent. In particular, under the Directive, Third-Country Companies are not required to

address as part of the description of the group's business model and strategy (1) the resilience of the group's business model and strategy in relation to risks related to sustainability matters, and (2) the opportunities for the group related to sustainability matters. The NESRS are required to be adopted by June 30, 2026.

On November 7, 2024, EFRAG published working papers of the NESRS, including NESRS 1 (General Requirements) and NESRS 2 (General Disclosures), which are further discussed below. EFRAG has subsequently released revised versions of these working papers. The working papers included ten topical standards that parallel the “E”, “S” and “G” topical ESRS already adopted by the Commission. EFRAG has until the end of 2025 to deliver a draft NESRS to the Commission, after which they would be considered for approval and issued as proposals for public consultation.

Double Materiality Approach

The Directive takes a “double materiality” approach to reporting. Subject companies are required to report both on how sustainability matters affect their business and the external impacts of their activities on people and the environment. However, companies reporting under the NESRS would only be required to report on impact materiality.

Forward Looking Information

The Directive explicitly requires companies to disclose forward-looking information. The Directive indicates that this information should:

- Be based on conclusive scientific evidence where appropriate;
- Be harmonized, comparable and based on uniform indicators where appropriate, while allowing for reporting that is specific to individual companies and does not endanger the commercial position of the company; and
- Take into account short-, medium- and long-term time horizons and contain information about the company's whole value chain, including its own operations, products and services, business relationships and supply chain, as appropriate.

Confidential Information

In their adopting legislation, Member States may allow information relating to pending developments or matters in negotiation to be omitted if its disclosure would be seriously prejudicial to the commercial position of the company, so long as the omission does not prevent a fair and balanced understanding of the company's development, performance and position and the impact of its activity. In addition, the recitals note that the Directive is not intended to require companies to disclose intellectual capital, intellectual property, know-how or the results of innovation that would qualify as trade secrets under the EU trade secrets directive.

The ESRS	<u>General Topics and Standards</u> Cross-cutting ESRS provide for general requirements (ESRS 1) and general disclosures (ESRS 2). The Commission also has adopted the following 10 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) EFRAG periodically publishes additional non-binding technical guidance on the application of the ESRS. EFRAG has finalized three guidance documents, as described later in this summary. EFRAG also has published non-binding FAQs on the ESRS on its Q&A Platform. <u>Sector-Specific Standards</u> EFRAG is drafting sector-specific ESRS. These include the following five sectors covered by GRI sector standards: • Agriculture • Coal Mining • Mining • Oil and Gas (upstream) • Oil and Gas (mid- to downstream) EFRAG also will develop standards for the following sectors it has characterized as high impact: • Energy Production • Road Transport • Motor Vehicle Production
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- Food/Beverages
- Textiles

The sector-specific standards are currently on hold and the Omnibus Package proposes to eliminate the Commission's authority to develop and adopt sector-specific standards.

Third-Country Standards

EFRAG also is developing ESRS for Third-Country Companies – the NESRS. The NESRS will specify what information is required for the sustainability reports of Third-Country Companies that choose not to report according to the same standards that apply to EU companies or standards that are deemed equivalent. On November 7, 2024, EFRAG published working papers of the NESRS, which included ten topical standards that parallel the “E”, “S” and “G” topical ESRS already adopted by the Commission. The working paper cross-cutting NESRS largely track the requirements of ESRS 1 and ESRS 2 with several key differences, including the following:

- Pursuant to article 40a, Third-Country Company parent group-level reporting would cover impact materiality but not financial materiality. As a result, resilience, opportunities, principal risks and dependencies, which relate to financial materiality, have been excluded from the draft NESRS. A materiality assessment for impact materiality would still be required under NESRS 1;
- Consistent with the Directive, NESRS 1 indicates that the sustainability report under the NESRS would be at the group level of the Third-Country Company, with the reporting boundary generally the same as that of the group financial statements; and
- A Third-Country Company generally would have the option to exclude from its sustainability report information about the impacts of sales of goods or the provision of services to natural and legal persons outside of the European Union for disclosures under all of the topical standards, except the climate changes disclosures under NESRS E1. If a Third-Country Company uses this option, it would be required to clearly state that it is doing so in its sustainability report.

Voluntary Standards

EFRAG also 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 manner that is proportionate to their capacities and resources and relevant to the scale and complexity of their activities. A draft of the voluntary standard was published on January 21, 2024, with the public comment period ended on May 21, 2024. The Commission intends to issue a recommendation on voluntary sustainability reporting based on the SME standard developed by EFRAG.

Separately, the Omnibus Package proposes the development of a voluntary reporting standard for undertakings not subject to mandatory sustainability reporting requirements. The voluntary standard would be based on the standard for non-listed SMEs and would be intended to be proportionate to the scale and complexity of smaller undertakings. The voluntary standard would be adopted by the Commission as a delegated act.

Third-party Assurance	Sustainability information will require limited assurance (i.e., negative assurance that no matter has been identified by the assurance practitioner to conclude that the subject matter is materially misstated). Assurance will be required to address, among other things, (1) compliance with the applicable ESRS and (2) the processes carried out to identify the reported information. Assurance standards are to be adopted by the Commission before October 1, 2026. <i>The Omnibus Package proposes to replace the assurance standards to be adopted by the Commission before October 1, 2026 with a set of targeted assurance guidelines that clarify the necessary procedures that assurance providers are to perform as part of their limited assurance engagement.</i> The European Union has indicated that its goal is to eventually adopt a “reasonable assurance” standard, potentially as early as 2028. A reasonable assurance engagement would entail more extensive procedures, including consideration of internal controls of the reporting company and substantive testing. <i>The Omnibus Package proposes to remove the Commission’s authority to adopt reasonable assurance standards, effectively freezing the review at the limited assurance level.</i>
Publication Requirements	Member States may require companies to make the management report available to the public on their website. If a company does not have a website, Member States may require it to make a written copy of its management report available upon request. Member States should ensure companies publish management reports within twelve months of the balance sheet date. Member States will be required to require that a subsidiary or branch of a Third-Country Company established in its territory publish and make accessible a sustainability report. The applicable subsidiary or branch is required to publish a Third-Country Company’s sustainability report in the Member State’s central, commercial or companies register. If the report is not made accessible, free of charge, to the public on the website of the register, the report is required to be made available on the website of the subsidiary or branch. The Commission FAQs instruct that a company required to report sustainability information but that is not required to prepare and publish an individual or a consolidated management report may publish the sustainability statement in a separate document. Reporting will be required to be in XHTML format. Companies also will be required to follow additional data tagging requirements specified by the Commission. This will facilitate packaging and comparability of data, especially by third-party data providers used by asset managers.
Other Obligations	The company’s management will have an obligation to inform employees, at the appropriate level, and discuss with them the relevant information and the means of obtaining and verifying sustainability information. Their opinion should be communicated, where applicable, to the relevant administrative, management or supervisory bodies.
Reporting Exemptions	<u>Subsidiary Exemption</u> Subsidiaries (including an intermediate parent company) generally will be exempt from reporting if they are included in the consolidated reporting of a parent company that complies with the reporting requirements of the Directive. The subsidiary reporting exemption applies to both subsidiaries of EU parent companies and subsidiary companies included in the consolidated sustainability reporting of a parent company established outside of the European Union. The Commission FAQs

	clarify that a Third-Country Company can consolidate reporting at the non-EU parent level in accordance with the ESRS applicable to EU entities, in which case the subsidiary EU companies generally would be exempt from reporting. If a non-EU parent company reports on a consolidated basis, the consolidated sustainability statement must include all its subsidiary companies, regardless of where the registered offices of the subsidiary companies are located. This exemption generally will require the subsidiary to include in its management report the name and registered office of the parent company that is reporting sustainability information at the group level, the web link to the consolidated management report of the parent company and a reference in its management report indicating it is exempt from sustainability reporting. If the parent company is established outside of the EU, its consolidated sustainability reporting and the assurance opinion must be published in accordance with the law of the Member State governing the subsidiary. In connection with this exemption, Member States may impose a language requirement on the parent company consolidated management report, in which case, the Commission FAQs instruct that the translation should either be certified or include a statement indicating it was not certified. The consolidated management report and consolidated sustainability reporting of the parent company does not have to already be published when the subsidiary publishes its own management report for the subsidiary exemption to be available. <u>Equivalence Exemption</u> The Directive allows for substituted compliance under non-EU disclosure regimes determined to be equivalent by the Commission. <u>Transitional Period Exemption</u> Until January 6, 2030, Member States will be required to allow an EU subsidiary of a Third-Country Company to prepare consolidated sustainability reporting that includes all of the Third-Country Company's EU subsidiary companies' disclosures. The EU subsidiary preparing the report must be one of the EU subsidiaries of the Third-Country Company that has generated the greatest turnover in the EU in at least one of the preceding five financial years.
Enforcement	Member States will determine the penalties, administrative measures or sanctions necessary for infringements of the national provisions adopted in accordance with the Directive.
EFRA¹G Guidance	On May 31, 2024, EFRA¹G published its first three ESRS implementation guidance documents after publishing draft guidance and soliciting public feedback. EFRA¹G IG 1 deals with the requirements of the materiality assessment under the ESRS. EFRA¹G IG 1 explains the ESRS approach to materiality, illustrates how the materiality assessment is to be performed, explains how undertakings can take account of other frameworks and standards and includes FAQs on impact and financial materiality, the materiality assessment process, stakeholder engagement, aggregation and disaggregation and reporting. EFRA¹G IG 2 deals with the value chain aspects under the ESRS. EFRA¹G IG 2 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.

	EFRAG IG 3 contains ESRS datapoints in the form of a Microsoft Excel workbook with an accompanying explanatory note. On November 4, 2024, EFRAG published draft implementation guidance for transition plans for climate change mitigation (EFRAG IG 4). Once finalized, IG 4 will provide support for undertakings required to report on their climate transition plans under the Directive. The draft is expected to be finalized in 2025. EFRAG also has published non-binding FAQs on the ESRS on its Q&A Platform.
Additional Information/Resources	
Law	Text of the Directive. Text of the EU Accounting Directive.
Omnibus Package	For the text of the Commission proposal to amend the reporting requirements under the Directive and the CSDDD, click here. For the text of the Commission proposal to postpone the reporting timelines for the Directive and the CSDDD, click here. For a Q&A providing an overview of the Omnibus Package, click here.
ESRS	The final adopted ESRS. The working papers for the NESRS.
Additional Guidance	For the EFRAG ESRS Q&A Platform, click here. Text of EFRAG IG 1 (“Materiality Assessment”). Text of EFRAG IG 2 (“Value Chain”). Text of EFRAG IG 3 (“List of ESRS Datapoints”). Text of draft EFRAG IG 4 (“Transition Plans”). For Frequently Asked Questions on the Directive published by the Commission, click here.
Member State Transposition	Links to the implementing legislation of each EU Member State that has transposed the Directive are below: • Belgium (link here) • Bulgaria (link here) • Croatia (link here) • Denmark (link here) • Estonia (link here) • Finland (link here) • France (link here) • Greece (link here)

	• Hungary (link here) • Ireland (link here) • Italy (link here) • Latvia (link here) • Liechtenstein (link here) • Lithuania (link here) • Norway (link here) • Poland (link here) • Romania (link here) • Slovakia (link here) • Slovenia (link here) • Sweden (link here)
Ropes & Gray Resources	Client alerts related to the Directive: • Stop the Omnibus and Let Us Off – Members of U.S. Congress and State Officials Call for Action Against the EU CSDDD and CSRD (February 28, 2025) (link here) • The Omnibus Picks Up Speed – An In-Depth Look at the European Commission’s February 26 Proposal (February 27, 2025) (link here). • Boarding the Omnibus – An In-depth Look at the Leaked Draft Directive (February 24, 2025) (link here). • An Update on CSRD Transposition in Advance of the Omnibus (February 21, 2025) (link here). • EU Corporate Sustainability Reporting Directive Transposition Update (January 23, 2025) (link here). • EFRAG Publishes New Paper Mapping to the Eco-Management and Audit Scheme to Assist With CSRD Reporting (January 17, 2025) (link here). • An Update on EU Corporate Sustainability Reporting Directive Transposition (December 20, 2024) (link here). • New CSRD Reporting Guidance – EFRAG Publishes Largest Update of European Sustainability Reporting Standards Technical Explanations (December 7, 2024) (link here). • Preparing for Compliance with the EU’s Corporate Sustainability Reporting Directive – Resources for U.S.-based Multinationals (December 1, 2024) (link here). • An Update on EU CSRD Transposition – Where Do Things Stand? (November 25, 2024) (link here). • Draft CSRD Reporting Standards for Non-EU Groups Published (November 10, 2024) (link here). • EU CSRD Draft Implementation Guidance for Climate Transition Plans Published – Key Points from the Guidance (November 6, 2024) (link here). • Ropes & Gray Publishes Updated EU-Wide CSRD Transposition Tracker and Adds Significant New Content (September 24, 2024) (link here). • A Four Part Series: Under-the-Radar CSRD Compliance Resources – EFRAG’s Initial Observed Practices of ESRS Implementation (September 19, 2024) (link here).

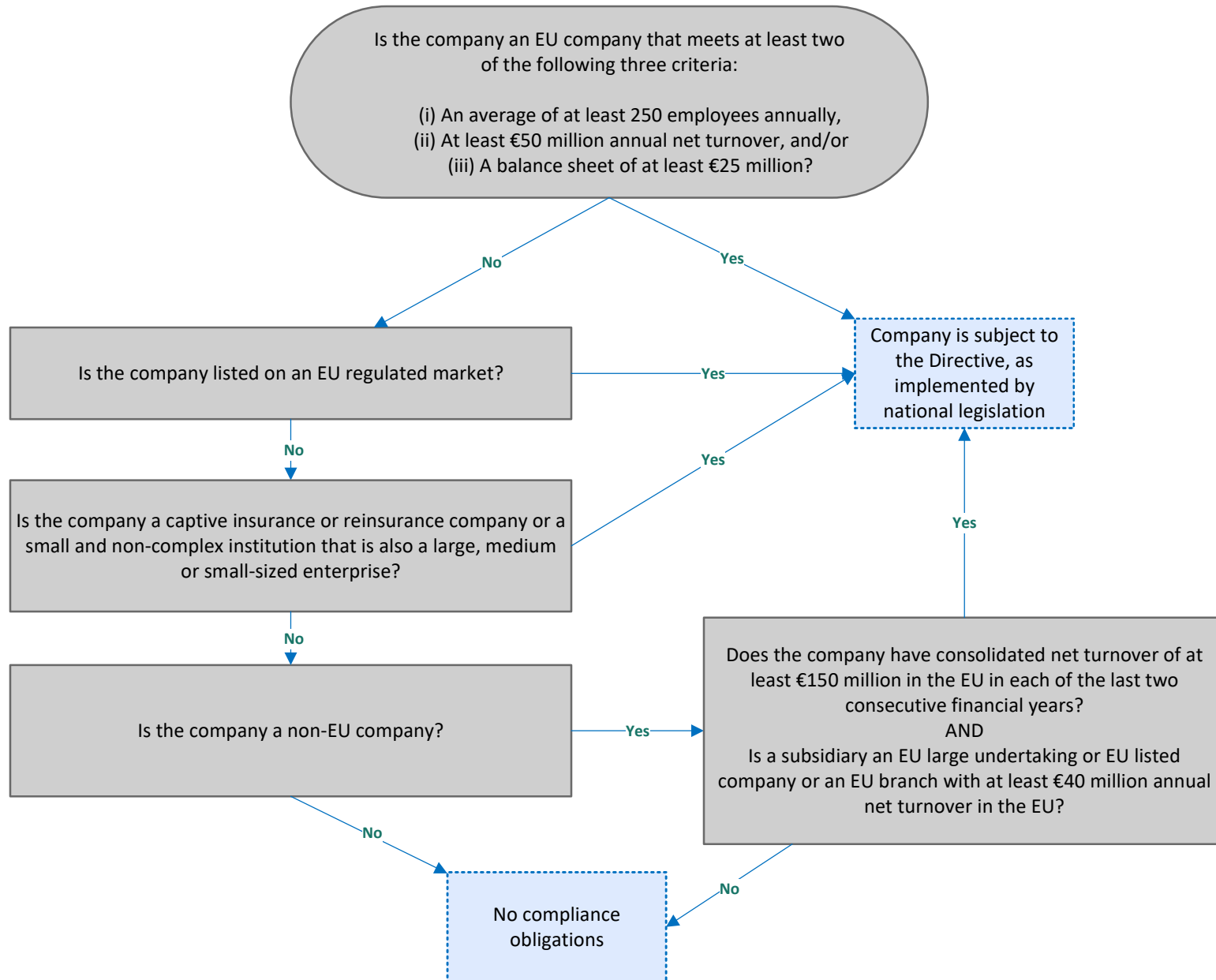
- A Four Part Series: Under-the-Radar CSRD Compliance Resources – EFRAG’s Initial Observed Practices of ESRS Implementation (September 17, 2024) (link [here](#)).
- A Four Part Series: Under-the-Radar CSRD Compliance Resources – ESMA’s Public Statement on the First Application of the ESRS (September 16, 2024) (link [here](#)).
- Ropes & Gray Publishes Updated EU-Wide CSRD Transposition Tracker Through July 31 – Additional EU Member States Make Progress (August 19, 2024) (link [here](#)).
- Unpacking the new EU Corporate Sustainability Reporting Directive FAQs (August 13, 2024) (link [here](#)).
- Managing the coming reset in corporate social responsibility legislation (Or, just because a law says it, that may not make it so) (July 16, 2024) (link [here](#)).
- EU Corporate Sustainability Reporting Directive Value Chain Guidance Finalized – Key Points From the Guidance (June 6, 2024) (link [here](#)).
- EU Corporate Sustainability Reporting Directive Materiality Assessment Guidance Finalized – Key Points From the Guidance (June 5, 2024) (link [here](#)).
- EU Corporate Sustainability Reporting Directive Draft Value Chain Guidance Published – Key Points from the Guidance (January 3, 2024) (link [here](#)).
- EU Corporate Sustainability Reporting Directive Draft Materiality Assessment Guidance Published – Key Points from the Guidance (January 2, 2024) (link [here](#)).
- Introducing the Ropes & Gray CSRD Transposition Tracker (December 7, 2023) (link [here](#)).
- European Commission Increases CSRD Large Undertaking Thresholds (November 6, 2023) (link [here](#)).
- Complying with the EU Corporate Sustainability Reporting Directive – Looking Ahead to Additional Guidance and Standards (October 30, 2023) (link [here](#)).
- European Commission Proposes to Delay Additional CSRD Reporting Standards (October 23, 2023) (link [here](#)).
- The “Summer of CSRD” series – CSRD transitional provisions (September 8, 2023) (link [here](#)).
- The “Summer of CSRD” series – linkages between CSRD disclosures and with other disclosures (September 6, 2023) (link [here](#)).
- The “Summer of CSRD” series – general presentation requirements (September 5, 2023) (link [here](#)).
- The “Summer of CSRD” series – preparation and presentation of sustainability information (September 4, 2023) (link [here](#)).
- The “Summer of CSRD” series – reporting time horizons (September 4, 2023) (link [here](#)).
- The “Summer of CSRD” series – the value chain (September 1, 2023) (link [here](#)).
- The “Summer of CSRD” series – conducting due diligence (September 1, 2023) (link [here](#)).
- The “Summer of CSRD” series – disaggregated reporting (August 31, 2023) (link [here](#)).
- The “Summer of CSRD” series – ten key points from EFRAG’s recent materiality assessment guidance (August 30, 2023) (link [here](#)).
- The “Summer of CSRD” series – mandatory and materiality-based disclosures (August 29, 2023) (link [here](#)).
- The “Summer of CSRD” series – the materiality assessment process (August 29, 2023) (link [here](#)).
- The “Summer of CSRD” series – understanding materiality (August 25, 2023) (link [here](#)).

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| | <ul style="list-style-type: none"> • The “Summer of CSRD” series – qualitative characteristics of reported information (August 25, 2023) (link here). • The “Summer of CSRD” series – categories of ESRS standards, reporting areas and drafting conventions (August 23, 2023) (link here). • European Commission adopts European Sustainability Reporting Standards for CSRD reporting – six takeaways (August 1, 2023) (link here). • EU Corporate Sustainability Reporting Directive Signed into Law – Implications and Near-term Compliance Steps for U.S.-based Multinationals (December 20, 2022) (link here). |
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Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Taxonomy Regulation European Union

Overview

Law / Country	Taxonomy Regulation (Regulation (EU) 2020/852) (the “Regulation”) (European Union)
Goal	To establish a classification system that defines criteria for economic activities that are aligned with a net zero trajectory by 2050 and broader environmental goals other than climate.
Adoption / Status	The Regulation entered into force on July 12, 2020. The Regulation is supplemented by delegated acts (discussed below) that contain the technical screening criteria that must be satisfied for economic activities to be considered environmentally sustainable. On December 9, 2021, the Delegated Act on sustainable activities for climate change adaptation and mitigation objectives (the “Climate Delegated Act”) was published in the Official Journal of the European Union. The Climate Delegated Act establishes technical screening criteria for climate change mitigation and adaptation for a broad range of economic activities that contribute to meeting the EU’s environmental objectives. This delegated act went into effect on January 1, 2022. On July 15, 2022, the Complementary Climate Delegated Act (the “Complementary Climate Delegated Act”) was published in the Official Journal of the European Union. The Complementary Climate Delegated Act incorporates specific nuclear and gas energy activities in the list of economic activities covered by the Regulation. This delegated act went into effect on January 1, 2023. On December 10, 2021, a Delegated Act supplementing Article 8 of the Regulation (the “Disclosures Delegated Act”) was published in the Official Journal. The Disclosures Delegated Act specifies the content, methodology and presentation of information to be disclosed by financial and non-financial undertakings concerning the proportion of environmentally sustainable economic activities in their business, investments or lending activities. On June 13, 2023, as part of the EU Sustainable Finance Package, the European Commission approved amendments to the Climate Delegated Act and Disclosures Delegated Act (the “Amendments”). The Amendments to the Climate Delegated Act will, among other things, add additional economic activities and amend some of the current technical assessment criteria. Among other things, the amendments to the Disclosures Delegated Act relate to the notification form. The Amendments were published in the Official Journal of the European Union on November 21, 2023 and apply as of January 2024. On January 15, 2024, five non-governmental organizations (“NGOs”) initiated a legal challenge against the European Commission challenging certain rules that would allow certain aviation and shipping activities to be classified as sustainable if they meet certain efficiency criteria, even if they operate on fossil fuels. The Commission has not yet responded to the challenge. Multiple NGOs, including the World Wide Fund for Nature (“WWF”), have since developed the Independent Science Based Taxonomy (“ISBT”), meant to provide alternate taxonomy criteria where the NGOs find the European Commission’s standards to be “scientifically weak or unevicenced.” According to the WWF, the ISBT is a multi-stakeholder contribution to the Regulation, meant to enhance and strengthen it.

	On November 29, 2024, the European Commission published 155 frequently asked questions that clarify various aspects of the Regulation requirements. On February 26, 2025, the European Commission published an omnibus package (the “Omnibus Package”) that includes proposed delegated acts to amend the reporting obligations under the Regulation (the “Proposed Delegated Regulation”). The Omnibus Package, if adopted, would also streamline the requirements under the EU Corporate Sustainability Reporting Directive (the “CSRD”) and the EU Corporate Sustainability Due Diligence Directive (“CSDDD”). The Proposed Delegated Regulation will remain open for public consultation until March 26, 2025. The Omnibus Package includes one proposed directive that would “stop the clock,” pushing back some compliance deadlines under the CSRD and CSDD, and a second directive that would make a number of substantive amendments to the CSRD and CSDDD. In order for a directive to go into effect, it will need to be approved by the European Parliament and Council, a process that is expected to take a number of months. In order for the Proposed Delegated Regulation to go into effect, it would need to be adopted by the Commission. The Council and Parliament would then have an opportunity to object. Absent any objection, the Proposed Delegated Regulation would become effective. Selected provisions applicable to the Regulation from the Omnibus Package are discussed herein in <i>italics</i>. The CSRD and the CSDDD are discussed in separate summaries. Note that this summary focuses on Undertakings’ (defined below) disclosure obligations generally under the Regulation. It does not summarize all aspects of the Regulation, including disclosure obligations of asset managers.
Issue Addressed	• Climate change • Environmental sustainability more generally
Covered Entities	The disclosure requirements set forth in the Regulation are mandatory for undertakings that are subject to the EU Non-Financial Reporting Directive or the CSRD (an “Undertaking”). Any other market participant may use the Regulation on a voluntary basis to classify their economic activities as environmentally sustainable. <i>Under the directive to make substantive amendments the CSRD in the Omnibus Package, SMEs and large companies with fewer than 1,000 employees would no longer be within the scope of the CSRD. If adopted, this would have the effect of correspondingly reducing the number of entities that are subject to the Regulation.</i> <i>That directive would also make an exception to mandatory reporting under the Regulation for companies required to report under the CSRD with less than €450 million in annual turnover. Undertakings that do not meet this threshold could still “opt-in” to reporting if the Undertaking chooses to claim that its activities qualify, fully or partially, as environmentally sustainable under the Regulation.</i>
How It Works	
Mandatory?	Yes.

Disclosure Requirements	An Undertaking must include in its non-financial statement, consolidated non-financial statement information or sustainability statement on how and to what extent the Undertaking’s activities are associated with economic activities that qualify as environmentally sustainable (defined below). In particular, Undertakings must disclose: • The proportion of their turnover derived from products or services associated with economic activities that qualify as environmentally sustainable; and • The proportion of their capital expenditures and proportion of operating expenditures related to assets or processes associated with economic activities that qualify as environmentally sustainable. The Disclosures Delegated Act specifies the content and presentation of the information to be disclosed pursuant to the above. The Disclosures Delegated Act’s annexes provide detailed lists of what information Undertakings need to report to comply with the Regulation. The November 2024 FAQs clarify that a covered Undertaking should perform an assessment of compliance with the Regulation each year for purposes of reporting. However, if (1) internal monitoring and compliance systems indicate that there has been no material change in the environmental impacts from the economic activities and (2) there are no changes in legal requirements applicable to those activities which would affect the outcome of the alignment assessment with the Regulation, then the Undertaking can rely on the alignment assessment from the previous year. <i>The Proposed Delegated Regulation would create de minimis thresholds and provide that activities that fall below those thresholds do not need to be considered for eligibility and/or alignment. The Proposed Delegated Regulation further includes a simplified reporting template.</i> <i>Under the directive to make substantive amendments the CSRD in the Omnibus Package, an Undertaking required to report under the CSRD but that has less than €450 million in annual turnover and that “opts-in” to voluntary reporting under the Regulation would have been permitted to utilize simplified reporting requirements.</i>
Environmentally Sustainable Economic Activities	An economic activity qualifies as “environmentally sustainable” if it meets the following four conditions: • Contributes substantially to at least one environmental objective (listed below); • Does not significantly harm any of the environmental objectives; ○ “Significant harm” is defined for each environmental objective in the Regulation. For example, a significant harm to the climate change mitigation objective would be where an activity leads to significant greenhouse gas emissions. When assessing harm, both the environmental impact of the activity itself and the environmental impact of the products and services provided by that activity throughout their life cycle must be taken into account, in particular by considering the production, use and end of life of those products and services. • Is carried out in compliance with certain minimum safeguards; and ○ “Minimum safeguards” means procedures implemented by an Undertaking that is carrying out an

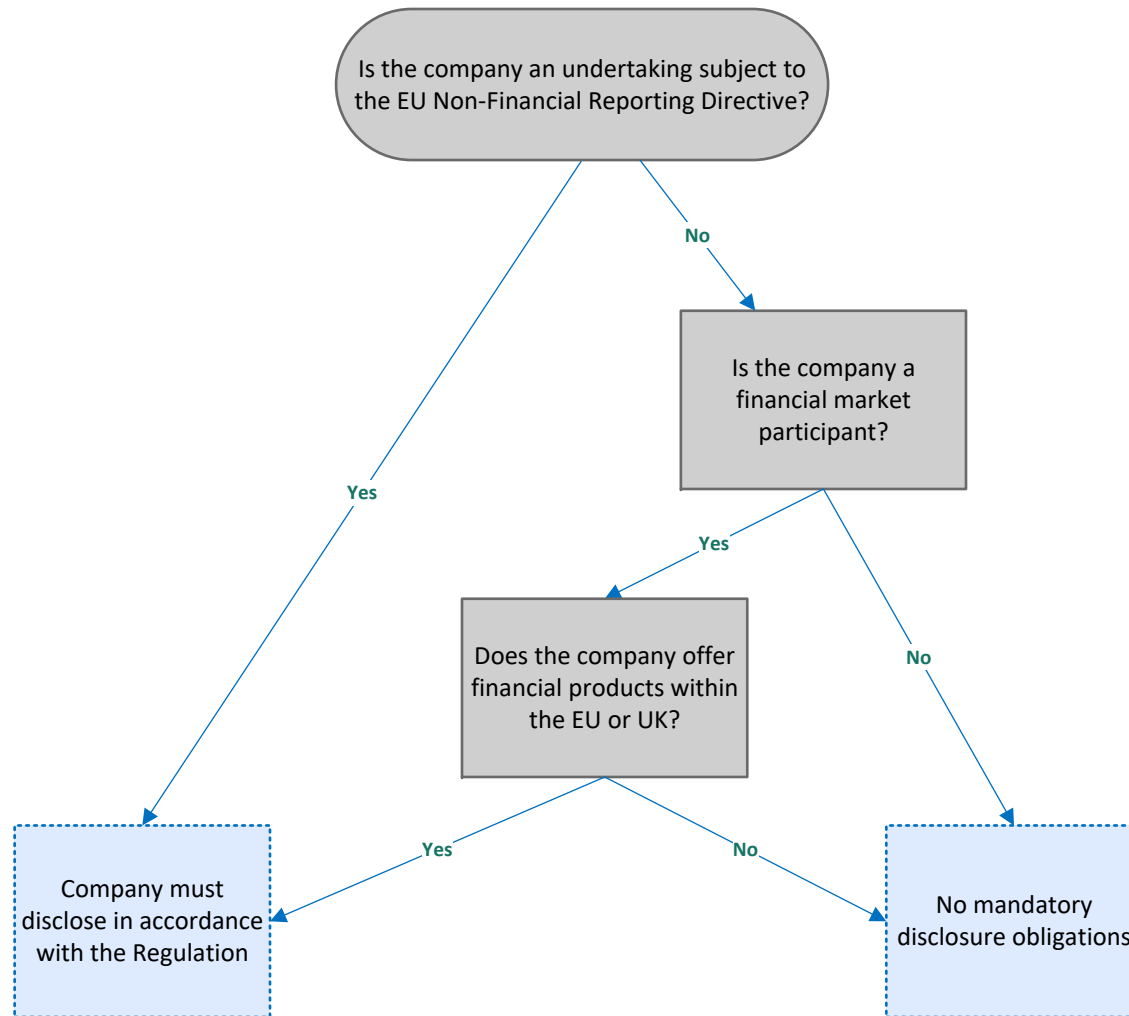
	economic activity to ensure alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organization on Fundamental Principles and Rights at Work and the International Bill of Human Rights. Complies with technical screening criteria established by the Commission (e.g., the Disclosures Delegated Act). <i>As part of the Proposed Delegated Regulation, the European Commission is asking for feedback on two alternative options for simplifying the “Do No Significant Harm” criteria for pollution prevention and control related to the use and presence of chemicals that apply horizontally to all economic sectors under the Regulation.</i>
Environmental Objectives	The Regulation articulates six “environmental objectives”: - Climate change mitigation – Activities contributing substantially to the stabilization of greenhouse gas concentrations in the atmosphere at a level which prevents dangerous anthropogenic interference with the climate system consistent with the long-term temperature goal of the Paris Agreement through the avoidance or reduction of greenhouse gas emissions or the increase of greenhouse gas removals. The Climate Delegated Act was adopted to, among other topics, establish technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to climate change mitigation and adaption. - Climate change adaptation – Activities that either substantially reduce the risk of the adverse impact of the current climate and the expected future climate on that economic activity or substantially reduce that adverse impact, without increasing the risk of an adverse impact on people, nature or assets. - The sustainable use and protection of water and marine resources – Activities that contribute substantially to achieving the good status of bodies of water, including bodies of surface water and groundwater or to preventing the deterioration of bodies of water that already have good status, or the good environmental status of marine waters or preventing the deterioration of marine waters that are already in good environmental status. - The transition to a circular economy – Activities related to waste prevention, re-use and recycling. - Pollution prevention control – Activities that contribute to environmental protection from pollution. - The protection and restoration of biodiversity and ecosystems – Activities that protect, conserve or restore biodiversity or achieve the good condition of ecosystems or protect ecosystems that are already in good condition. For each of the environmental objectives, the Regulation provides detailed examples of applicable activities.
Additional Information/Resources	
The Regulation	Text of the Regulation .
Omnibus Package	For text of the Proposal for a Directive amending the Directives: Accounting, Audit, CSRD and CSDDD - Omnibus I - COM(2025)81, click here .

Delegated Acts	Text of the Climate Delegated Act. Text of the Complementary Climate Delegated Act. Text of the Disclosures Delegated Act. Text of the Amendment to the Climate Delegated Act. Text of the Amendments to the Disclosures Delegated Act.
Additional Commission Resources	For Frequently Asked Questions on the Regulation, click here. For a Draft Commission Notice including Frequently Asked Questions on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act (December 21, 2023), click here. For the Draft Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Environmental Delegated Act, the EU Taxonomy Climate Delegated Act and the EU Taxonomy Disclosures Delegated Act (November 29, 2024), click here. For Frequently Asked Questions on the Omnibus Package, click here.
Ropes & Gray Resources	Client alerts related to the Regulation: • The Omnibus Picks Up Speed – An In-Depth Look at the European Commission’s February 26 Proposal (February 27, 2025) (link here). • Boarding the Omnibus – An In-depth Look at the Leaked Draft Directive (February 24, 2025) (link here). • A Look at the European Commission’s New Taxonomy Regulation FAQs (December 10, 2024) (link here).

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(Updated February 28, 2025)

Applying the Law



*The summary provided on the previous page does not summarize the reporting obligations of financial market participants.

Amendment of the Code of Obligations (Transparency on Sustainability Aspects) (Proposed) Switzerland

Overview

Law / Country	Amendment of the Code of Obligations (Transparency on Sustainability Aspects) (the “Amendment”) (Switzerland)
Goal	To align Swiss sustainability reporting with the applicability thresholds and disclosure requirements of the EU Corporate Sustainability Reporting Directive (“CSRD”).
Adoption / Status	The Amendment addresses climate disclosures required pursuant to Article 964 of the Swiss Code of Obligations (the “Swiss Code”), which currently requires an annual report on non-financial matters. The Amendment would expand the scope and reporting requirements to more closely align with the European Sustainability Reporting Standards (“ESRS”) adopted pursuant to the CSRD. Note that other Swiss non-financial reporting requirements are not discussed in this summary. On December 2, 2022, the Swiss Federal Council adopted decisions with regard to the developments in the EU in the area of sustainable corporate management and instructed the Swiss Federal Department of Justice and Police to submit to the Federal Council by July 2024 a consultation document on the adaptation of the provisions on transparency on non-financial matters in the Swiss Code. On September 22, 2023, the Federal Council set out the basic parameters for the consultation proposal in a debate. On June 26, 2024, the Swiss Federal Council published a preliminary draft of the Amendment and opened up a consultation period on the proposal. The consultation period closed on October 17, 2024. The Amendment is expected to be finalized by the Swiss Federal Council in mid-2025. If adopted, companies would be granted a two-year transition period from the date of entry into force to begin complying with the reporting requirements.
Issue Addressed	• Climate change • Environmental rights • Governance factors • Social and human rights
Covered Entities	The Amendment would apply to the following entities: • Public interest companies within the meaning of Article 2(c)(1) and (2) of the Swiss Audit Supervision Act of December 16, 2005, including: ○ Companies publicly listed in Switzerland; and ○ Supervised persons pursuant to Article 3 of the Swiss Financial Market Supervision Act of 22 June 2007, including persons who, in accordance with financial market laws, require authorization recognition or registration by the Swiss financial market supervisory authority.

	- Any Swiss-organized companies that exceed two of the following thresholds for two consecutive financial years (either individually or on a consolidated basis): - CHF 25 million in total balance sheet assets; - CHF 50 million in revenue; and/or - Annual average of 250 full-time employees. The following entities would be exempt from reporting obligations: - Subsidiary entities controlled by another company that is required to report on sustainability matters under Swiss law; - Subsidiary entities controlled by a company that prepares an equivalent report under foreign law; and - Micro-enterprises (i.e., enterprises that do not exceed at least two of the following thresholds in two consecutive financial years (inclusive of domestic or foreign companies which they control): (1) CHF 450,000 in total balance sheet assets; (2) CHF 900,000 in revenue; and/or (3) annual average of 10 full-time employees). A subsidiary entity that relies on a parent company reporting exemption would be required to indicate in the notes to its financial statements the company in whose report it is included.
How It Works	
Mandatory?	Yes.
Disclosure Requirements	The Amendment would require subject entities to submit an annual report on sustainability aspects (either in a separate report or included in the annual management report), which would be required to address the following topics: - Environmental factors, including progress towards achieving a net zero greenhouse gas emission target by 2050 at the latest; - Social matters, including workers' concerns; - Human rights; and - Governance aspects, including organizational arrangements to combat corruption. The report would be required to describe the following: - The company's business model and strategy; - The time-bound sustainability objectives set by the company; - The role of the top management or administrative body in relation to sustainability matters; - The company's sustainability policy; - Management incentives linked to sustainability matters; - Due diligence concerning sustainability matters; - Material actual or potential negative sustainability impacts and the measures taken to identify and monitor those impacts;

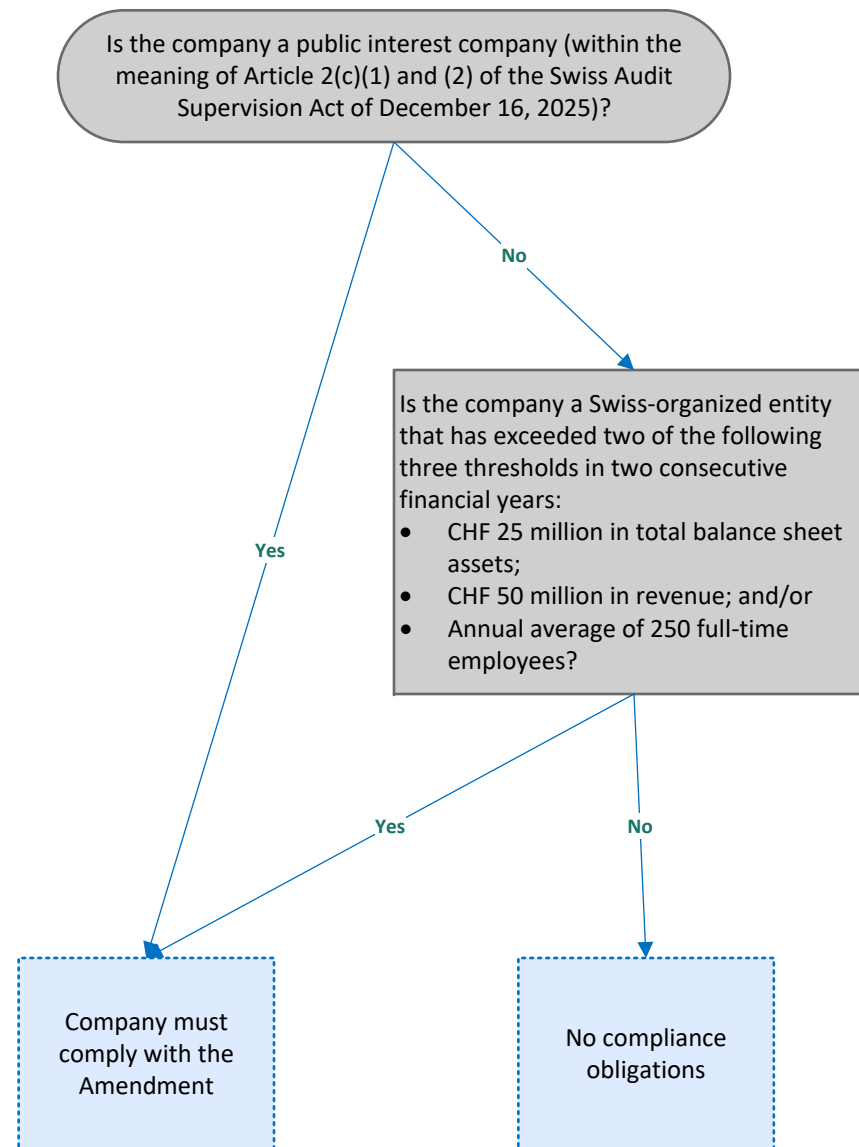
	• The measures taken to prevent, mitigate, remedy or end actual or potential negative sustainability impacts and the success of the measures; • The material sustainability risks to which the enterprise is exposed and the management of those risks; and • The relevant indicators relating to the foregoing information. The descriptions provided in connection with the first three bullet points above would be required to include information on the business activities of the company and its value chain, including information on its products and services, its business relationships and its supply chain. Disclosure would be subject to a double materiality approach, requiring reporting if a particular sustainability topic is either financially material or impact material. Disclosure would generally be required to comply with the CSRD ESRS. Alternatively, reporting would be permitted to align with an equivalent standard designated by the Swiss Federal Council (e.g., reporting in accordance with a combination of the Global Reporting Initiative standards and the IFRS Sustainability Disclosure Standards of the International Sustainability Standards Board). However, any such equivalent reporting would be required to contain no or minimal deviations from the ESRS with regard to the scope and level of detail of the information provided, approval, report format, double materiality approach and comparability, among other factors.
Third-Party Assurance	Companies would be required to have the information on sustainability aspects provided in annual reports audited and assured by either: (1) auditing companies; or (2) conformity assessment bodies (i.e., individual undertakings, partnerships or legal entities that provide conformity assessments, registered in the commercial register). The auditing company or conformity assessment body would be required to meet certain minimum requirements set forth in Articles 6a and 6b of the Swiss Audit Supervision Act of December 16, 2005. In addition, the financial statement auditor would be required to assess whether there are discrepancies between the company's annual consolidating financial statements and the sustainability report. The Swiss Federal Council would be permitted to adopt a limited assurance or a reasonable assurance standard.
Publication Requirements	The above disclosures would be required to be published in the company's report on non-financial matters in accordance with Articles 964a – 964c of the Swiss Code. The report would require the approval and signature of the supreme management or governing body and the approval of the governing body responsible for approving the annual accounts. Additionally, the supreme management or governing body would be required to ensure that the report is published online immediately following approval and that it remains publicly accessible for at least 10 years. Reports would be required to be submitted in English or a Swiss national language and to be provided in an electronic format that conforms with the standard used by the EU in connection with CSRD ESRS reporting.

Enforcement	A penalty of up to CHF 100,000 would be imposed on those who intentionally: • Make false statements or omit reporting in the sustainability report; or • Fail to comply with the legal obligation to maintain and retain the sustainability report in accordance with requirements regarding electronic formatting, publication and approval from a management or administrative body.
Additional Information/Resources	
Proposed Amendment	Text of the Amendment. Text of the Swiss Code of Obligations.
Additional Guidance	For the Opening Explanatory Report to the Consultation Procedure, click here .
Ropes & Gray Resources	Client alert related to the Amendment: • Switzerland Launches Consultation on New Sustainability Reporting Requirements – An Overview for U.S.-Based Multinationals (July 5, 2024) (link here).

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(Updated February 28, 2025)

Applying the Law



Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024, Schedule 4 (Sustainability Reporting)

Australia

Overview

Law / Country	Australia Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024, Schedule 4 (Sustainability Reporting) (the “Act”) (Australia)
Goal	To impose mandatory, internationally aligned climate-related disclosure obligations on large Australian businesses and financial institutions that provide investors with greater transparency on a company’s climate-related plans and strategies.
Adoption / Status	The Act received Royal Assent on September 17, 2024, and took effect on September 18, 2024. Initial disclosure requirements apply from financial years starting on or after January 1, 2025, subject to certain transitional and phase-in periods as further described below. The Australian Accounting Standards Board (the “AASB”) is responsible for drafting the Australian sustainability reporting standards (the “ASRS”), which specify the details of the climate-related disclosures required under the Act. In October 2023, the AASB released an exposure draft of the ASRS. On September 20, 2024, the AASB voted to issue AASB S1 (General Requirements for Disclosure of Sustainability-related Financial Information) and AASB S2 (Climate-related Disclosures). • AASB S1 is a voluntary standard and has the same scope and content as the International Sustainability Standards Board’s (“ISSB”) IFRS S1 (General Requirements for Disclosure of Sustainability-related Financial Information), except for some transition reliefs, which have been modified or omitted to align with AASB S1’s voluntary status. • AASB S2 is a mandatory standard, applying the climate-related disclosures under the Act. AASB S2 incorporates all requirements of ISSB’s IFRS S2 (Climate-related Disclosures), with certain modifications. On January 28, 2025, the Australian Auditing and Assurance Standards Board (“AUASB”) approved the adoption of the Australian Standard on Sustainability Assurance ASSA 5010, Timeline for Audits and Reviews of Information in Sustainability Reports (“ASSA 5010”). ASSA 5010 is effective from January 1, 2025 through June 30, 2030. A review of the operation of the Act is required to be conducted as soon as practicable after July 1, 2028.
Issue Addressed	• Climate change
Covered Entities	The Act’s climate-related disclosure obligations (as set forth in AASB S2) apply to the following Australian entities required to submit financial reports under Chapter 2M of the Australian Corporations Act: • “Group 1 Entities” include the following: ○ Entities (excluding asset owners) that satisfy at least two of the following three thresholds: ▪ A\$500 million or more of consolidated annual revenue; ▪ A\$1 billion or more of consolidated gross assets at the end of the financial year; and/or

	▪ 500 or more employees at the end of the financial year (including part-time employees as an appropriate fraction of a full-time equivalent); ○ Entities with emissions reporting obligations under the Australian National Greenhouse and Energy Reporting Act 2007 (“NGER”) as of the end of the financial year that are above the following NGER publication thresholds: ▪ Facilities with 25,000 tons or more of total scope 1 and scope 2 greenhouse gases (“GHGs”) (measured in tCO₂e) or production or consumption of 100,000 gigajoules or more of energy; or ▪ Entities with 50,000 tones or more of total GHGs (measured in tCO₂e) or production or consumption of 200,000 gigajoules or more of energy. • “Group 2 Entities” include the following: ○ Entities (excluding asset owners) that satisfy at least two of the following three thresholds: ▪ A\$200 million or more of consolidated annual revenue; ▪ A\$500 million or more of consolidated gross assets at the end of the financial year; and/or ▪ 250 or more employees at the end of the financial year (including part-time employees as an appropriate fraction of a full-time equivalent); ○ Entities with emissions reporting obligations under the NGER as of the end of the financial year that are not otherwise included as Group 1 Entities; and ○ Asset owners with over A\$5 billion in assets under management as of the end of the financial year. • “Group 3 Entities” include entities (excluding asset owners) that satisfy at least two of the following three thresholds: ○ A\$50 million or more of consolidated annual revenue; ○ A\$25 million or more of consolidated gross assets at the end of the financial year; and/or ○ 100 or more employees at the end of the financial year (including part-time employees as an appropriate fraction of a full-time equivalent). Group 1 Entities are required to commence reporting beginning for financial years starting on or after January 1, 2025. Group 2 Entities are required to commence reporting beginning for financial years starting on or after July 1, 2026. Group 3 Entities are required to commence reporting beginning for financial years starting on or after July 1, 2027, subject to certain materiality qualifiers as further described below.
How It Works	
Mandatory?	Yes.

Disclosure Requirements	The Act requires that covered entities make a climate-related financial disclosure in an annual sustainability report. The annual sustainability report is required to include the following: • A climate statement for the year, including any notes made in relation to the statement; • Any statements relating to financial matters concerning environmental sustainability as required by the Australian Treasury Minister via future legislative instrument; and • A directors' declaration that the statements and notes comply with the requirements of the Act.
Climate Statement	A covered entity's climate statement is required to be prepared in line with AASB S2. Generally, a covered entity is expected to disclose the following: • Material climate-related financial risks and opportunities faced by the entity (if any); • Climate-related metrics and targets, including the entity's scope 1, scope 2 and scope 3 GHG emissions, each as defined in AASB S2; and • Information related to governance processes, strategy and risk management plans in connection with managing climate-related risks, opportunities, metrics and targets (as identified in the disclosures pursuant to the first two bullet points above). As noted above, AASB S2 largely incorporates the requirements of IFRS S2, with, among other things, the following modifications: • General requirements for disclosure of climate-related financial information – AASB S2 includes an Australian-specific appendix (Appendix D – General requirements for disclosure of climate-related financial information). Appendix D incorporates paragraphs drawn from AASB S1 but expressed in the context of climate-related financial disclosures, so that AASB S2 can function as the standalone mandatory standard containing all the requirements regarding climate-related financial disclosures. An entity applying AASB S2 is required to apply Appendix D but is not required to apply AASB S1. • Avoiding unnecessary duplication of disclosures – AASB S2 paragraphs Aus7.1 and Aus26.1 clarify that the requirements set out in paragraphs 7 and 26 (which address avoiding unnecessary duplication of disclosures) apply particularly if an entity elects to apply AASB S1 to disclose information about other sustainability-related risks and opportunities in addition to climate-related risks and opportunities. • Consolidated entity sustainability reporting – Paragraphs Aus20.1 and AusB38.1 in AASB S2 Appendix D specify that an entity's climate-related financial disclosures must be for the same reporting entity as the related financial statements unless otherwise permitted by law, given the reporting option available to parent entities under the amendments to the Australian Corporations Act. • Consideration and disclosure of industry-based information – AASB S2 omits the definition of "disclosure topic" from Appendix A (Defined terms) and modifies or omits the industry-based requirements set out in IFRS S2 paragraphs 12, 23, 28(b), 32, 37, B65(d) and B67. An entity applying AASB S2 is not required to disclose industry-based metrics or to consider those disclosure topics defined in the Industry-based Guidance on Implementing IFRS S2 issued by the ISSB.

	The disclosure is required to rely on a scenario analysis conducted using at least two relevant possible future states, one of which must be consistent with the most ambitious global temperature goal set out in the Australia Climate Change Act 2022 (i.e., a 1.5°C increase in the global average temperature above pre-industrial levels). For a Group 3 Entity, the information required to be disclosed in the climate statement is subject to a materiality assessment. If, for a financial year, a Group 3 Entity has no material climate-related financial risks or opportunities, the entity is permitted to include in its climate statement only a statement indicating that it has assessed and determined that it has no material climate-related financial risks or opportunities for the financial year.
Director's Declaration	An entity's annual sustainability report is required to include a directors' declaration that the substantive provisions of the sustainability report meet the requirements of the Act, including with respect to compliance with sustainability standards and climate statement disclosures. The declaration must be made in accordance with a resolution of the directors, specify the date on which the declaration is made and be signed by a director. For the first three years after the Act's implementation, the directors' declaration only needs to declare that the reporting entity has taken reasonable steps to ensure the substantive provisions of the sustainability report are in accordance with the Act. After this three-year transitional period, the directors' declaration is required to attest to the climate statement's compliance with the ASRS.
Third-Party Assurance	An entity's sustainability report is subject to mandatory auditing and assurance processes under a phased-in approach. According to ASSA 5010, the assurance process is subject to the following timeline, with reasonable assurance required for all climate disclosures beginning in the fourth year of reporting an entity's reporting obligations (i.e., financial years commencing on or after July 1, 2028 for Group 1 Entities, July 1, 2029 for Group 2 Entities and July 1, 2030 for Group 3 Entities): • Scope 1 and scope 2 emissions and governance and strategy disclosures: limited assurance for the first, second and third years of reporting; reasonable assurance beginning in the fourth year of reporting; • Scope 3 emissions, climate resilience assessments and scenario analysis, transition plans, risk management and climate-related metrics and targets: limited assurance beginning in the second year of reporting; reasonable assurance beginning in the fourth year of reporting.
Exceptions	An entity that would otherwise be subject to the Act but is included in a parent entity's consolidated sustainability report submitted in compliance with the Act is not required to prepare and submit a separate sustainability report.
Enforcement	The climate-related financial disclosure contained in the climate statement is subject to the existing liability framework embedded in the Australian Corporations Act 2001 and the Australian Securities and Investments Commission Act 2001. Any misleading climate-related statements made about future matters without reasonable grounds are in breach of corporation laws and subject the company or entity to liability. The maximum civil penalty for companies is currently the greater of (1) 50,000 penalty units (approximately A\$15.65 million), (2) three times the benefit obtained and detriment avoided or (3) 10% of annual turnover, capped at 2.5 million penalty units (approximately \$782.5 million).

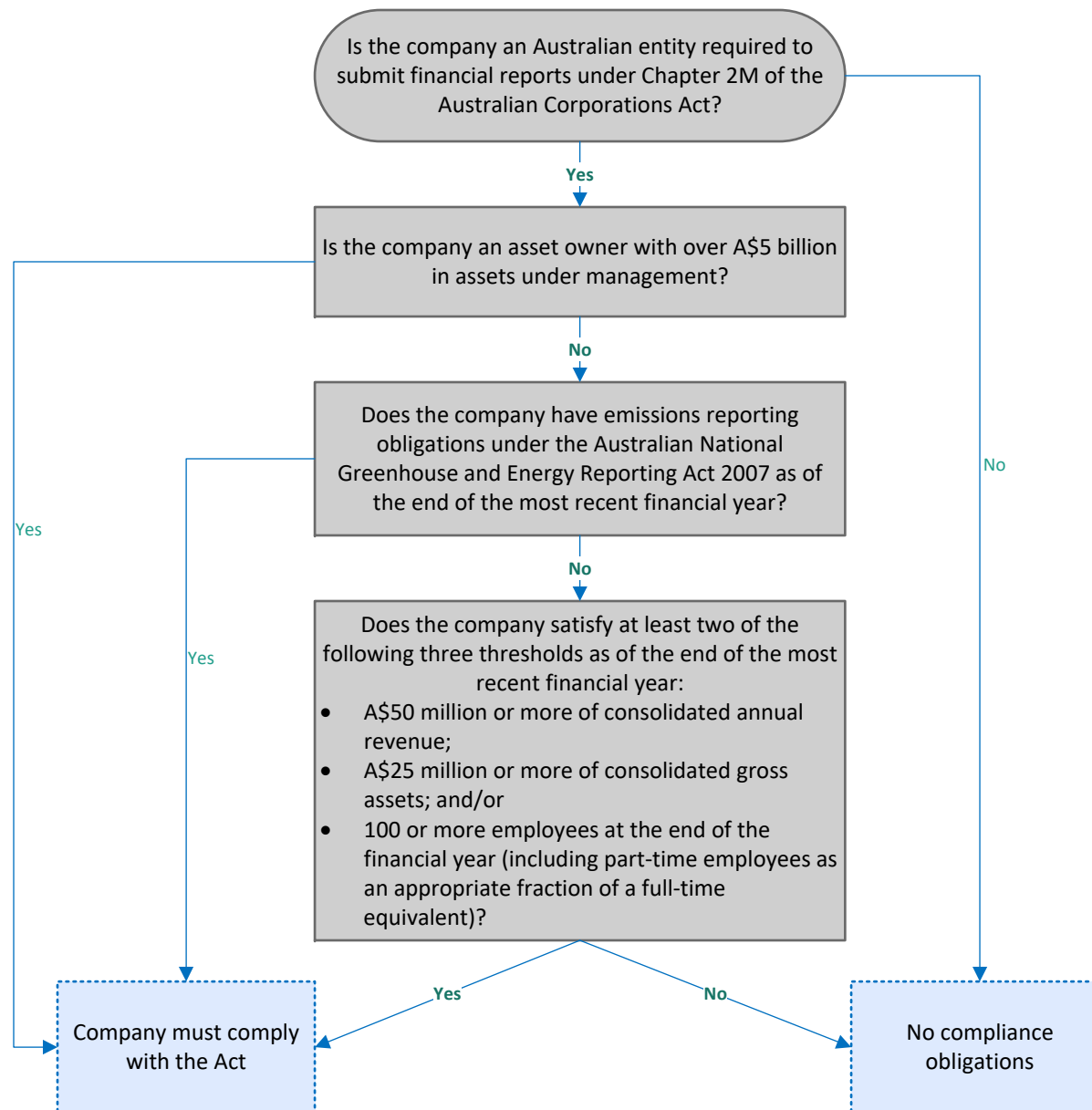
	If the Australian Securities and Investments Commission (“ASIC”) considers that a statement made by an entity in a sustainability report is incorrect, incomplete or misleading in any way, ASIC may send a written notice to the entity directing the entity to do any of the following, within a reasonable period of time provided: • Confirm to ASIC that the statement is correct and complete; • Explain the statement to ASIC; • Provide ASIC with information or documents that could substantiate or support the statement; and/or • Correct, complete or amend the statement in accordance with the direction (and either publish the corrected, completed or amended statement in accordance with the direction or give the corrected, completed or amended statement to specified persons in accordance with the direction). Before giving an entity a notice that includes a direction to correct, complete or amend a statement, ASIC is required to give the entity an opportunity to appear or be represented at a private hearing before ASIC or to make submissions to ASIC on the matter. If an entity fails to comply with ASIC’s directions within the time specified (or within a reasonable time if none is specified), it will be subject to additional fines of up to 60 penalty units (approximately A\$19,000). The Act proposes a temporary modification to the existing liability framework for the first three years of the mandatory climate disclosure regime, providing a transitional period during which entities can adjust to the new reporting standards without the threat of civil actions. The modified liability approach provides reporting entities protection or immunity from civil actions in connection with sustainability reporting. The following would be protected statements under the modified liability approach: • A statement made within a sustainability report within the first three years of the disclosure regime; and • An auditor’s report of audits or reviews of sustainability reports regarding (1) scope 3 GHG emissions, (2) scenario analysis or (3) climate-related transition plans or targets. Additionally, the Act provides Group 1 Entities with protection from liability for any forward-looking statements made during the first year of reporting for the purposes of complying with the relevant sustainability standards and auditing standards.
Additional Information/Resources	
Amendment	Text of the Act .
Non-Binding Guidance	For an overview of the Act’s key provisions, including background and guidance from the Australian Parliament, click here .
ASRS and Related Documents	For the text of AASB S1, click here. For the text of AASB S2, click here. For the AASB Action Alert announcing the issuance of AASB S1 and AASB S2, click here. For ASSA 5010, click here.

Ropes & Gray Resources	Client alerts related to the Act: • Australian government published proposed climate disclosure legislation (January 16, 2024) (link here).
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(Updated February 28, 2025)

Applying the Law



*Applicability of the Act is subject to certain phase-ins, as discussed in the summary.

Climate Corporate Data Accountability Act (Compliance Pending) California

Overview

Law / State	Climate Corporate Data Accountability Act (SB-253) (the “Act”) (California, United States)
Goal	Encourage greenhouse gas (“GHG”) emissions reduction.
Adoption / Status	The Act was signed by Governor Newsom of California on October 7, 2023. The Act is part of the Climate Accountability Package. The package also included the Climate-Related Financial Risk Act (SB-261) and the Fossil Fuel Divestment Bill (SB-252). See the separate summary on the Climate-Related Financial Risk Act. In connection with his approval of the Act, Governor Newsom published a signing message that contained caveats that may impact how the Act is implemented. In his signing message, the Governor noted that the implementation deadlines were likely infeasible, and the specified reporting protocol could result in inconsistent reporting across businesses subject to the measure. Governor Newsom directed his Administration to work with the bill's author and the legislature to address these issues in 2024. On January 30, 2024, a lawsuit was filed challenging the Act, seeking the court to declare the Act null, void and with no force or effect and enjoin California from implementing or enforcing the Act. On February 3, 2025, the U.S. District Court for the Central District of California granted the State of California’s motion to dismiss the claims in the lawsuit alleging violation of the U.S. Constitution’s Supremacy Clause and Dormant Commerce Clause. The lawsuit is ongoing with respect to the claim that the Act violated the plaintiffs’ First Amendment rights by compelling certain speech. In May 2024, the Governor revised his budget proposal to provide funding for the California State Air Resources Board (the “State Board”) to implement the Act. On June 29, 2024, the California State budget was approved and the Governor released a draft budget trailer bill (the “Draft Trailer Bill”) to push back the Act’s compliance deadlines by two years. Among other changes, the Draft Trailer Bill contemplated initial disclosures in 2028 rather than 2026 and a commensurate two-year delay for other reporting and assurance requirements. The Draft Trailer Bill failed to pass before the close of the 2023-2024 legislative session. On August 31, 2024, the California legislature passed Senate Bill 219 (“SB 219”), which provides the State Board with six additional months to finalize its rules, pushing its rulemaking deadline to July 1, 2025. Additionally, SB 219 clarifies that disclosures can be consolidated at the parent company level and that subsidiaries are exempt from reporting and amends the deadline for when filing fees are due under the Act, delinking payment of the annual fee from the publication of disclosure.. On September 27, 2024, Governor Newsom signed SB 219 into law. On December 5, 2024, the State Board issued an enforcement notice indicating that it will exercise enforcement discretion with respect to scope 1 and scope 2 emissions in the first year of reporting. Specifically, for the first reports due in 2026, reporting entities will be permitted to submit scope 1 and scope 2 emissions data that can be determined from information the reporting entity already possesses or was in the process of collecting as of December 5, 2024. The State Board indicated

	that it will not take enforcement action for incomplete reporting against entities, as long as they make a good faith effort to retain all data relevant to GHG emissions reporting for the entity’s prior fiscal year. On December 16, 2024, the State Board launched a solicitation seeking feedback to help inform its work on the implementation of the Act across three general topic areas: applicability, standards in regulation and data reporting. The solicitation will be open until March 21, 2025.
Issue Addressed	• Climate change
Covered Entities	U.S.-organized entities that do business in California and have total annual revenues in excess of \$1 billion (“Reporting Entities”).
How It Works	
Mandatory?	Yes.
Reporting Requirements	The Act requires the State Board, on or before July 1, 2025, to develop and adopt regulations requiring Reporting Entities to publicly disclose their scope 1, scope 2 and scope 3 GHG emissions to an emissions reporting organization. Annual reporting for scope 1 and scope 2 emissions will commence in 2026 (on or by a date to be determined by the State Board) for the prior fiscal year. Annual reporting for scope 3 emissions for the prior fiscal year will commence in 2027 for the prior fiscal year (on or by a date to be determined by the State Board). • “Scope 1 emissions” means all direct GHG emissions that stem from sources that a Reporting Entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities. • “Scope 2 emissions” means indirect GHG emissions from consumed electricity, steam, heating or cooling purchased or acquired and used by a Reporting Entity, regardless of location. • “Scope 3 emissions” means indirect upstream and downstream GHG emissions, other than scope 2 emissions, from sources that the Reporting Entity does not own or directly control. Scope 3 emissions may include, but are not be limited to, purchased goods and services, business travel, employee commutes and processing and use of sold products. The Act requires the State Board to ensure the following: • That all disclosures are made in accordance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data and other generic data in scope 3 emissions calculations. • That all disclosures are made in a manner that is easily understandable and accessible and include the name of the Reporting Entity and any fictitious names, trade names, assumed names and logos used by the Reporting Entity.

	• That a Reporting Entity’s disclosure takes into account acquisitions, divestments, mergers and other structural changes that can affect greenhouse gas emissions reporting. The Act does not require additional reporting of emissions of greenhouse gases beyond the reporting of scope 1 emissions, scope 2 emissions and scope 3 emissions required pursuant to the Greenhouse Gas Protocol standards and guidance, as currently in effect, or an alternative standard, if one is adopted by the State Board after 2033. Reports may be consolidated at the parent company level. If an entity is a subsidiary of a parent company that qualifies as a Reporting Entity under the Act, the subsidiary is not required to prepare a separate report.
Third Party Assurance	The Reporting Entity’s disclosure will be required to be independently verified by a third-party assurance provider. A copy of the complete, audited GHG emissions inventory, including the name of the third-party assurance provider, will need to be disclosed. The assurance engagement for scope 1 emissions and scope 2 emissions will be required to be performed at a limited assurance level beginning in 2026 and at a reasonable assurance level beginning in 2030. On or before January 1, 2027, the state board may establish an assurance requirement for third-party assurance engagements of scope 3 emissions. The assurance engagement for scope 3 emissions will be required to be performed at a limited assurance level beginning in 2030. However, as noted above, the Draft Trailer Bill contemplates a two-year delay for all assurance requirements, including pushing the limited assurance requirement for scope 1 emissions and scope 2 emissions from 2026 to 2028, the reasonable assurance requirement for scope 1 emissions and scope 2 emissions from 2030 to 2032 and the limited assurance requirement for scope 3 emissions from 2030 to 2032. The third-party assurance provider will be required to have significant experience in measuring, analyzing, reporting or attesting to GHG emissions and competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements. The assurance provider will have to be able to issue reports that are appropriate under the circumstances and independent with respect to the reporting entity, and any of the reporting entity’s affiliates for which it is providing the assurance report. The Act requires the State Board to ensure that the assurance process minimizes the need for reporting entities to engage multiple assurance providers and ensure sufficient assurance provider capacity. During 2029, the Act requires the State Board to review and, on or before January 1, 2030, update as necessary, the qualifications for third-party assurance providers based on an evaluation of trends in education relating to the emission of greenhouse gases and the qualifications of third-party assurance providers.
Publication; Emissions Reporting Organization	The emissions reporting organization is required to be a nonprofit reporting organization contracted by the State Board. The emissions reporting organization is required to create a publicly available digital platform to feature emissions data of Reporting Entities. The digital platform will be required to enable users to review individual Reporting Entity disclosures. The digital platform also will be required to enable users to analyze underlying data elements aggregated in a variety of ways, such as multi-year data. The emissions reporting organization will be required to make Reporting Entities’ disclosures and the State Board’s report (as later described) available on the digital platform within 30 days of receipt.

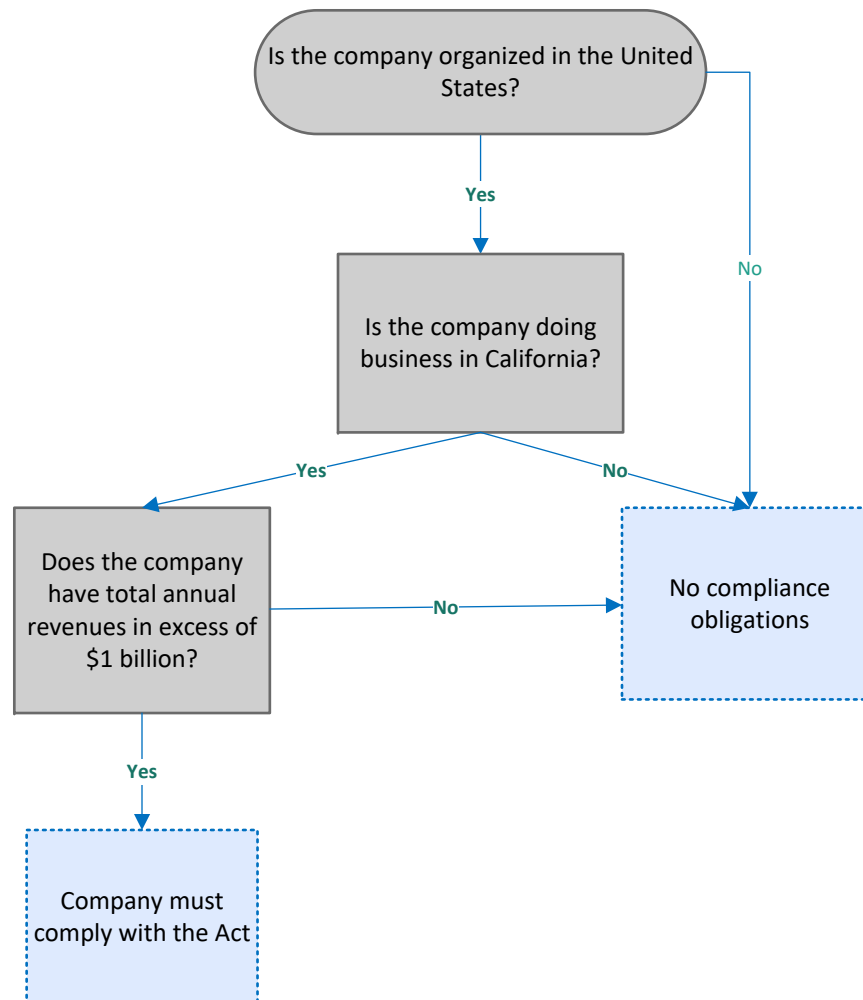
Filing Fee	A Reporting Entity is required to pay an annual fee to the State Board for administration and implementation of the Act. The State Board is required to set such fee based on its actual and reasonable administrative costs.
Implementing Regulations	Implementing regulations are required to be developed by the State Board on or before July 1, 2025. The implementing regulations adopted by the State Board are required to be structured to streamline and maximize Reporting Entities' ability to use reports under the Act to meet the requirements of other leading climate disclosure programs and standards. Starting in 2033 and every five years thereafter, the Act permits the State Board to adopt a globally recognized alternative accounting and reporting standard, based on the State Board's review of available standards and consultation with external stakeholders, if it determines such standard would more effectively further the goals of the Act. If the State Board adopts an alternative accounting and reporting standard, it will be required to develop and adopt new regulations to ensure full conformance with the new standard and reporting of scope 1, scope 2 and scope 3 emissions.
Enforcement	The State Board is required to adopt regulations that authorize it to seek administrative penalties of up to \$500,000 per reporting year for violations of the Act. The State Board will be able to impose and recover such penalties in administrative hearings. No penalties may be assessed on scope 3 disclosures made with a reasonable basis and disclosed in good faith. Between 2027 and 2030, no penalties will be assessed on scope 3 disclosures, other than for nonfiling.
Interplay with Other Reporting Requirements	As applicable, Reporting Entities are permitted to provide mandatory industrial emissions data required pursuant to Section 38530 of the California Code (Mandatory Greenhouse Gas Emissions Reporting) with the disclosure required by the Act.
Additional State Board Requirements	On or before July 1, 2027, the State Board is required to contract with the University of California, the California State University, a national laboratory or another equivalent academic institution to prepare a report on the public disclosures made by Reporting Entities to the Secretary of State that considers, at a minimum, GHG emissions from Reporting Entities. During 2029, the State Board will be required to review, and on or before January 1, 2030, the State Board will be required to update, the public disclosure deadlines to evaluate trends in scope 3 emissions reporting. The State board will be required to consider changes to the disclosure deadlines to ensure that scope 3 emissions data is disclosed to the emissions reporting organization as close in time as practicable to the deadline for reporting entities to disclose scope 1 and scope 2 emissions data.
Additional Information/Resources	
Law	Text of the Act. Text of SB 219.
Ropes & Gray Resources	Client alerts related to the Act: California Launches Public Consultation on Climate Disclosure Laws, and Other Recent Developments (December 18, 2024) (link here).

	• California Issues Important Enforcement Guidance for its New GHG Emissions Disclosure Requirements – Provides Additional Compliance Flexibility (December 11, 2024) (link here). • Complying with California Climate Disclosure Legislation – A Dozen Observations and Recommendations (October 20, 2024) (link here). • California Climate Disclosures – An Update on Proposed Amendments and Other Timing Considerations (September 4, 2024) (link here). • Managing the Coming Reset in Corporate Social Responsibility Legislation (Or, Just Because a Law Says It, That May Not Make it So) (July 16, 2024) (link here). • New California Climate Disclosure Laws Challenged in Court (January 31, 2024) (link here). • Will California’s New Corporate Climate Disclosure Requirements be Delayed Due to Budget Shortfalls? (January 12, 2024) (link here). • California’s Ground-Breaking Climate Disclosure Bills Have Been Signed. But What Will They Really Require and What Should Companies be Doing Now? (October 9, 2023) (link here). • California Governor to Sign Climate Disclosure Bills Requiring Thousands of Companies to Report (September 18, 2023) (link here). • California Senate Takes Second Shot at Corporate Climate Disclosures as Part of Proposed Climate Accountability Package (February 22, 2023) (link here).
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(Updated February 28, 2025)

Applying the Law



Climate-Related Financial Risk Act (Compliance Pending) California

Overview

Law / State	Climate-Related Financial Risk Act (SB-261) (the “Act”) (California, United States)
Goal	Encourage climate change mitigation.
Adoption / Status	The Act was signed by Governor Newsom of California on October 7, 2023. The Act is part of the Climate Accountability Package. The package also included the Climate Corporate Data Accountability Act (SB-253) and the Fossil Fuel Divestment Bill (SB-252). See the separate summary on the Climate Corporate Data Accountability Act. In connection with his approval of the Act, the Governor released a signing message noting that the implementation deadlines set forth in the Act fall short in providing the California State Air Resources Board (the “State Board”) with sufficient time to adequately carry out the requirements of the Act. He directed his Administration to work with the bill's author and the legislature to address this issue over the course of 2024. On January 30, 2024, a lawsuit was filed challenging the Act, seeking the court to declare the Act null, void and with no force or effect and enjoin California from implementing or enforcing the Act. On February 3, 2025, the U.S. District Court for the Central District of California granted the State of California’s motion to dismiss the claims in the lawsuit alleging violation of the U.S. Constitution’s Supremacy Clause and Dormant Commerce Clause. The lawsuit is ongoing with respect to the claim that the Act violated the plaintiffs’ first amendment rights by compelling certain speech. In May 2024, the Governor revised his budget proposal to provide funding for the State Board to implement the Act. On June 29, 2024, the California State budget was approved and the Governor released a draft budget trailer bill (the “Draft Trailer Bill”) to push back the Act’s compliance deadline by two years, contemplating initial disclosures in 2028 rather than 2026. The Draft Trailer Bill failed to pass before the close of the 2023-2024 legislative session. On August 31, 2024, the California legislature passed Senate Bill 219 (“SB 219”), which amends the deadline for when filing fees are due under the Act, delinking payment of the annual fee from the publication of disclosure. On September 27, 2024, Governor Newsom signed SB 219 into law. On December 16, 2024, the State Board launched a solicitation seeking feedback to help inform its work on the implementation of the Act across three general topic areas: applicability, standards in regulation, and data reporting. The consultation will be open until March 21, 2025.
Issue Addressed	Climate change

Covered Entities	U.S.-organized entities that do business in California and have total annual revenues that exceed \$500 million in the prior fiscal year (the “Covered Entities”). Companies subject to regulation by the California Department of Insurance or that are in the business of insurance in any other state are excluded.
How It Works	
Mandatory?	Yes.
Reporting Requirements	Covered Entities will be required to biennially prepare a climate-related financial risk report. The first report will be required to be prepared by January 1, 2026. The report will be required to disclose the following: • The Covered Entity’s climate-related financial risk in accordance with the recommended framework and disclosures published by the Task Force on Climate-related Financial Disclosures; and • The measures adopted to reduce and adapt to the disclosed climate-related financial risks. In place of the recommended framework and disclosures published by the Task Force on Climate-related Financial Disclosures, Covered Entities will also be able to disclose their climate-related financial risk pursuant to (1) a law, regulation or listing requirement issued by a regulated exchange, national government or other governmental entity with disclosure requirements consistent with those required by the Act (including the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board) or (2) another framework that meets the disclosure requirements of the Act. “Climate-related financial risk” means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health. If a Covered Entity does not complete a report consistent with all required disclosures noted in the first bullet point above, it will be required to provide the recommended disclosures to the best of its ability, provide a detailed explanation for any reporting gaps, and describe steps the Covered Entity will take to prepare complete disclosures.
Reporting Requirement Exceptions	A Covered Entity will not be required to prepare a climate-related financial risk report if its parent company published such a report. If a federal law or regulation enacted after January 1, 2023 requires a covered entity to prepare an annual report disclosing information materially similar to the information required under the Act, a report prepared pursuant to that federal requirement will satisfy the reporting requirements under the Act and the Covered Entity may attest to the California Secretary of State that it has publicly disclosed the climate-risk disclosures to satisfy the publication requirement of the Act.

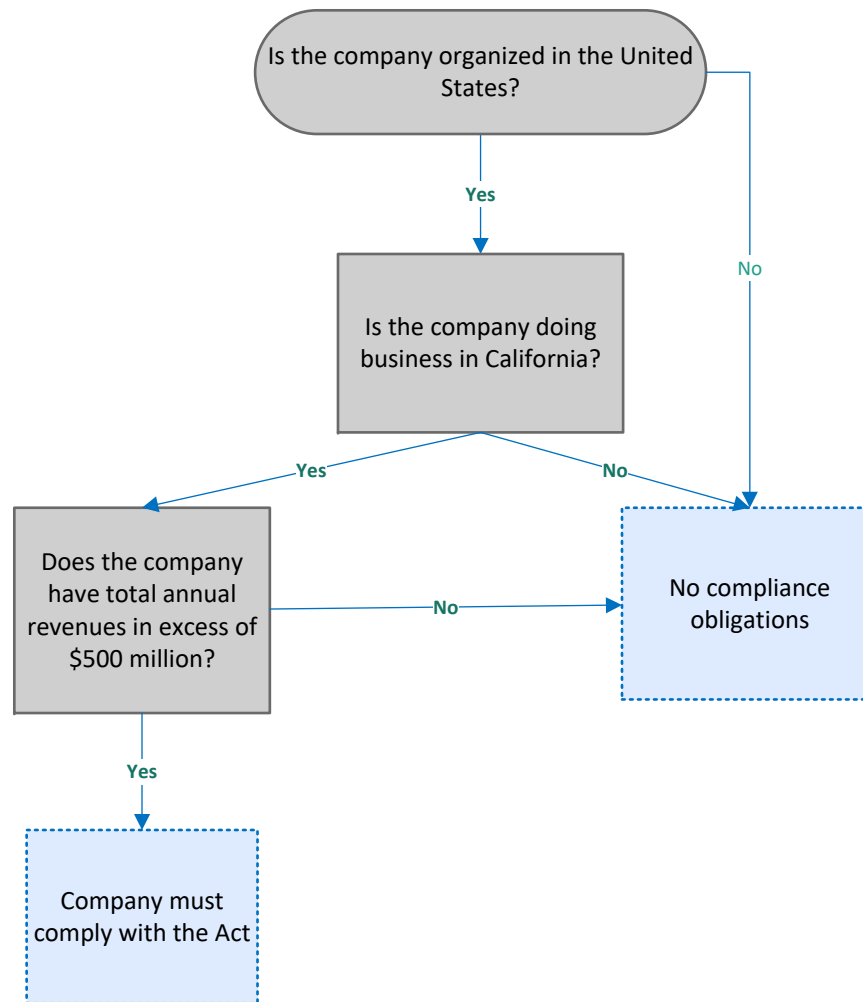
Publication	Reports will be required to be made available on the Covered Entity’s website. Covered Entities also will need to submit a statement to the California Secretary of State affirming that the report discloses climate-related financial risk in accordance with the requirements of the Act.
Filing Fee	A Covered Entity will be required to pay a fee to the State Board for the administration and implementation of the Act. The State Board is required to set the fee based on its actual and reasonable administrative costs.
Climate Reporting Organization	The Act also requires the State Board to contract with a non-profit climate reporting organization that both (1) currently operates a climate reporting organization for organizations operating in the United States and (2) has experience with climate-related financial risk disclosure by entities operating in California. The State Board may contract with the climate reporting organization to do any of the following it deems appropriate: • Biennially preparing a public report that contains: ○ A review of the disclosure of climate-related financial risk contained in a subset of publicly available climate-related financial risk reports by industry; ○ Analysis of the systemic and sector-wide climate-related financial risks facing California based on the contents of climate-related financial risk reports, including, but not limited to, potential impacts on economically vulnerable communities; and ○ Identification of inadequate or insufficient reports. • Regularly convening representatives of sectors responsible for reporting climate-related financial risks, state agencies responsible for oversight of reporting sectors, investment managers, academic experts, standard-setting organizations, climate and corporate sustainability organizations, labor union representatives whose members work in impacted sectors and other stakeholders to offer input on current best practices regarding disclosure of financial risks resulting from climate change; and • Monitoring federal regulatory actions among agency members of the federal Financial Stability Oversight Council, as well as non-independent regulators overseen by the White House.
Enforcement	The Act requires the State Board to adopt regulations authorizing it to seek administrative penalties (not to exceed US\$50,000 in a reporting year) from Covered Entities that fail to meet the reporting requirements of the Act. The administrative penalties will be imposed and recovered by the State Board in administrative hearings conducted pursuant to Article 3 and Article 4 of the California Code of Regulations. In imposing penalties, the State Board will be required to consider all relevant circumstances, including both (1) the Covered Entity’s past and present compliance with the Act, and (2) whether the Covered Entity took good faith measures to comply with the Act and when such measures were taken.
Additional Information/Resources	
Law	Text of the Act. Text of SB 219.

Ropes & Gray Resources	Third-party thought leadership: • Michael Littenberg of Ropes & Gray on California’s SB 253 and 261 (September 18, 2023) (link here). Client alerts related to the Act: • California Launches Public Consultation on Climate Disclosure Laws, and Other Recent Developments (December 18, 2024) (link here). • California Issues Important Enforcement Guidance for its New GHG Emissions Disclosure Requirements – Provides Additional Compliance Flexibility (December 11, 2024) (link here). • Complying with California Climate Disclosure Legislation – A Dozen Observations and Recommendations (October 20, 2024) (link here). • California Climate Disclosures – An Update on Proposed Amendments and Other Timing Considerations (September 4, 2024) (link here). • Managing the Coming Reset in Corporate Social Responsibility Legislation (Or, Just Because a Law Says It, That May Not Make it So) (July 16, 2024) (link here). • New California Climate Disclosure Laws Challenged in Court (January 31, 2024) (link here). • Will California’s New Corporate Climate Disclosure Requirements be Delayed Due to Budget Shortfalls? (January 12, 2024) (link here). • California’s Ground-Breaking Climate Disclosure Bills Have Been Signed. But What Will They Really Require and What Should Companies be Doing Now? (October 9, 2023) (link here). • California Governor to Sign Climate Disclosure Bills Requiring Thousands of Companies to Report (September 18, 2023) (link here). • California Senate Takes Second Shot at Corporate Climate Disclosures as Part of Proposed Climate Accountability Package (February 22, 2023) (link here).
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(Updated February 28, 2025)

Applying the Law



Voluntary Carbon Market Disclosures Act California

Overview

Law / State	Voluntary Carbon Market Disclosures Act (AB 1305) (the “ Act ”) (California, United States)
Goal	Disclosure regarding voluntary carbon offsets (“ VCOs ”) and emissions reduction claims.
Adoption / Status	The Act was signed by the Governor of California on October 7, 2023, and went into effect on January 1, 2024. Following the Act's adoption, Assemblymember Jesse Gabriel, the sponsor of the Act, stated in a letter to the Chief Clerk of the Assembly that the compliance date was intended to be January 1, 2025. In the letter, Assemblymember Gabriel acknowledges that the Act does not specify a compliance date by which subject entities must make the required disclosures, but that it was his intent that the first required disclosures be posted by January 1, 2025, to provide reporting entities sufficient time to align their business practices with the stated objectives of the Act. In February 2024, Assemblymember Gabriel introduced AB 2331, which would have amended the Act to, among other things, make clear that disclosures under it are not required until July 1, 2025. AB 2331 did not pass prior to the end of the legislative session on August 31, 2024. It is unknown if a similar bill will be introduced when the California legislature reconvenes.
Issue Addressed	Climate change
Covered Entities	The Act applies to business entities that engage in any of the following, each of which requires specific disclosures: - Markets or sells VCOs within California (a “VCO Seller”); - Makes claims (1) regarding the achievement of net zero emissions, (2) that the entity, a related or affiliated entity or a product is “carbon neutral” or (3) implying the entity, a related or affiliated entity or a product does not add net carbon dioxide or GHG to the climate or has made significant reductions to its carbon dioxide or GHG emissions. An entity that does not operate within California, that does not purchase or use VCOs sold within California, that does not market or sell VCOs within California and/or that does not make claims within California is not subject to the disclosure requirements of the Act. A “VCO” means any product sold or marketed in California that claims to be a “GHG emissions offset,” a “voluntary emissions reduction,” a “retail offset,” or any like term, that connotes that the product represents or corresponds to a reduction in the amount of GHG present in the atmosphere or that prevents the emission of GHG into the atmosphere that would have otherwise been emitted. “VCO” does not include products that represent or correspond to legal or regulatory mandates for either (1) reduction of the amount of GHG present in the atmosphere or (2) prevention of the emissions of GHG into the atmosphere. AB 2331 would have amended the definition of VCO to make express that it excludes renewable energy credits. On July 23, 2024, the California Attorney General clarified that renewable energy credits (RECs) used outside of California’s regulatory programs are not within the scope of VCOs.

How It Works	
Mandatory?	Yes.
Disclosure Requirements	VCO Sellers must disclose on their website the following information: - Details regarding the applicable carbon offset project, including: - The specific protocol used to estimate emissions reductions or removal benefits; - The location of the offset project site; - The project timeline; - The date when the project started or will start; - The dates and quantities when a specified quantity of emissions reductions or removals started or will start, or was modified or reversed; - The type of project, including whether the offsets from the project are derived from a carbon removal, an avoided emission or, in the case of a project with both carbon removals and avoided emissions, the breakdown of offsets from each; - Whether the project meets any standards established by law or by a nonprofit entity; - The durability period for any project that the seller knows or should know that the durability of the project's GHG reductions or GHG removal enhancements is less than the atmospheric lifetime of carbon dioxide emissions; - Whether there is independent expert or third-party validation or verification of the project attributes; and - Emissions reduced or carbon removed on an annual basis. - Details regarding accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits, including, but not limited to, details regarding what actions the entity, either directly or by contractual obligation, will take if carbon storage projects are reversed or if future emissions reductions do not materialize. - The pertinent data and calculation methods needed to independently reproduce and verify the number of emissions reduction or removal credits issued using the protocol. Entities that make "carbon neutral," "net zero emission" or other similar claims must disclose on their website the following information pertaining to all GHG emissions associated with their claims: - All information documenting how, if at all, a "carbon neutral," "net zero emission" or other similar claim was determined to be accurate or actually accomplished, and how interim progress toward that goal is being measured. This information may include disclosure of independent third-party verification of the entity's GHG emissions, identification of the entity's science-based targets for its emissions reduction pathway or disclosure of the relevant sector methodology and third-party verification used for the entity's science-based targets and emissions reduction pathway. - Whether there is independent third-party verification of the company data and claims listed.

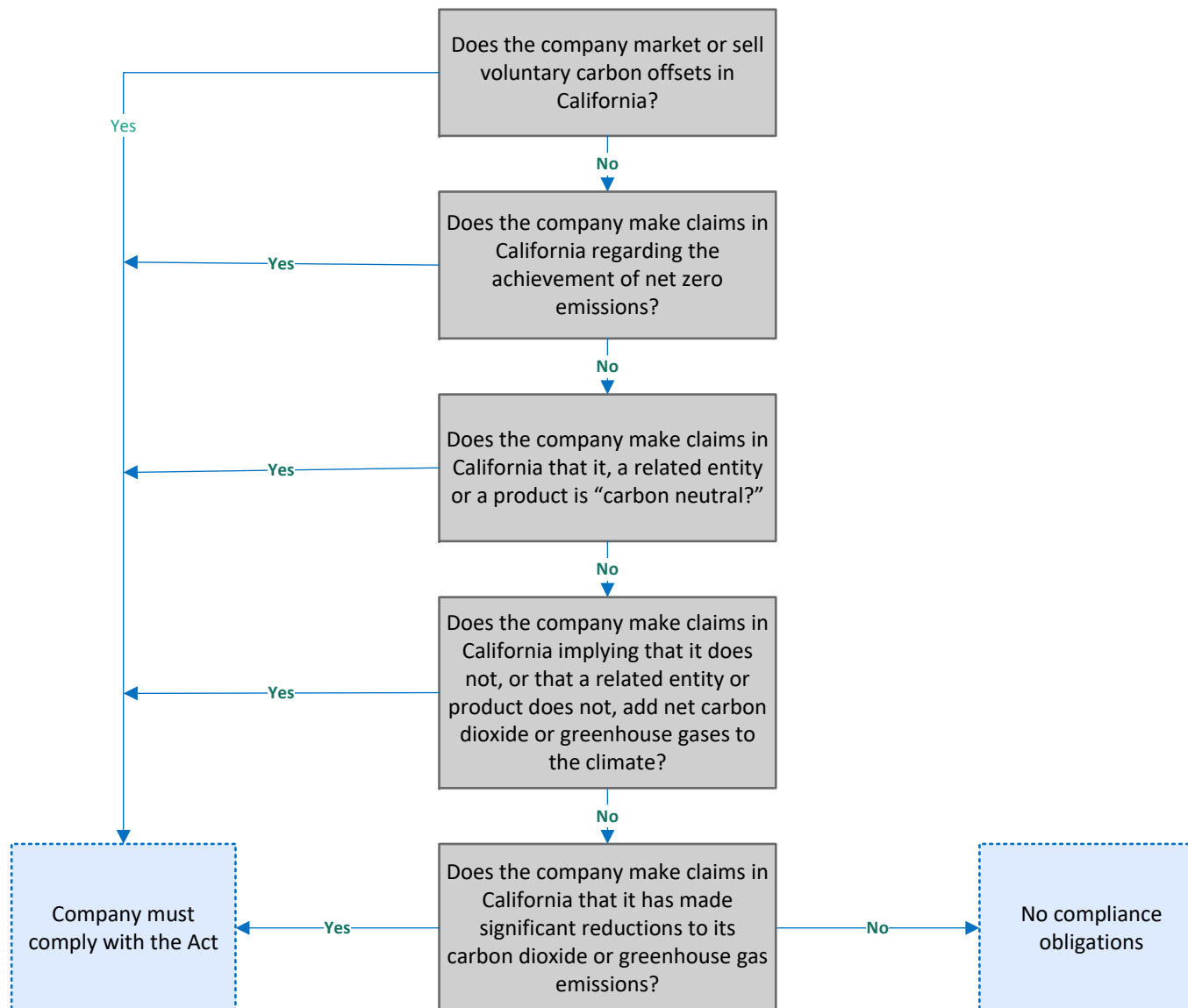
	All such disclosures are required to be updated at least annually. Entities that make such claims and also purchase or use VCOs must disclose on their website the following information pertaining to each project or program: • The name of the business entity selling the offset and the offset registry or program. • The project identification number, if applicable. • The project name as listed in the registry or program, if applicable. • The offset project type, including whether the offsets purchased were derived from a carbon removal, an avoided emission, or a combination of both, and site location. • The specific protocol used to estimate emissions reductions or removal benefits. • Whether there is independent third-party verification of company data and claims listed. All such disclosures are required to be updated at least annually. “Durability” means the duration of time over which an offset project operator commits to maintain its GHG reductions and GHG removal enhancements, as applicable, exclusive of any aspirational outcomes that exceed or extend beyond the mandatory outcomes required of the offset project pursuant to its offset protocol. “Protocol” means a documented set of procedures and requirements to quantify ongoing GHG reductions or GHG removal enhancements achieved by an offset project and to calculate the project baseline, including specification of relevant data collection and monitoring procedures, emission factors and methodologies used to conservatively account for uncertainty and activity-shifting and market-shifting leakage risks associated with an offset project.
Enforcement	An entity that violates the Act part is subject to a civil penalty for each day that information is unavailable or inaccurate on the entity’s website, not to exceed \$2,500 per day or a total of \$500,000. Pursuant to the Act, the penalties will be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by a district attorney, county counsel or city attorney in a court of competent jurisdiction.
Additional Information/Resources	
Law	Text of the Act. Text of AB 2331.
Additional Guidance	For the letter submitted by Assemblymember Jesse Gabriel, click here. For the July 2021 opinion of the California Attorney General, click here.
Ropes & Gray Resources	Client alerts, blog posts and podcasts related to the Act: • Complying with California Climate Disclosure Legislation – A Dozen Observations and Recommendations (October 20, 2024) (link here).

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| | <ul style="list-style-type: none"> • California Climate Disclosures – An Update on Proposed Amendments and Other Timing Considerations (September 4, 2024) (link here). • U.S. Government Issues Seven Principles for Building Voluntary Carbon Markets – the Principles Unpacked (May 29, 2024) (link here). • California Law for Asset Managers: California ESG Landscape (April 1, 2024) (link here). • California’s Voluntary Carbon Market Disclosures Statute (January 25, 2024) (link here). • The California Voluntary Carbon Market Disclosures Act – first disclosures not required until 2025? (December 7, 2023) (link here). • California’s Ground-Breaking Climate Disclosure Bills Have Been Signed. But What Will They Really Require and What Should Companies be Doing Now? (October 9, 2023) (link here). • The California Climate Disclosure Bill Almost No One is Talking About – Net Zero and Voluntary Carbon Offsets Disclosures Soon to be Required? (October 2, 2023) (link here). |
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Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Greenhouse Gas Emissions Report and Climate Plan Requirements France

Overview

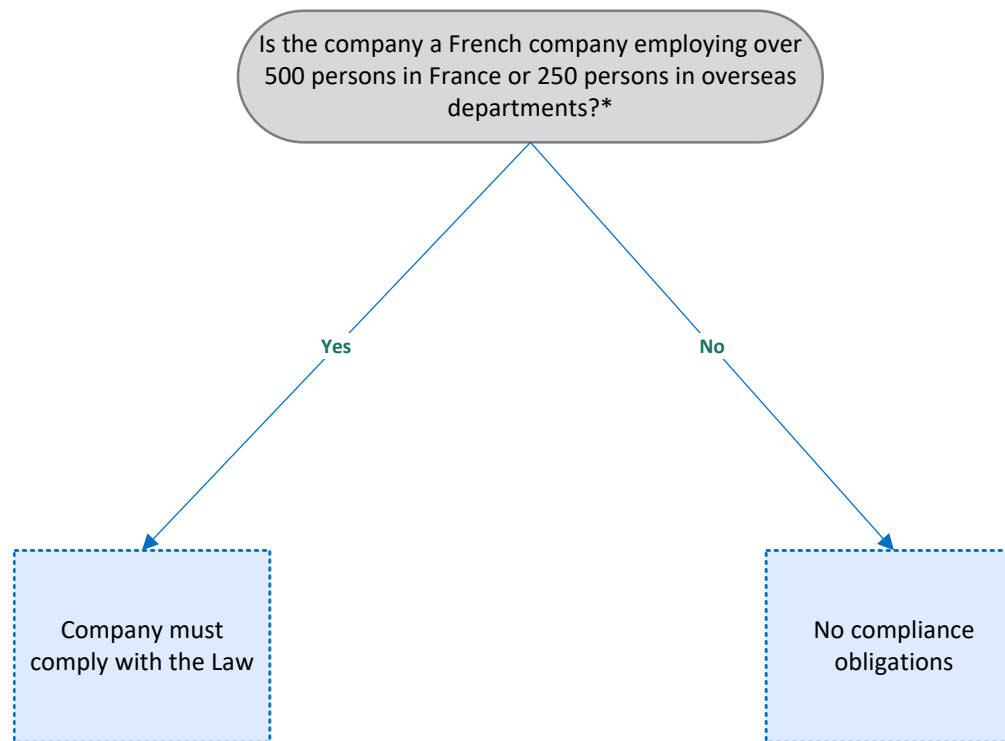
Law / Country	Greenhouse Gas Emissions Report and Climate Plan Requirements (Article L. 229-25 of the Environmental Code) (the “ Law ”) (France)
Goal	To increase emissions transparency and encourage reduction of greenhouse gas emissions.
Adoption / Status	The Law originally came into effect on December 18, 2010. The Law was modified by Decree No. 2022-982 (the “ Decree ”), which came into effect on July 1, 2022 and made Scope 3 greenhouse gas (“ GHG ”) emissions reporting mandatory for subject companies. The Law was subsequently modified by Ordinance No. 2023-1142 of 6 December 2023 (the “ Ordinance ”), France’s transposition of the EU Corporate Sustainability Reporting Directive into national law. The Ordinance removed the Law’s transition plan exemption for companies subject to the Déclaration de Performance Extra-Financière, France’s transposition of the EU Non-Financial Reporting Directive. The modifications took effect on January 1, 2025.
Issues Addressed	• Climate change
Covered Entities	Legal persons under private law employing over 500 persons in France or 250 persons in overseas departments are subject to the Law, as amended. State or local governments, municipalities or communities with at least 50,000 inhabitants or public law entities employing over 250 persons also have obligations under the Law; however, such obligations are not discussed in this summary.
How It Works	
Mandatory?	Yes.
GHG Emissions Report	Subject companies must publish a GHG emissions report (a Bilan des émissions de gaz à effet de serre (BEGES)) and create and publish a transition plan to reduce GHG emissions (discussed below). Subject companies must update their GHG emissions report and transition plan every four years. The GHG emissions report must include an assessment of the volume of GHG emissions produced by the activities carried out by the company during a year. The report must include: • Direct emissions (i.e., Scope 1 GHG emissions); and • Significant indirect emissions, meaning emissions resulting from energy consumption (i.e., Scope 2 GHG emissions) and emissions associated with transportation and products purchased and sold (i.e., certain Scope 3 GHG emissions). The identification and quantification of significant indirect emissions must be carried out in accordance with BEGES methodology.

	In each region, the regional prefect and the president of the regional council are responsible for coordinating the collection of data, carrying out an inventory and checking the consistency of the assessments. Subject companies must electronically transmit their GHG emissions information to the administrative authority through the ADEME (Agence de l'environnement et de la maîtrise de l'énergie) platform. Historical GHG emissions reports are searchable on the ADEME platform.
Transition Plans	The transition plan must include: - Plans to reduce GHG emissions, including the objectives, means and actions envisioned; - The overall amount of GHG emission reductions expected for direct and indirect emissions; and - Where applicable, actions implemented during the years following the previous review and the results obtained. The methodology for the preparation of transition plans, as well as the required form and substance of the transition plans, is developed by the National Coordination Unit, designated by the Minister for the Environment.
Oversight and Enforcement	The regional prefect and the president of the regional council are responsible for organizing the monitoring of the GHG emissions reports drawn up in the region. The regional prefect and the president of the regional council are responsible for verifying compliance with the Law. If a subject entity fails to create or publish its GHG emissions report, the administrative authority may impose a fee up to €50,000 for an initial offense or up to €100,000 in the event of a repeat offense.
Additional Information/Resources	
Law	Text of the Law. Text of the Decree. Text of the Ordinance.
Additional Resources	For the ADEME platform, click here .

Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



*The Law also applies to certain other public entities that are not addressed in this summary.

Climate Corporate Accountability Act (Proposed) Illinois

Overview

Law / State	Climate Corporate Accountability Act (HB4268) (the “ Act ”) (Illinois, United States)
Goal	Encourage greenhouse gas (“ GHG ”) emissions reduction.
Adoption / Status	The Act was introduced to the Illinois General Assembly by House Representative Kimberly Du Buclet on February 7, 2025. The Act was first read and then referred to the Illinois House Rules Committee on February 18, 2025. The Act was assigned to the Illinois House Energy & Environment Committee on March 11, 2025. A previous version of the Act was introduced to the General Assembly in December 2023 but was not adopted during the 2023-2024 legislative session.
Issue Addressed	Climate change
Covered Entities	A partnership, corporation, limited liability company or other business entity formed under the laws of the State of Illinois, the laws of any other state of the United States or the District of Columbia, or under an Act of the Congress of the United States, with total annual revenues in excess of \$1 billion and that does business in Illinois (a “ Reporting Entity ”).
How It Works	
Mandatory?	Yes.
Reporting Requirements	Starting on January 1, 2027, and annually thereafter, a Reporting Entity would be required to publicly disclose to the emissions registry all of the Reporting Entity’s scope 1 and scope 2 emissions for the prior calendar year, and its scope 3 emissions for that same calendar year no later than 180 days after making its scope 1 and scope 2 emissions disclosures. “Scope 1 emissions” would mean all direct GHG emissions that stem from sources that a Reporting Entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities. “Scope 2 emissions” would mean indirect GHG emissions from electricity purchased and used by a Reporting Entity, regardless of location. “Scope 3 emissions” would mean indirect GHG emissions, other than scope 2 emissions, from activities of a Reporting Entity that stem from sources that the Reporting Entity does not own or directly control and may include, but would not be limited to, emissions associated with the reporting entity’s supply chain, business travel, employee commutes, procurement, waste and water usage, regardless of location.

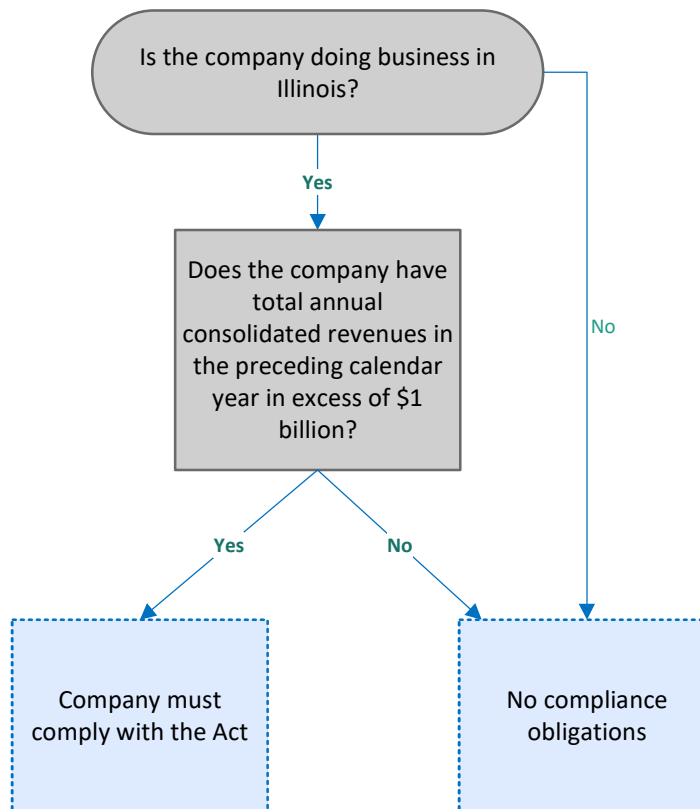
	Emissions calculations would be required to be made in accordance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data and other generic data in scope 3 emissions calculations. The disclosures would also be required to include the Reporting Entity's name, as well as any fictitious names, trade names, assumed names and logos used by the Reporting Entity.
Third Party Assurance	The Reporting Entity's disclosure would be required to be independently verified by the emissions registry (described below) or a third-party auditor with expertise in GHG emissions accounting approved by the Secretary of State. The Reporting Entity would be required to provide the emissions registry a copy of the complete, audited GHG emissions inventory, including the name of the approved third-party auditor. The Secretary of State would be required to establish auditor qualifications and a process for approval of auditors that ensures sufficient auditor capacity and timely reporting implementation.
Emissions Registry	The emissions registry would be a nonprofit organization contracted by the Secretary of State that (1) operates a voluntary greenhouse gas emissions registry for organizations operating in the United States, and (2) has experience with voluntary greenhouse gas emissions disclosure by entities operating in Illinois. On or before January 1, 2027, the emissions registry would be required to create a publicly accessible digital platform as a database for all the disclosures submitted by Reporting Entities. The emissions registry would be required to publish the disclosures within 30 days of receipt.
Implementing Regulations	Under the text of the Act, on or before July 1, 2026, the Secretary of State would be required to adopt regulations requiring Reporting Entities to publicly disclose and verify their scope 1, scope 2 and scope 3 GHG emissions to an emissions registry. Such regulations have not yet been adopted. The regulations would have to be structured in ways that maximize and streamline reporting and ease of use in meeting the requirements of national and international disclosure programs and standards, including, but not limited to, adopted rules from the U.S. Securities and Exchange Commission and international standards such as those established by CDP Global. The Secretary of State may adopt any other rules that it deems necessary and appropriate to implement the Act.
Further Review	On or before July 1, 2029, the Secretary of State would be required to review, and update as necessary, the public disclosure deadlines to evaluate trends in scope 3 emissions reporting and consider changes to the disclosure deadlines to ensure that scope 3 emissions data is disclosed to the emissions registry as close in time as practicable to the deadline for disclosing scope 1 and scope 2 emissions data. The reporting timelines would need to take into account industry stakeholder input, the timelines by which Reporting Entities typically receive scope 1, scope 2 and scope 3 emissions data, and the capacity for independent verification to be performed by a third-party auditor.
Enforcement	For a willful failure by a Reporting Entity to comply with the requirements of the Act, the Attorney General would be able to bring a civil penalty action.

Secretary of State Report	On or before January 1, 2027, the Secretary of State would be required to contract with the University of Illinois, a national laboratory, or another equivalent academic institution to prepare a report on the public disclosures made by Reporting Entities to the emissions registry. The Secretary of State would be required to submit this report to the emissions registry, which would be made publicly available on the digital platform.
Additional Information/Resources	
Law	Text of the Act .
Ropes & Gray Resources	Client alert related to the Act: • Another proposed corporate climate disclosure requirement – the Illinois Climate Corporate Accountability Act (February 5, 2024) (link here).

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Climate Corporate Data Accountability Act (Proposed) New Jersey

Overview

Law / State	Climate Corporate Data Accountability Act (S4117) (the “Act”) (New Jersey, United States)
Goal	To encourage greenhouse gas (“GHG”) emissions reduction.
Adoption / Status	The Act was introduced to the New Jersey Senate by Senators Bob Smith, John McKeon and Linda Greenstein on February 3, 2025 and was referred to the Senate Environment and Energy Committee.
Issue Addressed	Climate change
Covered Entities	A partnership, corporation, limited liability company or other business entity formed under the laws of the State of New Jersey or any other jurisdiction of the United States or the District of Columbia, or under an act of the Congress of the United States, which has total annual revenues in excess of \$1 billion and that does business in New Jersey.

How It Works

Mandatory?	Yes.
Reporting Requirements	Commencing three years after the effective date of the Act, reporting entities would be required to annually disclose to the Emissions Reporting Organization (defined below) and the Department of Environmental Protection (the “Department”) all of the reporting entity’s scope 1, scope 2 and scope 3 emissions for the prior fiscal year in conformance with the Greenhouse Gas Protocol standards and guidance. In connection with filing the annual disclosure, reporting entities would be required to pay an annual fee (in an amount to be set by the Department) to the Department for the administration and implementation of the Act. Commencing four years after the effective date of the Act and each year thereafter, reporting entities would be required to publicly disclose their scope 1 and scope 2 emissions for the prior fiscal year. Commencing five years after the effective date of the Act and each year thereafter, reporting entities would be required to publicly disclose their scope 3 emissions for the prior fiscal year. The scope 3 emissions disclosures would be required to be published no later than 180 days after the public disclosure of the entity’s scope 1 emissions and scope 2 emissions for the prior fiscal year. “Scope 1 emissions” would mean all direct GHG emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities. “Scope 2 emissions” would mean indirect GHG emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

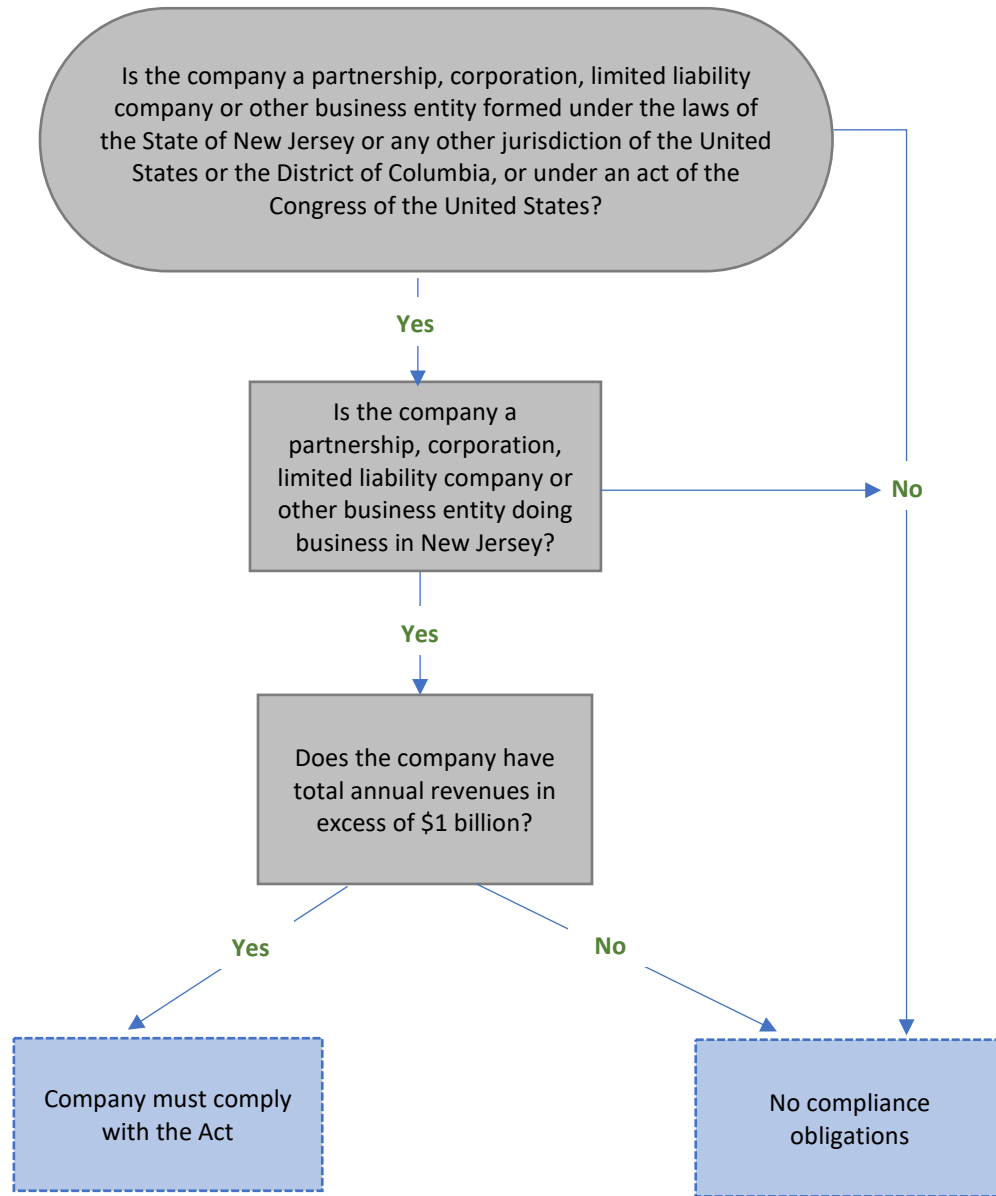
	• “Scope 3 emissions” would mean indirect upstream and downstream GHG emissions, other than scope 2 emissions, from sources that the reporting entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products. Public disclosures would be required to be formatted to maximize access for consumers, investors and other stakeholders to comprehensive and detailed GHG emissions data across scopes 1, 2 and 3 emissions and in a manner that is easily understandable and accessible. The public disclosure would be required to include the name of the reporting entity and any fictitious names, trade names, assumed names and logos used by the reporting entity. A copy of a report submitted to satisfy the requirements of the California Climate Corporate Data Accountability Act for the appropriate fiscal year would be able to be utilized in order to comply with the provisions of the Act.
Third-Party Assurance	Commencing four years after the effective date of the Act, reporting entities would be required include in their disclosures a report produced by an independent third-party assurance provider, which verifies the accuracy of the disclosed scope 1 and scope 2 GHG emissions (the “Assurance Engagement”). A copy of the complete assurance provider’s report on the GHG emissions inventory, including the name of the third-party assurance provider, would be required to be provided to the Emissions Reporting Organization in connection with the reporting entity’s disclosure. The Assurance Engagement for scope 1 emissions and scope 2 emissions would be required to be performed at a limited assurance level until eight years after the effect date of the Act and then at a reasonable assurance level thereafter. No later than five years after the effective date of the Act, the Department would be permitted to adopt rules and regulations to implement an assurance requirement for scope 3 emissions, provided that the rules and regulations require that the assurance engagements for scope 3 emissions be performed at a limited assurance level and commence eight years after the effective date of the Act.
Emissions Reporting Organization	The “Emissions Reporting Organization” would be a nonprofit emissions reporting organization contracted the Department that currently operates a GHG emissions reporting organization for organizations operating in the United States, and has experience with GHG emissions disclosure by entities operating in New Jersey. No later than 30 days after receipt of a reporting entity’s disclosure, the Emissions Reporting Organization would be required to make such disclosure available on a digital platform to be created by the Emissions Reporting Organization pursuant to the Act. The digital platform would be required to allow consumers, investors and other stakeholders to view reported data elements aggregated in a variety of ways, including multiyear data, in a manner that is easily understandable and accessible to residents of the State of New Jersey.
Implementing Regulations	The Department would be permitted to adopt or update any other regulations that it deems necessary and appropriate to implement the Act. Such rules and regulations would be required to ensure that the emissions reporting required by the Act is structured in a way that minimizes duplication of efforts and allows a reporting entity to submit to the emissions reporting organization reports prepared to meet other national and international reporting requirements, including any reports required by the federal government, as long as those reports satisfy all of the requirements of the Act. Additionally, such rules

	and regulations would be required to ensure that the assurance process minimizes the need for reporting entities to engage multiple assurance providers and ensures sufficient assurance provider capacity, as well as timely reporting implementation.
Enforcement	If a reporting entity violates the provisions of the Act or any rule, regulation or order promulgated or issued pursuant to the provisions of the Act, the Department would be permitted to institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation and the court would be permitted to proceed in the action in a summary manner. Any reporting entity found to have violated the provisions of the Act or any rule, regulation or order promulgated pursuant to the Act would be liable to a civil administrative penalty of up to \$10,000 for the first offense, \$20,000 for the second offense, and \$50,000 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues subsequent to receipt of an order to cease the violation would constitute an additional, separate and distinct offense. Any reporting entity who violates the Act or an administrative order issued pursuant to the enforcement provisions of the Act or who fails to pay a civil administrative penalty in full pursuant to the Act would be subject, upon order of the court, to a civil penalty not to exceed \$10,000 per day of the violation, with each day's continuance of the violation constituting a separate and distinct violation. In addition to any penalties, costs or interest charges, the New Jersey Superior Court would be permitted to assess against the violator the amount of economic benefit accruing to the violator from the violation.
Additional Information/Resources	
Law	Text of the Act .

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Climate Corporate Data Accountability Act (Proposed) New York

Overview

Law / State	Climate Corporate Data Accountability Act (S3456) (A4282) (the “Act”) (New York, United States)
Goal	Encourage greenhouse gas (“GHG”) emissions reduction.
Adoption / Status	The Act was introduced by Senator Hoylman-Sigal to the New York Senate on January 27, 2025, and introduced to the New York Assembly on February 4, 2025, by assemblymembers Glick, Cunningham, Kelles, Levenberg, Simon, Colton, Paulin, Simone, K. Brown, Steck, Forrest, Stern, Lunsford and Gonzalez-Rojas. The Act was referred to the Senate Committee on Environmental Conservation on January 27, 2025 and to the Assembly Committee on Environmental Conservation on February 4, 2025. A previous version of the Act was introduced into the New York Senate and New York Assembly in 2023 but was not adopted during the 2023-2024 legislative session. The Act would take effect 180 days after it becomes law.
Issue Addressed	Climate change
Covered Entities	A partnership, corporation, limited liability company or other business entity formed under the laws of the State of New York or any other state of the United States or the District of Columbia or under an act of the Congress of the United States that both: (1) does business in the State of New York and is deriving receipts from activity in the State of New York, within the meaning of Section 209 of the New York State Tax Law; and (2) has total revenues in excess of \$1 billion in the preceding fiscal year, including but not limited to revenues received by all of the entity’s subsidiaries that do business in the State of New York (a “Reporting Entity”). A foreign entity would not be considered to be doing business in the State of New York exclusively by reason of carrying on any of the activities enumerated in subsection (B) of Section 1301 of the New York Business Corporation Law, including the following: - Maintaining or defending any action or proceeding, whether judicial, administrative, arbitration or otherwise, or effecting settlement thereof or the settlement of claims or disputes; - Holding meetings of its directors or its members; - Maintaining bank accounts; - Maintaining offices or agencies only for the transfer, exchange and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities; - Granting funds; and - Distributing information to its members.

	If a Reporting Entity is included as a consolidated subsidiary in the consolidated financial statements of an ultimate parent entity, then such ultimate parent entity may be the Reporting Entity. If a subsidiary of a parent company qualifies as a Reporting Entity, the subsidiary would not be required to prepare a separate report so long as the parent company prepares a report.
How It Works	
Mandatory?	Yes.
Reporting Requirements	The New York Department of Environmental Conservation (the “Department”) would be required to adopt regulations on or before December 31, 2026, requiring Reporting Entities to annually disclose to the Emissions Reporting Organization (defined below) and to obtain an assurance engagement performed by an independent third-party assurance provider on all of the Reporting Entity’s scope 1, 2 and 3 emissions. Beginning in 2027 on a date to be determined by the Department, and annually thereafter, a Reporting Entity would be required to publicly disclose to the Emissions Reporting Organization all of its scope 1 and 2 emissions for the prior fiscal year. A Reporting Entity would be required to pay an annual fee to the Department for the administration and implementation of the Act, to be set by the Department at a later date. Beginning in 2028 and annually thereafter, a Reporting Entity would be required to publicly disclose to the Emissions Reporting Organization its scope 3 emissions for the prior fiscal year on a schedule set by the Department pursuant to regulations developed under the Act. • “Scope 1 emissions” would mean all direct GHG emissions that stem from sources that a Reporting Entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities. • “Scope 2 emissions” would mean indirect GHG emissions from consumed electricity, steam, heating or cooling purchased or acquired by a Reporting Entity, regardless of location. • “Scope 3 emissions” would mean indirect upstream and downstream GHG emissions, other than scope 2 emissions, from sources that the Reporting Entity does not own or directly control and may include, but would not be limited to, purchased goods and services, business travel, employee commutes and processing and use of sold products and services. Emissions calculations would be required to be made in accordance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data and other generic data in scope 3 emissions calculations. The disclosures would be required to include the Reporting Entity’s name, as well as any fictitious names, trade names, assumed names, subsidiaries and logos used by the Reporting Entity. Emissions reporting would be required to be structured in ways that minimize duplication of effort and allows a Reporting Entity to submit to the Emissions Reporting Organization

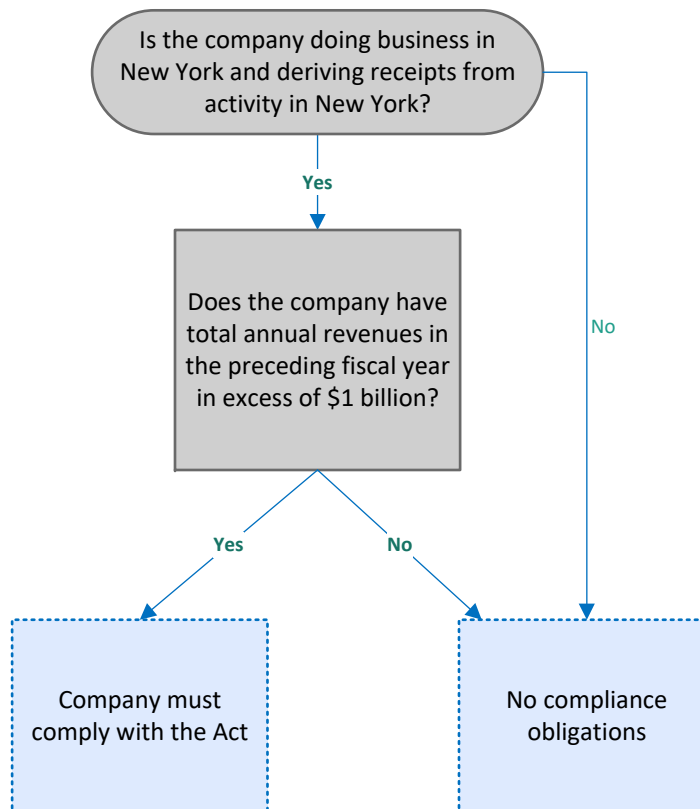
	reports prepared to meet other state, national and international reporting requirements, including any reports required by the federal government or other states, or reports voluntarily prepared, including those prepared using the International Financial Reporting Standards Foundation Sustainability Disclosure Standards as issued by the International Sustainability Standards Board, as long as those reports satisfy all of the requirements of the Act. On or before January 1, 2031, the Department would be required to review, and update as necessary, the public disclosure deadlines to evaluate trends in scope 3 emissions reporting and consider changes to the disclosure deadlines to ensure that scope 3 emissions data is disclosed to the Emissions Reporting Organization as close in time as practicable to the deadline for Reporting Entities to disclose scope 1 and 2 emissions data.
Third Party Assurance	A Reporting Entity would be required to obtain an assurance engagement of its public disclosure, performed by an independent third-party assurance provider (defined below). A copy of the complete assurance provider's report on the GHG emissions inventory, including the name of the third-party assurance provider, would be required to be provided to the Emissions Reporting Organization as part of or in connection with the Reporting Entity's disclosure. A Reporting Entity would be required to obtain limited assurance of scope 1 and 2 emissions beginning in 2027 and reasonable assurance of scope 1 and 2 emissions beginning in 2031. On or before January 1, 2027, the Department would be required to review and evaluate trends in third-party assurance requirements for scope 3 emissions and, on or before such date, would be permitted to establish an assurance requirement for scope 3 emissions. If any such requirement is established, a Reporting Entity would be required to provide limited assurance of scope 3 emissions beginning in 2030. "Assurance provider" would mean a firm or entity which carries out an assurance engagement. Assurance providers would be required to have significant experience in measuring, analyzing, reporting or attesting to the emission of GHGs and sufficient competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements. "Assurance engagement" would mean an engagement in which an assurance provider expresses an independent opinion on the reports issued under the Act to enhance the degree of confidence of the Department, consumers and investors about the information disclosed by the Reporting Entity.
Emissions Reporting Organization	The "Emissions Reporting Organization" would be either: (a) an organization within the Department; or (b) a nonprofit emissions reporting organization contracted by the Department that both (1) currently operates a GHG emissions reporting organization for organizations operating in the United States and (2) has experience with GHG emissions disclosure by entities operating in New York. Within 30 days of receipt of a Reporting Entities' disclosure, the Emissions Reporting Organization would be required to make such disclosure available on a digital platform to be created by the Emissions Reporting Organization pursuant to the Act on or before July 1, 2027. The digital platform would be required to allow consumers, investors and other stakeholders to view

	reported data elements aggregated in a variety of ways, including multiyear data, in a manner that is easily understandable and accessible to residents of the State of New York.
Implementing Regulations	The Department would be permitted to adopt or update any other regulations that it deems necessary and appropriate to implement the Act.
Enforcement	The New York State Attorney General would be permitted to bring a civil action against a Reporting Entity seeking civil penalties of up to \$100,000 per day for willful failure to comply with the requirements of the Act or regulations set forth by the Department, including for nonfiling, late filing or other failure to meet the requirements of the Act. The civil penalties imposed on a Reporting Entity would not be permitted to exceed \$500,000 in a reporting year. In seeking civil penalties for a violation of the Act, the Attorney General would be required to consider all relevant circumstances, including the violator's past and present compliance with the Act whether the violator took any good faith measures to comply and when those measures were taken. A Reporting Entity would not be subject to a civil action under the Act for any misstatements with regards to scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith. Between 2028 and 2031, penalties would only be permitted to be assessed on scope 3 emissions reporting in connection with a nonfiling.
Department Report	The Department would be required to prepare a report on the Reporting Entities' disclosures and deliver such report to the Governor, the Speaker of the Assembly and the Temporary President of the Senate. The Department would also be required to publish the report on its website.
Additional Information/Resources	
Law	Text of the Act .
Ropes & Gray	Client alerts related to the Act: Climate Disclosure Bills Reintroduced in New York – Fast Facts and Take-aways (February 3, 2025) (link here).

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Climate-Related Financial Risk Reporting Act (Proposed) New York

Overview

Law / State	Climate-Related Financial Risk Act (S3697) (the “ Act ”) (New York, United States)
Goal	To monitor climate risk to businesses in New York.
Adoption / Status	The Act was introduced by Senator James Sanders on January 29, 2025, to amend the environmental conservation law to require reporting climate-related financial risk. On January 29, 2025, the Act was referred to the Senate Committee on Environmental Conservation. A previous version of the Act was introduced to the New York Senate in October 2023 but was not adopted during the 2023-2024 legislative session.
Issue Addressed	Climate change
Covered Entities	U.S.-organized entities that do business in New York and have total annual revenues that exceed \$500 million in the prior fiscal year (the “Covered Entities”). Companies subject to regulation by the Department of Financial Services, or that are in the business of insurance in any other state would be excluded.
How It Works	
Mandatory?	Yes.
Reporting Requirements	Covered Entities would be required to biennially prepare a climate-related financial risk report. The first report would be required to be published by January 1, 2028. The report would be required to disclose the following: - The Covered Entity’s climate-related financial risk in accordance with the recommended framework and disclosures published by the Task Force on Climate-related Financial Disclosures; and - The measures adopted to reduce and adapt to the disclosed climate-related financial risks. A Covered Entity would satisfy the reporting requirements under the Act if it prepares a publicly accessible biennial report that includes climate-related financial risk disclosure information pursuant to (1) a law, regulation or listing requirement issued by a regulated exchange, national government or other governmental entity with disclosure requirements consistent with those required by the Act (including the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board) or (2) another framework that meets the disclosure requirements of the Act or the International Financial Reporting Standards Sustainability Disclosure Standards. “Climate-related financial risk” means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains,

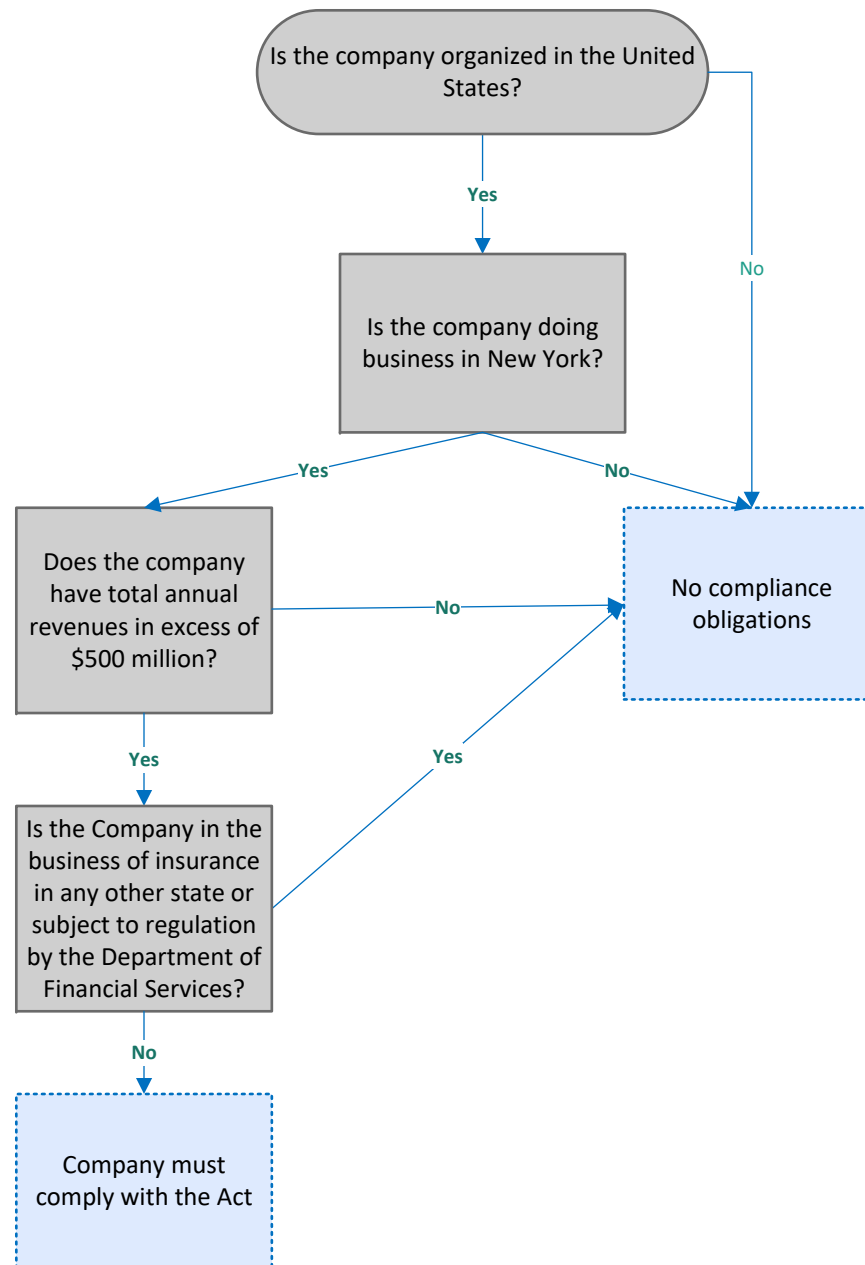
	employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand and financial markets and economic health. If a Covered Entity does not complete a report consistent with all required disclosures noted in the bullet points above, it would need to provide the recommended disclosures to the best of its ability, provide a detailed explanation for any reporting gaps and describe the steps the Covered Entity would take to prepare complete disclosures.
Reporting Exceptions	A Covered Entity would not be required to prepare a climate-related financial risk report if its parent company published a report.
Publication	Reports would need to be made available on the Covered Entity's website.
Filing Fee	Upon filing its report, and annually thereafter, a Covered Entity would need to pay a fee to the Department of Environmental Conservation (the " Department ") for the administration and implementation of the Act. The Department would be required to set the fee based on its actual and reasonable administrative costs.
Climate Reporting Organization	The Act would also require the Department to contract with a non-profit climate reporting organization to do the following: • Biennially prepare a public report that contains: ○ A review of the disclosure of climate-related financial risk contained in a subset of publicly available climate-related financial risk reports by industry; ○ Analysis of the systemic and sector-wide climate-related financial risks facing New York based on the contents of climate-related financial risk reports, including, but not limited to, potential impacts on economically vulnerable communities; and ○ Identification of inadequate or insufficient reports. • Regularly convene representatives of sectors responsible for reporting climate-related financial risks, state agencies responsible for oversight of reporting sectors, investment managers, academic experts, standard-setting organizations, climate and corporate sustainability organizations, labor union representatives whose members work in impacted sectors and other stakeholders to offer input on current best practices regarding disclosure of financial risks resulting from climate change; and • Monitor federal regulatory actions among agency members of the federal Financial Stability Oversight Council, as well as non-independent regulators overseen by the White House.
Enforcement	The Act would require the Department to adopt regulations authorizing it to seek administrative penalties (not to exceed US\$50,000 in a reporting year) from Covered Entities that fail to meet the reporting requirements of the Act. The administrative penalties would be imposed and recovered by the Department in administrative hearings. In imposing penalties, the Department would be required to consider all relevant circumstances, including both (1) the Covered Entity's past and present compliance with the Act and (2) whether the Covered Entity took good faith measures to comply with the Act and when such measures were taken.

Additional Information/Resources	
Law	Text of the Act .
Ropes & Gray	Client alerts related to the Act: Climate Disclosure Bills Reintroduced in New York – Fast Facts and Take-aways (February 3, 2025) (link here).

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(Updated February 28, 2025)

Applying the Law



Mandatory Climate Reporting Requirements Singapore

Overview

Law / Country	Mandatory Climate Reporting (Singapore)
Goal	Contribute to Singapore’s national agenda on sustainable development under the Singapore Green Plan 2030.
Adoption / Status	On February 28, 2024, Singapore’s Accounting and Corporate Regulatory Authority (“ACRA”) and the Singapore Exchange Regulation (“SGX RegCo”) published recommendations for mandatory climate reporting (the “Recommendations”) in alignment with the International Sustainability Standards Board (“ISSB”) IFRS Sustainability Disclosure Standards. In parallel, Singapore’s Second Minister for Finance, Mr. Chee Hong Tat, announced that Singapore would introduce mandatory climate-related disclosures in a phased approach, in line with the Recommendations. On September 23, 2024, SGX RegCo announced that it had finalized amendments to its listing rules to incorporate the IFRS Sustainability Disclosure Standards into its sustainability reporting regime, in line with the Recommendations.
Issue Addressed	Climate change
Covered Entities	“Listed Issuers” means issuers of equity securities on the Singapore Exchange Securities Trading Limited, comprising Singapore-incorporated and foreign-incorporated companies, business trusts, investment funds (excluding exchange traded funds) and real estate investment trusts. “Large Non-Listed Companies” means entities that do not have equity securities on the Singapore Exchange Securities Trading Limited with annual revenue of at least \$1 billion Singapore dollars (“S\$”) and total assets of at least S\$500 million, assessed based on the two financial years immediately preceding the current financial year, unless the company: (1) has not reached its third financial year after incorporation; or (2) is in the first or second financial year when the reporting obligations commence. If the non-listed company falls into either of the two preceding categories, revenue and assets are assessed based on the current financial year. The Recommendations are silent about whether entities need to be incorporated or doing business in Singapore to qualify as a Large Non-Listed Company. A Large Non-Listed Company is exempt from mandatory reporting if: - Its immediate, intermediate or ultimate parent (local or foreign) company prepares climate or sustainability reports in accordance with prescribed climate-related disclosures (“CRDs”) in Singapore or deemed equivalent (e.g., the European Sustainability Reporting Standards); and - Its activities are included in that parent’s report, which is publicly available.

	For a transitional period of three years (financial year 2027 to financial year 2029, both years inclusive), Large Non-Listed Companies whose parents are reporting CRD using other international standards and frameworks, such as the Global Reporting Initiative Standards or the Task Force on Climate-related Financial Disclosures (“TCFD”), will also be exempted from mandatory reporting.
How It Works	
Mandatory?	Yes.
Pre-Existing Reporting Requirements	Under pre-existing SGX Listing Rules, Listed Issuers in seven industries (finance, agriculture, food, forest products, energy, transportation and materials and buildings) were required to publish TCFD-aligned CRDs. Listed Issuers in all other industries were required to publish sustainability reports and describe their sustainability practices on a “comply-or-explain” basis. Large Non-Listed Companies (other than those subject to the Energy Conservation Act 2012 and the Carbon Pricing Act 2018) are not required under pre-existing legislation to prepare climate reporting in Singapore.
Reporting Requirements	Beginning in financial year 2025 (with reports due in 2026), Listed Issuers are required to report ISSB IFRS 2-aligned CRDs, including Scope 1 and Scope 2 greenhouse (“GHG”) emissions. The other primary components of a sustainability report (listed below) are required to be disclosed on a “comply or explain” basis. SGX RegCo is reviewing issuers’ experience and readiness before establishing the implementation roadmap for Scope 3 GHG emissions reporting. SGX RegCo has indicated that it currently plans to require large issuers based on market capitalization to begin reporting Scope 3 GHG emissions for financial year 2026 to be published in financial year 2027. Beginning in financial year 2026 (with reports due in 2027), Listed issuers also will be required to report on the primary components of a sustainability report, including the following: • Material ESG factors; • Policies, practices and performance; • Targets; • Sustainability reporting framework; and • Board statement and associated governance structure for sustainability-related practices. Beginning in financial year 2027 (with reports due in 2028), Large Non-Listed Companies will be required to report ISSB-aligned CRDs, including Scope 1 and Scope 2 GHG emissions. Large Non-Listed Companies will not be required to report Scope 3 GHG emissions any time earlier than fiscal year 2029. The timing for Large Non-Listed Companies to disclose Scope 3 GHG emissions will be confirmed after ACRA has reviewed the reporting experience of Listed Issuers. ACRA will provide at least two years’ notice for Large Non-Listed Companies to prepare for Scope 3 reporting. Around 2027, ACRA will review whether to extend the climate reporting disclosure requirements to smaller non-listed companies.

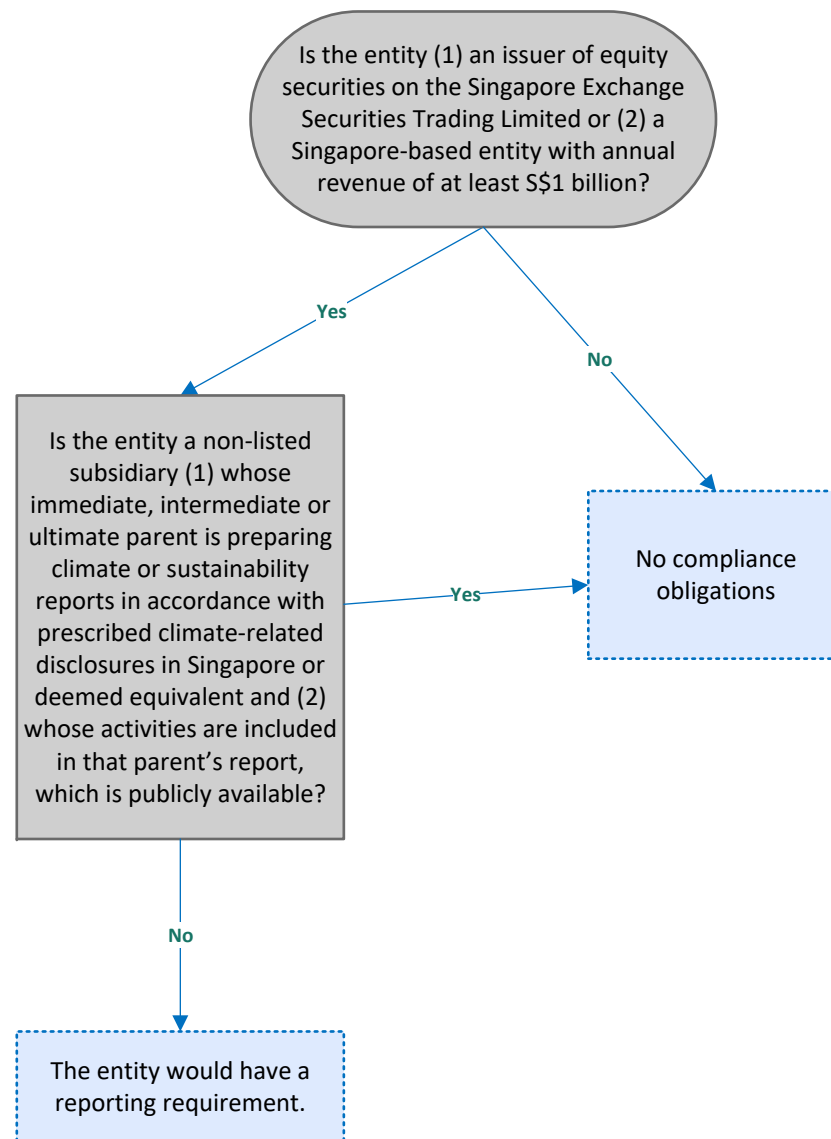
	Reports fulfilling the CRD reporting requirements may also contain disclosures in accordance with other standards and frameworks, such as the Global Reporting Initiative Standards, so long as: • The standards and frameworks applied are prominently disclosed; and • The additional disclosure does not contradict or obscure the information required by the prescribed CRDs.
External Assurance Requirements	Beginning in financial year 2027 for Listed Issuers and financial year 2029 for Large Non-Listed Companies, reporting entities will be required to obtain external limited assurance on Scope 1 and Scope 2 GHG emissions. The limited assurance will be required to be provided by a registered climate auditor, which can be either an ACRA-registered audit firm or a Testing, Inspection, Certification firm accredited by the Singapore Accreditation Council. For alignment with global best practices, assurance will be conducted based on: • A Singapore standard equivalent to ISSA 5000 (General Requirements for Sustainability Assurance Engagements); or • SS ISO 14064-3 Greenhouse gases – Part 3 (Specification with guidance for the verification and validation of greenhouse gas statements). SGX RegCo’s listing rules provide that Listed Issuers that do not conduct external assurance on their sustainability reports must issue their sustainability reports together with their annual reports from fiscal year 2026. Issuers that do conduct external assurance on their sustainability reports will have up to five months after the end of their financial year to issue their sustainability reports.
Reporting Mechanism and Filing Timelines	Listed Issuers and Large Non-Listed Companies subject to mandatory climate reporting will be required to file the CRD in a structured digital format to be prescribed by ACRA and SGX RegCo. Listed Issuers will be permitted to present the CRD either in a separate report or as part of the annual report. If the CRD is presented in a separate report, then both reports will be required to be circulated and made available at the same time. The reporting and filing timelines for CRDs, climate auditor’s reports and director’s statements will be the same as for financial statements under the Companies Act 1967, as detailed below: • Listed Issuers: ○ Circulating to shareholders: not less than 14 days before the annual general meeting (the “AGM”). ○ Tabling at AGM: within four months after financial year end (“FYE”). ○ Filing for public use: within five months after FYE. • Non-Listed Issuers: ○ If the AGM is dispensed with: ▪ Circulating to shareholders: within five months after FYE. ▪ Tabling at AGM: not applicable. ▪ Filing for public use: within seven months after FYE.

	○ If the AGM is not dispensed: ▪ Circulating to shareholders: not less than 14 days before the AGM. ▪ Tabling at AGM: within six months after FYE. ▪ Filing for public use: within seven months after FYE. If more time is required to prepare CRDs, companies will be able to apply for an extension of time to hold their AGM or to file annual returns, as currently done for financial statements.
Enforcement and Liability	The same legal requirements apply to climate reporting as for financial reporting, except that the requirements to develop and maintain internal controls systems are encouraged but not mandated. The legal requirements for financial reporting by companies, their directors and/or officers apply to CRD reporting, including the following: • Keeping CRD records; • Circulating the CRD, climate auditor's report and director's statement to members in a timely fashion and tabling such documents for approval at the AGM; • Filing the CRD, climate auditor's report and/or director's statement with the relevant regulator(s); • Revising a defective CRD and, as a safeguard, tabling the revised CRD at the next general meeting after the revision date; and • Appointing independent and competent climate auditors.
Additional Information/Resources	
Listing Rules Amendments	Text of the SGX RegCo Amendments to the Listing Rules (Mainboard) and Listing Rules (Catalist) .
Recommendations	Text of the Recommendations .
Ropes & Gray Resources	Ropes & Gray Insights blog post related to the Recommendations: • Singapore moves forward with mandatory climate reporting – implications for U.S.-based multinationals (April 15, 2024) (link here). • Singapore launches consultation on mandatory climate disclosures – implications for U.S.-based multinationals (July 19, 2023) (link here).

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Ordinance on Climate Disclosures Switzerland

Overview

Law / Country	The Ordinance on Climate Disclosures (the “Ordinance”) (Switzerland)
Goal	To promote clear and consistent climate-related disclosures by large Swiss companies.
Adoption / Status	The Ordinance was adopted by the Swiss Federal Council on November 23, 2022, and entered into force January 1, 2024. The Ordinance addresses climate disclosures required pursuant to Article 964 of the Swiss Code of Obligations (the “Swiss Code”), which requires an annual report on non-financial matters. Note that other Swiss non-financial reporting requirements are not discussed in this summary. On June 26, 2024, the Swiss Federal Council published a preliminary draft of the Amendment of the Code of Obligations (transparency on sustainability aspects) (the “Amendment”). Among other things, the Amendment would revise Article 964 of the Swiss Code of Obligations to more closely align the scope and reporting requirements with the European Union’s Corporate Sustainability Reporting Directive and related European Sustainability Reporting Standards. The consultation period on the Amendment closed on October 17, 2024 and the Amendment is expected to be finalized by the Swiss Federal Council in mid-2025. The Amendment is further discussed in detail in a separate summary. On December 6, 2024, the Swiss Federal Council launched a consultation process on a proposed revision to the Ordinance (the “Revised Ordinance”). Among other things, the Revised Ordinance would specify that the climate-related disclosure requirements of the Ordinance would be met if disclosure complies with a recognized international standard (e.g., the International Sustainability Standards Board IFRS S2 standard) or the equivalent standard in the European Union (i.e., ESRS E1). Additionally, the Revised Ordinance would impose mandatory minimum requirements for the preparation of a climate transition plan, including a path to achieving net zero emissions by 2050. The consultation will last until March 21, 2025. If approved, the Revised Ordinance would be expected to enter into force on January 1, 2026.
Issue Addressed	Climate change
Covered Entities	The Ordinance currently applies to companies with a non-financial reporting obligation under the Swiss Code. These include public companies, banks and insurance companies with a head office or principal place of business in Switzerland that: - Have more than 500 employees; and - Have at least CHF 20 million in total assets <u>or</u> more than CHF 40 million in turnover. <i>If passed, the Amendment would expand the reporting thresholds for the Ordinance, imposing a non-financial reporting obligation under the Swiss Code on the following entities:</i>

	• <i>Public interest companies within the meaning of Article 2(c)(1) and (2) of the Swiss Audit Supervision Act of December 16, 2005, including:</i> ○ <i>Companies publicly listed in Switzerland; and</i> ○ <i>Supervised persons pursuant to Article 3 of the Swiss Financial Market Supervision Act of 22 June 2007, including persons who, in accordance with financial market laws, require authorization recognition or registration by the Swiss financial market supervisory authority.</i> • <i>Any Swiss-organized companies that exceed two of the following thresholds for two consecutive financial years (either individually or on a consolidated basis):</i> ○ <i>CHF 25 million in total balance sheet assets;</i> ○ <i>CHF 50 million in revenue; and/or</i> ○ <i>Annual average of 250 full-time employees.</i> <i>The following entities would be exempt from reporting obligations:</i> • <i>Subsidiary entities controlled by another company that is required to report on sustainability matters under Swiss law;</i> • <i>Subsidiary entities controlled by a company that prepares an equivalent report under foreign law; and</i> • <i>Micro-enterprises (i.e., enterprises that do not exceed at least two of the following thresholds in two consecutive financial years (inclusive of domestic or foreign companies which they control): (1) CHF 450,000 in total balance sheet assets; (2) CHF 900,000 in revenue; and/or (3) annual average of 10 full-time employees).</i> <i>A subsidiary entity that relies on a parent company reporting exemption would be required to indicate in the notes to its financial statements the company in whose report it is included.</i>
How It Works	
Mandatory?	Yes.
Disclosure Requirements	The Ordinance sets forth the requirements for covered entities to comply with the climate disclosure obligation under Article 964(b), paragraph 1 of the Swiss Code. The Ordinance also clarifies that “climate issues” cover both the effects of climate change on companies and the effects of companies’ activities on climate change. A covered entity may comply with this disclosure obligation in three ways. <u>Climate Disclosures Based on the TCFD Recommendations</u> If a covered entity makes climate disclosures aligned with the Recommendations of the Task Force on Climate-related Financial Disclosures (June 2017) (the “TCFD Recommendations”) and the annex Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures (October 2021), the entity will be deemed to have met its climate disclosure obligations.

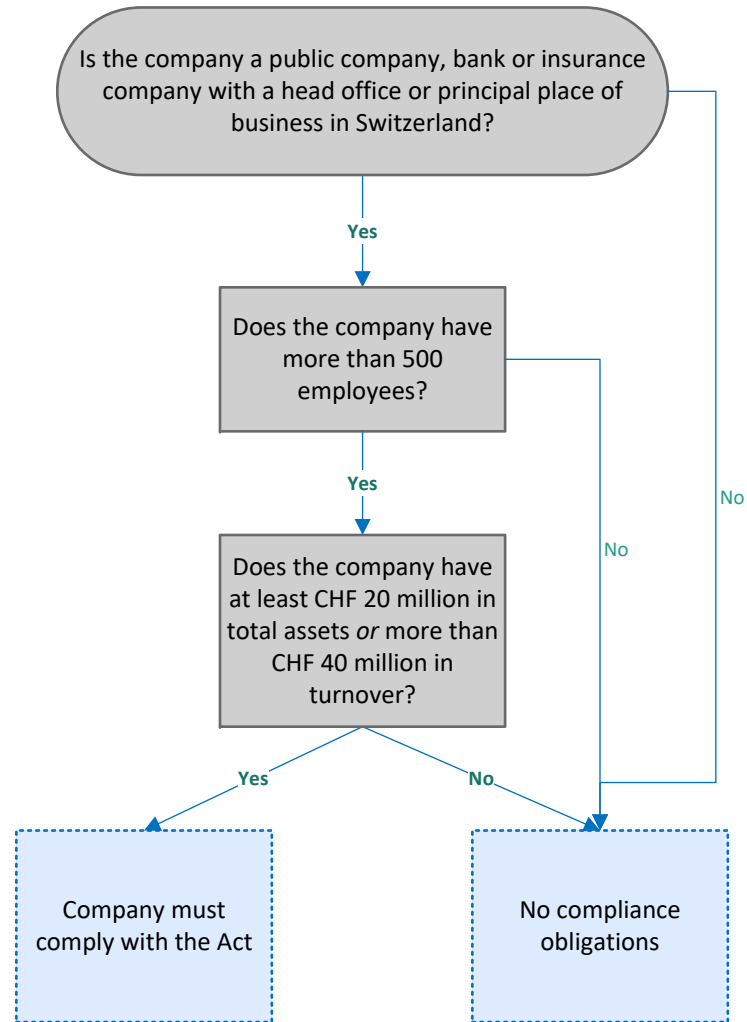
	The Ordinance states that TCFD-based disclosures must address each of the TCFD’s four pillars: • Governance; • Strategy; • Risk management; and • Key metrics and targets. The Ordinance also requires that the implementation of the TCFD Recommendations take into account: (1) the cross-sectoral guidance on the recommendations; (2) the sector-specific guidance on the recommendations; and (3) where possible and appropriate, the Guidance on Metrics, Targets, and Transition Plans (October 2021). For disclosures made under the “strategy” pillar, the Ordinance requires the entity to include: • A transition plan that is comparable with Swiss climate goals; and • Where possible and appropriate, information in quantitative form, as well as the disclosure of the main baseline assumptions for comparison purposes and the methods and standards used. <i>The Revised Ordinance would replace references to a “transition plan” with a requirement that subject entities prepare a net zero “roadmap” that meets certain minimum requirements, including a path to achieving net zero emissions by 2050 at the latest, in line with Swiss climate targets. Companies in the financial sector would be required to include in the roadmap quantitative, asset class and sector-specific, science-based reduction targets, including concrete and measurable intermediate targets for all relevant greenhouse gas emissions and expansion targets for climate-friendly technologies and the planned measures to achieve these objectives. To the extent possible, such disclosures for companies in the financial sector would be required to include forward-looking, scenario-based climate impact analysis.</i> For disclosures made under the “key metrics and targets” pillar, the Ordinance requires the entity to include, where possible and appropriate: • Quantitative CO2 targets and, where necessary, targets for other greenhouse gases; • The disclosure of all greenhouse gas emissions; • Quantitative information, as well as the disclosure of the main baseline assumptions for comparison purposes and the methods and standards used; and • For sector-specific guidance for financial institutions, forward-looking, scenario-based climate compatibility analyses. Subject entities can demonstrate the effectiveness of measures taken in connection with climate issues as part of a qualitative or quantitative overall assessment. <i>The Revised Ordinance would remove references to the TCFD Recommendations and specify that disclosure obligations would be met if such disclosure complies with the European Union’s ESRS E1 or an equivalent international standard such as the International Sustainability Standards Board IFRS S2 standard.</i>
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	<u>Alternative Method of Compliance</u> Compliance with the TCFD Recommendations acts as a “safe harbor.” If a covered entity does not make disclosures on climate issues in accordance with the TCFD Recommendations, it may instead demonstrate that it complies in other ways with the climate disclosure obligation pursuant to Article 964b, paragraph 1 of the Swiss Code, as it relates to climate issues. <u>Declaration of Non-Disclosure</u> If a covered entity does not make disclosures on climate issues in accordance with either of the above options, it may instead clearly declare that it does not follow any climate concept and set forth information to justify this decision.
Publication	The above disclosures must be published in the entity’s report on non-financial matters in accordance with Articles 964a – 964c of the Swiss Code. Generally, under the Swiss Code, the report on non-financial matters requires the approval and signature of the supreme management or governing body and the approval of the governing body responsible for approving the annual accounts. Additionally, the supreme management or governing body must ensure that the report is published online immediately following approval and that it remains publicly accessible for at least 10 years. The Ordinance specifies that for electronic publications, beginning January 1, 2025, the disclosures must be in at least one human-readable and one machine-readable electronic format in common international use.
Additional Information/Resources	
Law	Text of the Ordinance. Text of the Swiss Code of Obligations.
TCFD Recommendations	For the Recommendations of the Task Force on Climate-related Financial Disclosures, click here .

Note: This summary is derived from unofficial translations by Ropes & Gray, is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



The Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 and The Limited Liability Partners (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 United Kingdom

Overview

Law / Country	The Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 and The Limited Liability Partners (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 (together, the “Regulations”) (United Kingdom)
Goal	To support investment decisions based on climate-related financial information.
Adoption / Status	The Regulations came into effect on April 6, 2022.
Issue Addressed	Climate change
Covered Entities	The Regulations apply to the following companies that are incorporated in the United Kingdom and have more than 500 employees: - Traded companies; - Banking companies; - Authorised insurance companies; - Companies carrying on insurance market activity; - Companies for which any securities are admitting to trading on the Alternative Investment Market; and - High-turnover companies. The Regulations also apply to the following limited liability partnerships (“LLPs”) that are formed in the United Kingdom and have more than 500 employees: - Traded LLPs; - Banking LLPs; and - High-turnover LLPs. “Traded company” or “Traded LLP” means an entity whose shares are traded on a U.K.-regulated market, including listed on the premium or standard segment of the Official List and are traded on the Main Market of the London Stock Exchange. “Banking company” or “Banking LLP” means an entity that has permission under Part 4A of the Financial Services and Markets Act 2000 (FSMA) to accept deposits, except if such permission is only for the purpose of carrying on another regulated activity in accordance with the permission granted under Part 4A of the FSMA.

	“Authorised insurance company” means a company that has permission under Part 4 of the FSMA to effect or carry out contracts of insurance and any entity (whether incorporated or not) that carries on insurance market activity or may effect or carry out contracts of insurance under which the benefits provided by that entity are exclusively or primarily benefits for use in the event of accident to or breakdown of a vehicle. “High-turnover company” or “High-turnover LLP” means an entity which, in relation to a financial year, (1) has turnover of more than £500 million (not applicable to parent companies) or (2) if the entity is a parent entity, has an aggregate turnover of more than £500 million together with its subsidiaries.
How It Works	
Mandatory?	Yes.
Disclosure Requirements	The Regulations mandate that covered entities include climate-related financial disclosures in annual reports for periods beginning on or after April 6, 2022. The disclosures are aligned with, but not identical to, the recommendations of the Financial Stability Board’s Task Force on Climate-related Financial Disclosures (“TCFD”). All information required by the Regulations must be included in the entity’s annual report. Companies subject to the disclosure requirements should include the disclosures in the non-financial and sustainability information statement (previously called the non-financial information statement) included in company’s strategic report. LLPs should include the disclosures in either the Energy and Carbon Report of the annual report or the strategic report, if the LLP prepares one. If relevant information is in a different section than the strategic report, then the strategic report should include a cross-reference to that section. The required climate-related financial disclosures are listed below, along with select, additional context from the non-binding guidance published by the U.K. government (the “Guidance”). a) A description of the entity’s governance arrangements in relation to assessing and managing climate-related risks and opportunities. This disclosure should set forth which person or committee is responsible for identifying and considering climate-related risks and opportunities. If no person at the entity has such a responsibility, then that should be stated. Additionally, this section should include disclosure on the extent to which climate-related risks and opportunities are considered by the entity’s board of directors, if applicable. b) A description of how the entity identifies, assesses and manages climate-related risks and opportunities. This disclosure should enable a reader to understand the systems and processes at the entity that identify, assess and manage risks and opportunities relating to climate change. Information on how frequently risks are identified should also be included. Readers should be able to assess how comprehensive the entity’s climate-related disclosures are from this disclosure.

	c) A description of how processes for identifying, assessing and managing climate-related risks are integrated into the entity's overall risk management process. Entities should describe how climate-related risk is integrated into their overall risk management processes, or whether climate-related risk is subject to separate processes. This disclosure is intended to allow readers to assess the maturity of an entity's approach to climate-related risk and the level of resources dedicated to understanding systemic risk. d) A description of (1) the principal climate-related risks and opportunities arising in connection with the entity's operations and (2) the time periods by reference to which those risks and opportunities are assessed. e) A description of the actual and potential impacts of the principal climate-related risks and opportunities on the entity's business model and strategy. The Guidance states that disclosures in (d) and (e) should be considered and presented together. This disclosure should discuss climate-related risks and opportunities in the short-, medium- and long-term, even if such risks are not included in the entity's ordinary course budgetary, strategy and planning considerations. The entity should explain how it determined the time periods over which risks and opportunities are assessed. Examples include budgetary cycle, asset lives and length of financing arrangements. Readers should be able to glean from this disclosure the impact of the risks and opportunities on the entity's business and any mitigating actions, enacted or planned, as applicable. If material to the business, entities should distinguish between "physical" climate change risks, such as increased frequency of severe weather events or sustained impact of rising temperatures, and "transitional" risks, such as those associated with transitioning to a net zero economy. Physical risks include acute physical risks (e.g., flooding and wildfires) and chronic physical risks (e.g., long-term changes to weather patterns), with consideration to the geographical location(s) of the business and its supply chains. Descriptions of the impacts of risks and opportunities should be specific and as granular as necessary to understand the actual or potential impact. f) An analysis of the resilience of the entity's business model and strategy, taking into consideration different climate-related scenarios. This disclosure should include an assessment of the resilience of the entity's business model and strategy considering risks arising from various climate change scenarios. Scenarios analyzed should be relevant to the entity's business and varied enough to explore a wide range of possible outcomes. Disclosures should explain why a scenario was chosen. If the entity has taken mitigating measures against certain risks, then those measures may be considered in the analysis.
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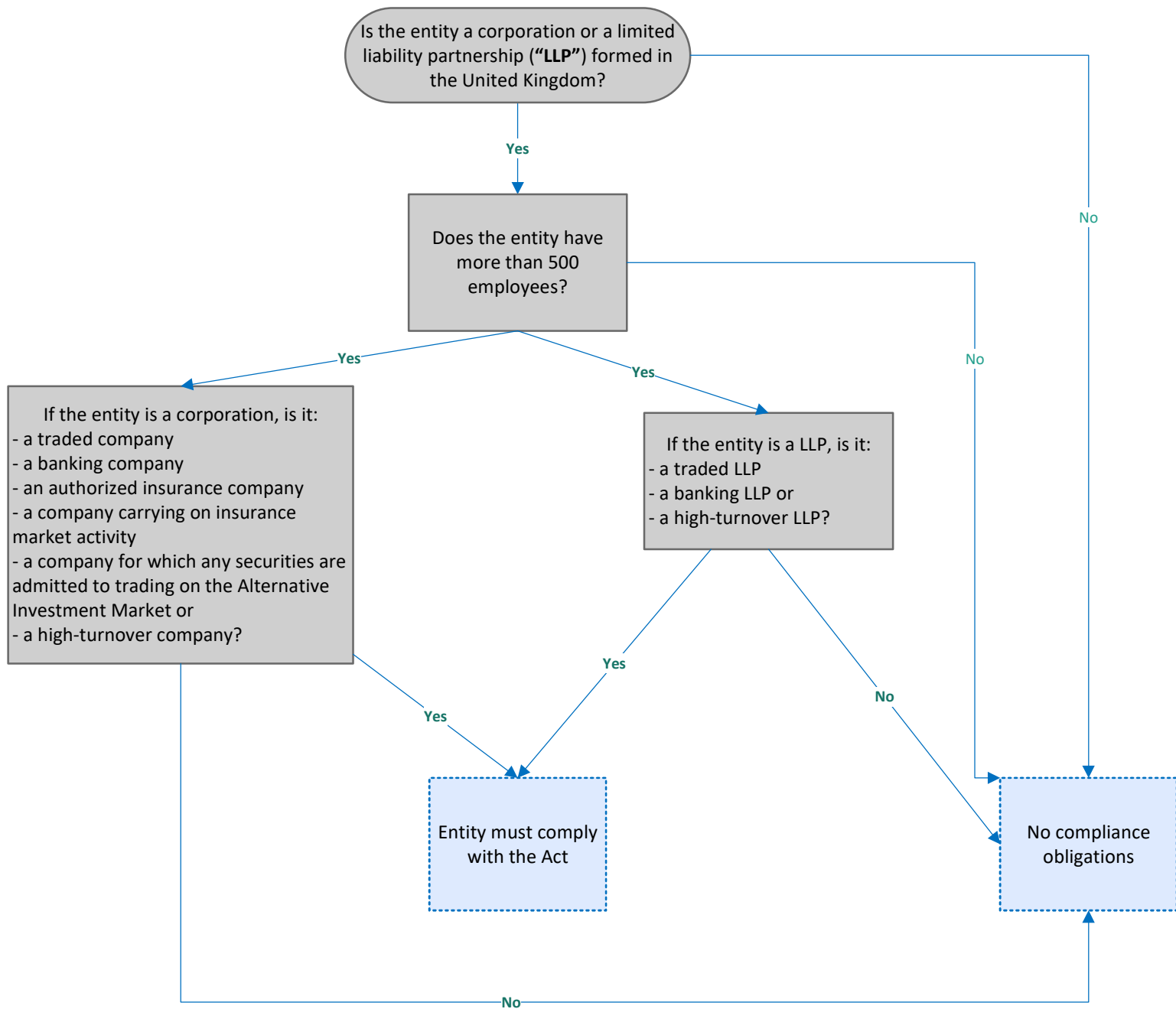
	Entities should also state any assumptions or estimates used to complete the scenario analysis. If assumptions and estimates change for a given entity from year to year, then the entity should explain the reason for the changes. For the first few years after the Regulations are in effect, the U.K. government expects divergent methodologies, assumptions and estimates among covered entities. However, it expects convergence within industries over time. If any diverging assumptions or estimates exist after industry consensus is reached, then such outlier assumptions should be explained in the disclosure. Entities may not need to undertake the climate scenario analysis every year. However, the analysis must be refreshed following significant changes to assumptions and estimates, and in no event less frequently than every three years. g) A description of the targets used by the entity to manage climate-related risks and to realize climate-related opportunities and of performance against those targets. If an entity has targets in place to manage climate-related risks and opportunities, then those targets should be explained, including relevance to future operations of the entity. The disclosure should include the framework by which the entity tracks its progress in meeting those targets. Targets should tie back to the risks identified under subsections (d), (e) and (f). h) A description of the key performance indicators used to assess progress against targets used to manage climate-related risks and realize climate-related opportunities and of the calculations on which those key performance indicators are based. “Key performance indicators” means factors by reference to which the development, performance or position of the entity’s business, or the impact of the entity’s activity, can be measured effectively. An entity should explain which climate-related key performance indicators it uses to assess progress against the targets set forth in subsection (g) or, if different from those targets, the relevance of the key performance indicators. This disclosure should include information on how the key performance indicators are calculated. Any changes in key performance indicators over time should be explained. There is no required formatting for these disclosures. If the directors of the company or members of the LLP, as applicable, reasonably believe that, due to the nature of the entity’s business, the disclosures in any of the subsections (e)-(h) above are not necessary for understanding the entity’s business, then these disclosures may be omitted in whole or in part. If such disclosures are omitted, then the strategic report must contain an explanation for the directors’ or members’, as applicable, reasoning.
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Relationship to Other Disclosure Obligations	The Financial Conduct Authority (“FCA”) already required companies with a premium listing or a standard listing to disclose against the TCFD recommendations in their annual reports. Companies with over 500 employees that are subject to the U.K. Listing Rules are subject to both the Regulations and the FCA rules. The primary difference between the two sets of requirements is the FCA rules explicitly reference the TCFD recommendations, whereas the Regulations are specific climate-related disclosures that are aligned with TCFD’s recommendations but not specifically tied to them. According to the Guidance, where an entity provides disclosure in its annual report in a manner consistent with all of the TCFD recommendations and recommended disclosures for the purposes of compliance with the FCA rule, then the entity will likely meet the requirements of the Regulations. Additionally, under the U.K. Streamlined Energy and Carbon Reporting (“SECR”) requirements, which came into effect on April 1, 2019, many U.K. companies (including unlisted companies) are required to report certain information about carbon emissions in annual reports.
Exceptions	An entity that is otherwise subject to the Regulations but is included in its parent entity’s strategic report does not have to submit a separate strategic report. In order for the subsidiary to be exempt, the parent entity must be a U.K. company or LLP, the report must cover a financial year with the same beginning and ending dates as the subsidiary’s financial year, and the report must cover the subsidiary. The exception does not apply to overseas parent entities that report on a consolidated basis.
Enforcement	The Financial Reporting Council monitors the contents of strategic reports and has the authority to apply to a court for a declaration that a report does not comply with applicable requirements including the Regulations. The court may then order the preparation of revised accounts (including the revision of the strategic report), as well as other sanctions at the court’s discretion. If a strategic report that is approved by the board of directors or members, as applicable, of a covered entity does not comply with the Regulations, then each director or member, as applicable, who (1) knew that it did not comply, or was reckless as to whether it complied, or (2) failed to take reasonable steps to secure compliance with the Requirements or prevent the report from being approved, commits an offense under the Regulations. Any person found guilty of an offense is liable to a fine or conviction. Entities may use third-party information to inform disclosures; however, directors or members of the entity, as applicable, remain responsible for the disclosures under the Regulations.
Additional Information/Resources	
Law	Text of the Regulations. Text of the parallel rules applicable to LLPs.
Non-Binding Guidance	Text of the non-binding Guidance published by the U.K. government.

Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Securities and Exchange Commission Climate-related Disclosure Rules for Issuers United States

Overview

Law / Country	Securities and Exchange Commission Climate-related Disclosure Rules for Issuers (the “Rules”) (United States)
Goal	To require SEC registrants to publish disclosures regarding climate-related risks that have materiality impacted, or are reasonably likely to have a material impact on, business strategy, results of operations or financial condition, and financial statement disclosure related to severe weather events and other natural conditions.
Adoption / Status	On March 6, 2024, the SEC adopted the Rules. In the days following the adoption of the Rules, challenges were brought in six federal appellate courts. The petitions were consolidated for review in the Eighth Circuit. On April 4, 2024, the SEC voluntarily stayed the rules pending completion of judicial review by the Eighth Circuit. On February 11, 2025, the Acting Chair of the SEC, Mark Uyeda, issued a statement characterizing the Rules as “deeply flawed” and directing SEC staff to notify the Eighth Circuit of changed circumstances in the composition of the SEC and to request that the court not schedule the case for argument to provide time for the SEC to deliberate and determine next steps. The Rules include phased-in compliance periods. The first compliance requirements for: • Large accelerated filers would be in the annual report for fiscal years that begin in 2025. Greenhouse gas (“GHG”) and certain other disclosures phase-in for later years. • Accelerated filers (other than smaller reporting companies and emerging growth companies) would be in the annual report for fiscal years that begin in 2026. GHG and certain other disclosures phase-in for later years. • Non-accelerated filers, smaller reporting companies and emerging growth companies would be in the annual report for fiscal years that begin in 2027. GHG and certain other disclosures phase-in for later years.
Issue Addressed	• Climate change
Covered Entities	Companies with reporting obligations under the Securities Exchange Act of 1934 pursuant to Section 13(a) or Section 15(d), and companies filing a registration statement under the Securities Act or Exchange Act. The Rules do not apply to registered investment companies, asset-backed issuers or Canadian issuers that are MJDS filers.
Applicable Filings	Disclosures will apply broadly to periodic reports as well as registration statements, including Forms S-1, S-3, S-4, S-11, 10, 10-Q and 10-K and Forms F-1, F-3, F-4, 6-K and 20-F.
How It Works	
Mandatory?	Yes.

Emissions Disclosures	Large accelerated filers and accelerated filers must disclose their scope 1 and/or scope 2 emissions, if such emissions are material, for its most recently completed fiscal year and, to the extent previously disclosed in a SEC filing, for the historical fiscal year(s) included in the consolidated financial statements in the filing. As noted above, the phased-in compliance requirements do not require GHG disclosures until later periods. The registrant must describe the reporting boundaries, methodology, significant inputs and significant assumptions used to calculate the registrant’s disclosed GHG emissions. A registrant may use reasonable estimates when disclosing its GHG emissions as long as it also describes the underlying assumptions and its reasons for using, the estimates. Scope 1 and 2 emissions disclosures are subject to materiality, and only required for accelerated filers and large accelerated filers. Scope 3 emissions are not expressly required by the Rule. Materiality is not determined merely by the amount of scope 1 and/or scope 2 emissions. Rather, as with other materiality determinations under the Federal securities laws, the guiding principle is whether a reasonable investor would consider the disclosure important when making an investment or voting decision or such a reasonable investor would view omission of the disclosure as having significantly altered the total mix of information made available.
Narrative Disclosures	The Rules require a registrant to disclose information about the following: <u>Targets and Goals</u> - Any climate-related target or goal if such target or goal has materially affected or is reasonably likely to materially affect the registrant’s business, results of operations or financial condition, including any additional information or explanation necessary to an understanding of the material impact or reasonably likely material impact of the target or goal. - Any progress made toward meeting the target or goal and how any such progress has been achieved. A registrant must update this disclosure annually. - Certain information regarding carbon offsets or renewable energy credits or certificates (“RECs”) if they been used as a material component of a registrant’s plan to achieve disclosed climate-related targets or goals. Material impacts on financial estimates and assumptions, as a direct result of the target or goal or the actions taken to make progress toward meeting the target or goal. <u>Strategy</u> - Climate-related risks that have materially impacted or are reasonably likely to have a material impact on the registrant, including on the registrant’s strategy, results of operations, or financial condition. - Whether such risks are reasonably likely to manifest in the short-term (i.e., the next 12 months) and separately in the long-term (i.e., beyond the next 12 months). - Whether risks are physical or transition risks, providing information necessary to an understanding of the nature of the risk presented and the extent of the registrant’s exposure to the risk. - Actual and potential material impacts of the aforementioned risks on the registrant’s strategy, business model and outlook.

- Whether and how any such material impacts are considered as part of the registrant’s strategy, financial planning and capital allocation.
- How any climate-related risks have materially impacted or are reasonably likely to materially impact the registrant’s business, results of operations or financial condition.
- Material expenditures incurred and material impacts on financial estimates and assumptions that, in management’s assessment, directly result from disclosed activities to mitigate or adapt to climate-related risks.
- Transition plans adopted to manage a material transition risk and annual updates of progress under such plans.
- Material expenditures incurred and material impacts on financial estimates and assumptions as a direct result of the disclosed transition plan.
- Certain information regarding scenario analysis if it is conducted by the registrant and identifies a material climate-related risk.
- If material to how a registrant evaluates and manages a climate-related risk, certain information about internal carbon prices.

Risk Management

- The registrant’s processes for identifying, assessing and managing material climate-related risks.
- If managing a material climate-related risk, the registrant must disclose whether and how any such processes have been integrated into the registrant’s overall risk management system or processes.

Governance

- How the registrant’s board of directors oversees climate-related risks, including identifying:
 - Any board committee or subcommittee responsible for the oversight of climate-related risks, if applicable;
 - The processes by which the board or such committee or subcommittee is informed about climate-related risks; and
 - Whether and how the board oversees progress against disclosed climate-related targets or goals or transition plans.
- How the registrant’s management assesses and manages material climate-related risks, including identifying, as applicable:
 - Whether and which management positions or committees are responsible for assessing and managing climate-related risks, and the relevant expertise of such position holders or committee members in such detail as necessary to fully describe the nature of the expertise;
 - The processes by which such positions or committees assess and manage climate-related risks; and
 - Whether such positions or committees report information about such risks to the board of directors or a committee or subcommittee of the board of directors.

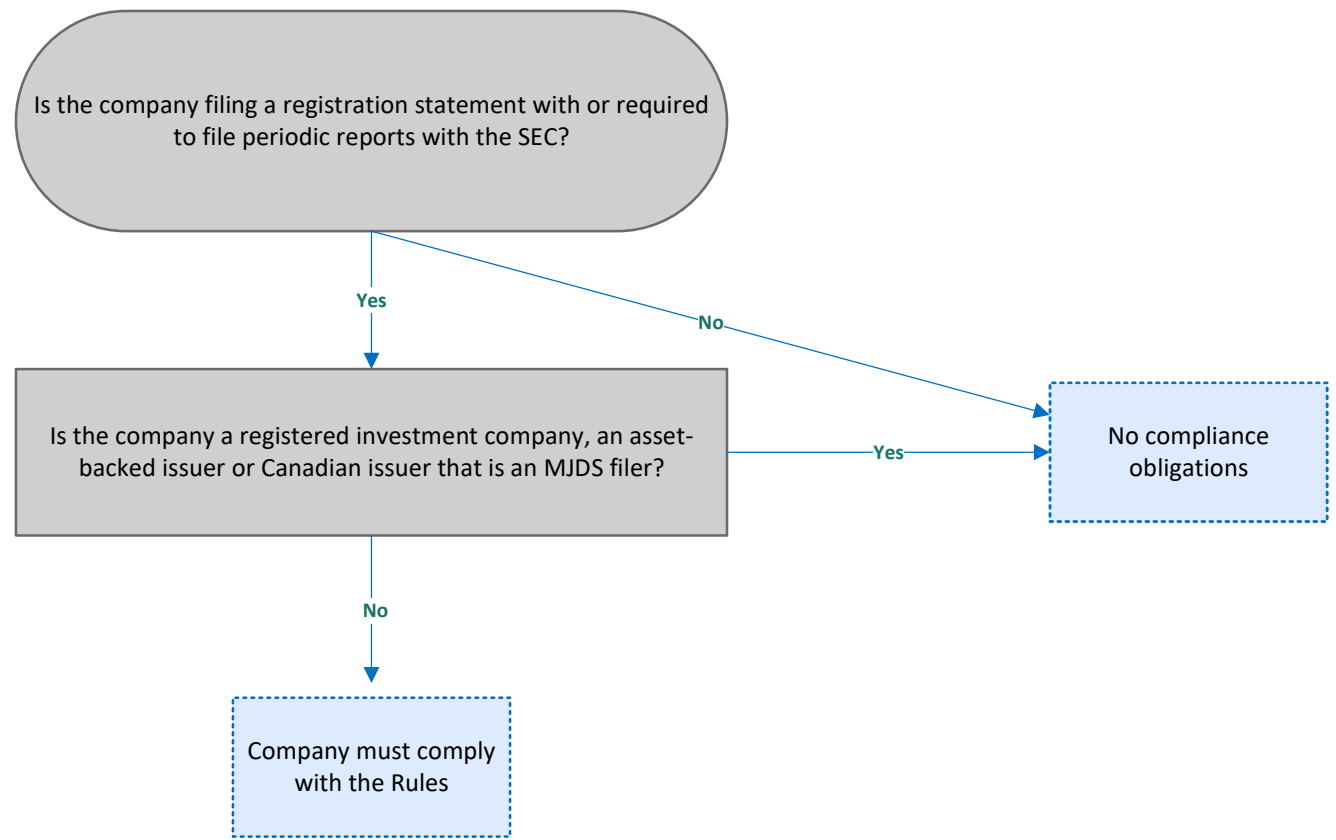
Financial Statement Requirements	The Rules amend Regulation S-X to require inclusion of a note to the audited financial statements disclosing, among other things, capitalized costs, expenditures expensed, charges, and losses incurred as a result of severe weather events and other natural conditions, subject to certain thresholds and, if a material part of a registrant's plans to achieve its climate-related targets or goals, certain information regarding carbon offsets and renewable energy certificates. Disclosure must be provided for the registrant's most recently completed fiscal year and, to the extent previously disclosed or required to be disclosed, for the historical fiscal year(s), for which audited consolidated financial statements are included in the filings.
Reporting	The Rules require subject registrants to provide disclosures in annual reports and registration statements. GHG emissions disclosure may be provided with second quarter 10-Qs, or 225 days after fiscal year end for companies that do not file 10-Qs.
Attestation Requirement	Third-party limited assurance over scope 1 and 2 GHG emissions would be required for large, accelerated filers starting fiscal year 2029 and for accelerated filers starting with fiscal year 2031. Non-accelerated filers and smaller reporting companies would not be subject to the attestation requirements. Large, accelerated filers will be required to obtain third-party reasonable assurance attestations starting fiscal year 2033. Accelerated filers, non-accelerated filers and small reporting companies would not be required to obtain reasonable assurance attestations. Third parties providing assurance must meet certain expertise and independence requirements. Certain disclosure requirements also apply in circumstances where a registrant is not required to obtain third party assurance but chooses to do so.
Enforcement; Liability	Disclosures under the Rules will be treated as "filed" rather than "furnished." Accordingly, disclosure included in the Exchange Act reports will be subject to potential liability under Section 18 of the Exchange Act in addition to general anti-fraud liability under Section 10(b) of and Rule 10b-5 under the Exchange Act. Disclosures included in registration statements under the Securities Act will be subject to liability under Sections 11 and 12(a)(2) of the Securities Act. The SEC expressly expanded the forward-looking statements safe harbor under the Private Securities Litigation Reform Act of 1995 (the "PSLRA") with respect to some climate information by (1) making clear that all information other than historical facts provided in response to the transition plan, scenario analysis, internal carbon price and target and goals disclosure requirements can benefit from the safe harbor and (2) allowing issuers in IPOs and certain other transactions excluded from the PSLRA to benefit from the safe harbor with respect to that information.
Additional Information/Resources	
Proposed Rule	Text of the Rules. For the SEC's Fact Sheet, click here.
Ropes & Gray Resources	Client alerts related to the Rules: - SEC voluntarily stays climate disclosure rules – what now for registrants? (April 5, 2024) (link here). - Court stays SEC climate rules – does this change anything for SEC filers? (March 18, 2024) (link here).

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| | <ul style="list-style-type: none">• Initial Observations on the SEC’s New Climate Disclosure Rules (March 7, 2024) (link here).• The SEC’s Proposed Climate Disclosure Rules – Comment Letter Stats (August 2, 2022) (link here).• Ten Thoughts on the SEC’s Proposed Climate Disclosure Rules (April 12, 2022) (link here).• SEC Publishes Sample Comment Letter Highlighting the Need to Consider Climate Change Disclosures in SEC Filings (October 4, 2021) (link here). |
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Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Proposed Rules



Deforestation Regulation (Compliance Pending) European Union

Overview

Law / Country	Deforestation Regulation (the “Regulation”) (European Union)
Goal	To protect forests and reduce greenhouse gas emissions and global biodiversity loss.
Adoption / Status	The Regulation was published in the Official Journal of the European Union (the “Official Journal”) on June 9, 2023 and entered into force on June 29, 2023. The applicability of the Regulation was set to start on December 30, 2024 for operators and traders that are not small and medium-sized enterprises (“SMEs”), and on June 30, 2025 for SMEs. However, in December 2024, after a new regulation was published in the Official Journal (the “Postponement Regulation”), obligations under the Regulation were officially delayed by one year (i.e., that the applicability of the Regulation will start on December 30, 2025 for non-SMEs, and on June 30, 2026 for SMEs). According to the European Commission’s responses to frequently asked questions published on October 2, 2024 (the “FAQs”), for commodities and products placed on the EU market before the Regulation comes into effect (i.e., December 30, 2025 for non-SMEs), operators and traders bear the burden of proof to show that the relevant commodity or product was produced before entry into force (i.e., June 29, 2023) and the Regulation does not apply, including by gathering adequately conclusive and verifiable evidence.
Issue Addressed	• Deforestation • Forest degradation
Covered Entities	“Operators” are defined as natural or legal persons who, in the course of a commercial activity, place (i.e., first make available) relevant products on the EU market or export them from the EU market. If a person established outside the European Union places relevant products on the EU market, the first person established in the European Union who buys or takes possession of the relevant products would be considered an operator. “Traders” are defined as natural or legal persons in the supply chain other than the operator who, in the course of a commercial activity, make available on the EU market relevant products.
Covered Commodities and Products	“Relevant commodities” are defined as cattle, cocoa, coffee, palm oil, soya, wood and rubber. “Relevant products” are products listed in Annex I of the Regulation that contain, have been fed with or have been made using relevant commodities. There is no threshold volume or value of a relevant commodity or relevant product, including within processed products, below which the Regulation will not apply. Products that are not included in Annex I are not subject to the requirements of the Regulation even if they contain commodities within the scope of the Regulation. The Regulation also does not apply to goods if they are produced entirely from material that has completed its lifecycle and would otherwise have been discarded as waste as defined in the Regulation. If the product contains a percentage of non-recycled material, then it is subject to the requirements of the Regulation and the non-recycled materials will need to be traced back to the plot of origin via geolocation.

How It Works	
Mandatory?	Yes.
Due Diligence Requirements; Due Diligence Statement	Relevant commodities and relevant products are prohibited on the EU market or from export unless the commodities or products: (1) are deforestation-free; (2) have been produced in accordance with the relevant legislation of the country of production; and (3) are covered by a due diligence statement. “Deforestation-free” means (1) the relevant products contain, have been fed with or have been made using relevant commodities and products that were produced on land that was not subject to deforestation after December 31, 2020, and (2) in the case of relevant products that contain or have been made using wood, that the wood was harvested from the forest without inducing forest degradation after December 31, 2020. “Forest degradation” is defined as structural changes to forest cover, taking the form of the conversion of naturally regenerating forests and primary forests into plantation forests or other wooded land and the conversion of primary forests into planted forests. The Regulation requires operators to set up and maintain a due diligence system, consisting of (1) collection of information and documents, (2) risk assessment measures and (3) risk mitigation measures, including tracing the commodities/products sold back to the plot of land where the commodities/products were produced. If, as a result of its due diligence, an operator concludes that the relevant commodities and products are compliant, the operator is required to furnish a due diligence statement to the competent Member State authorities confirming that due diligence was carried out, and that no or only negligible risk was found. The due diligence statement is required to be submitted through an information system established by the European Commission. The EU Single Window Environment for Customs framework will interconnect the information system with national customs IT systems and enable sharing and processing of data submitted to customs and non-customs authorities by operators and traders and their authorized representatives. Traders that are not SMEs generally have the same due diligence requirements as operators. For brevity, this summary generally references only operators regarding due diligence.
Information and Document Collection	Operators and traders that are non-SMEs are required to collect, organize, and keep for five years from the date of the placing on the market or of the export of the relevant products, information, documents and data demonstrating that the relevant products are compliant. This includes: • A description, including the trade name and type, of relevant products, as well as, where applicable, the common name of the species and its full scientific name. The product description must include the list of the relevant commodities or relevant products contained in them or used to make those products; • The quantity (expressed in net mass and volume, or number of units) of the relevant products; • The country of production; • The geo-localization coordinates (<i>i.e.</i>, latitude and longitude) of all plots of land where the relevant commodities that the relevant product contains, or has been made using, were produced and the date or time range of production;

	• The name, email and postal address of any business or person from whom they have been supplied with the relevant products; • The name, email and postal address of any business or person to whom the relevant products have been supplied; • Adequately conclusive and verifiable information that the relevant products are deforestation-free; and • Adequately conclusive and verifiable information that the relevant commodities have been produced in accordance with relevant legislation of the country of production, including any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity. Traders that are SMEs are required to collect and keep the following information relating to the relevant products they intend to make available on the EU market: (1) the name, registered trade name or registered trade mark, the postal address, the email and, if available, a web address of the operators or the traders who have supplied the relevant products to them, as well as the reference numbers of the due diligence statements associated to those products; and (2) the name, registered trade name or registered trade mark, the postal address, the email and, if available, a web address of the traders to whom they have supplied the relevant products. They are also required to maintain this information for at least five years from the date that the product is made available on the market and share the information with the competent authorities upon request. SME traders that obtain information indicating that a relevant product they have made available on the market is at risk of noncompliance must immediately inform the competent authorities of the Member State markets in which they made the relevant product available and the traders to whom they supplied the relevant product. According to the FAQs, if the operator (or traders which are not SMEs) cannot collect the required information, it must refrain from placing (or making available in case of non-SME traders) on the market or exporting the relevant product concerned.
Risk Assessment Measures	Operators generally are required to carry out a risk assessment to establish whether there is a risk that the relevant products intended to be placed on the EU market or exported from the EU are non-compliant with the requirements of the Regulation. Operators are not permitted to place the relevant product on the EU market, or export it from the EU market, if they are unable to prove that the risk is nonexistent or negligible. The risk assessment criteria includes: • The assignment of risk to the relevant country in accordance with a country benchmarking system; • The presence of forests in the country and area of production of the relevant commodity or product; • The presence of indigenous peoples in the country, region and area of production of the relevant commodity or product; • The consultation and cooperation in good faith with indigenous peoples in the country of production of the relevant commodity or product; • The existence of duly reasoned claims by indigenous peoples based on objective and verifiable information regarding the use or ownership of the area used for the purpose of producing the relevant commodity; • Prevalence of deforestation or forest degradation in the country, region and area of production of the relevant commodity or product; • The source, reliability, validity and links to other available documentation of the information required to be collected, as noted earlier in this summary;

	- Concerns in relation to the country of production and origin, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, violations of international human rights, armed conflict or presence of sanctions imposed by the United Nations Security Council or the Council of the European Union; - The complexity of the relevant supply chain and the stage of processing of the relevant products, in particular difficulties in connecting relevant products to the plot of land where the relevant commodities were produced; - The risk of circumvention of the Regulation or of mixing with relevant products of unknown origin or production in areas where deforestation or forest degradation has occurred or is occurring; - The conclusions of European Commission expert group meetings published in the European Commission's expert group register; - Substantiated concerns submitted by third parties and information on the history of operator and trader non-compliance with the Regulation along the relevant supply chain; - Any information that would point to a risk that the relevant products are non-compliant; and - Complementary information on compliance, which may include information supplied by certification or other third-party-verified schemes.
Risk Mitigation Measures	Operators generally are required to adopt adequate and proportionate policies, controls and procedures to mitigate and manage risks of non-compliance. Risk mitigation tactics include: - Model risk management practices, reporting, record-keeping, internal control and compliance management and, for operators that are not SMEs, the appointment of a compliance officer at the manager level; and - An independent audit function to check the internal policies, controls and procedures, for operators that are not SMEs. The decisions on risk mitigation procedures and measures are required to be documented, reviewed at least on an annual basis and made available by the operator to the competent authorities upon request.
Simplified Due Diligence; Low Risk Countries	If the relevant products were produced in countries or parts thereof identified as low risk, the operator has a reduced due diligence obligation and is not required to fulfil the risk assessment and risk mitigation requirements described above. However, if the operator obtains or is made aware of information that would indicate that the relevant products are not compliant, it would be required to fulfill the due diligence requirements of the Regulation, including the risk assessment and risk mitigation requirements. The Regulation established a three-tier benchmarking system for assessing geographic risk. The benchmarking system will classify all countries (or parts thereof) as low, standard or high risk with regard to deforestation and forest degradation. On June 29, 2023, all countries were assigned a standard level of risk. The Regulation required the European Commission to classify and publish the countries that present a low or high risk no later than December 30, 2024. The European Commission has indicated that low and high risk classifications will be delayed to allow countries additional time to adapt. On October 2, 2024, the European Commission indicated that the finalization of the country benchmarking system is expected by June 30, 2025, and that a large majority of countries will be classified as low risk.

Public Reporting	Operators that are not SMEs are required to, on an annual basis, publicly report as widely as possible on their diligence system, including the steps taken to implement their obligations under the Regulation.
Enforcement; Customs Procedures	Member States are required to designate competent authorities responsible for carrying out the obligations arising from the Regulation. Member State authorities are expected to carry out checks on at least a specified percentage of operators and traders depending on a country's risk category: 9% for high-risk countries; 3% for standard-risk countries; and 1% for low-risk countries. In addition, for high-risk countries, Member State authorities are required to perform checks on 9% of the total volume of each of the relevant products that contain or have been made using relevant commodities produced in a country. Checks on operators and traders that are not SME will include: • Examination of the due diligence system, including risk assessment and risk mitigation procedures, and of documentation and records that demonstrate the proper functioning of the due diligence system; and • Examination of documentation and records that demonstrate compliance with the requirements of the Regulation of a specific product that the operator has placed, intends to place on or export from the EU market, including, when applicable, through risk mitigation measures, as well as examination of due diligence statements. In addition, where appropriate, the checks on operators and traders that are not SMEs may also include: • On-the-ground examination of relevant commodities and products with a view to ascertaining their conformity to the documentation used for exercising due diligence; • Examination of corrective measures; • Any technical and scientific means adequate to determine the species or the exact place where the relevant commodity or product was produced, including anatomical, chemical or DNA analysis; • Any technical and scientific means adequate to determine whether the relevant commodity or relevant product are deforestation-free, including Earth observation data such as from Copernicus program and tools or from other publicly or privately available relevant sources; and • Spot checks, including field audits, including where appropriate in third countries through cooperation with the administrative authorities of those countries. For traders that are SMEs, the checks are required to include an examination of documentation and records that demonstrate the trader's compliance with its record collection and record keeping requirements described previously and, where appropriate, spot checks, including field audits.
Remedial Action and Penalties	If a competent authority of a Member State determines that an operator or trader has not complied with its obligations under the Regulation or that a relevant product is not compliant, it is required to ensure that the operator or trader takes appropriate and proportionate corrective action, including one or more of the following: • Rectifying the non-compliance; • Preventing the relevant product from being placed, made available on or exported from the EU market; • Withdrawing or recalling the relevant product immediately; and/or

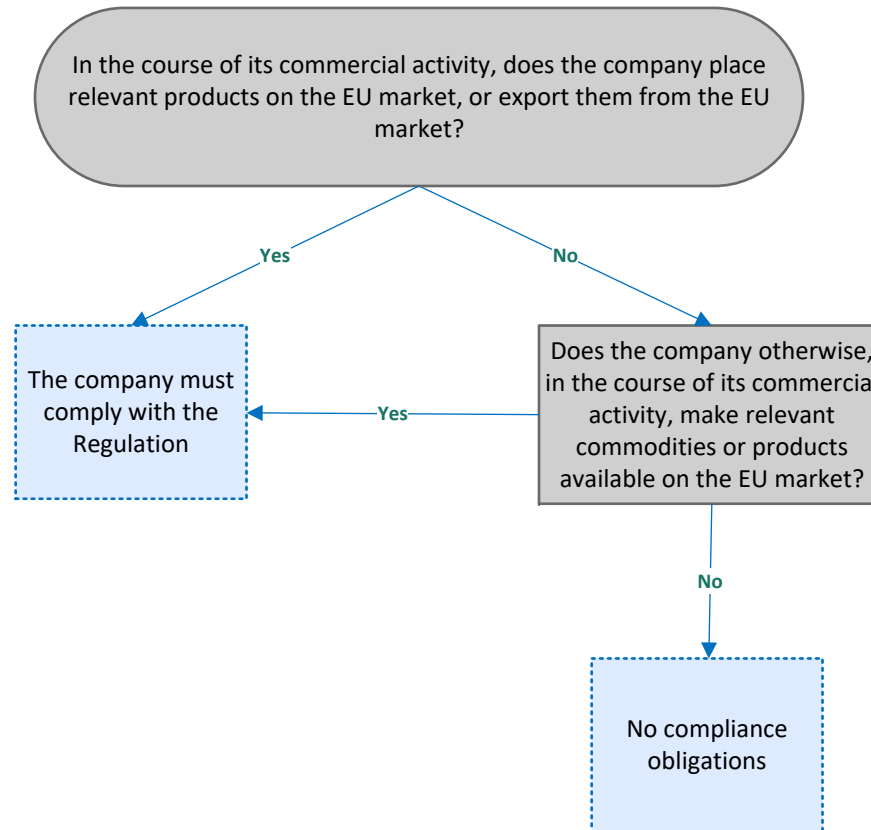
	- Disposing of the relevant product in accordance with EU laws on waste management or donating it to charitable or public interest purposes. Member States are also required to establish effective, proportionate and dissuasive penalties for violations or infringements. At a minimum, penalties are to include: - Fines proportionate to the environmental damage and the value of the relevant commodities or relevant products concerned, with a maximum fine amount of 4% of the operator's or trader's annual turnover in the relevant EU Member States; - Confiscation of the relevant products from the operator or trader; - Confiscation of the operator's and/or trader's revenues from a transaction with the relevant products; - Temporary exclusion from public procurement processes and access to public funding; - Temporary prohibition from placing or making available on the market or exporting relevant commodities and relevant products in the event of a serious infringement or of repeated infringements; and - Prohibition from exercising simplified due diligence in the event of a serious infringement or of repeated infringements.
Expansion and Further Review	The Regulation contemplates a potential expansion to include additional ecosystems and commodities. No later than June 30, 2025, the European Commission is required to present an impact assessment and, if appropriate, a legislative proposal to extend the scope of the Regulation to other ecosystems, including land with high carbon stocks and land with a high biodiversity value chain such as grasslands, peatlands and wetlands, and an assessment of whether it is appropriate to amend or extend the list of relevant products in Annex I. The impact assessment is also to evaluate the role of financial institutions in preventing financial flows that contribute directly or indirectly to deforestation and forest degradation, and assess the need to provide for any specific obligations for financial institutions in EU legal acts in that regard, taking into account any relevant existing horizontal and sectoral legislation. By June 30, 2028 and at least every five years thereafter, the European Commission is required to carry out a general review of the Regulation and present a report, by a legislative proposal if appropriate, to the European Parliament and Council.
Additional Information/Resources	
Regulation	Text of the Regulation. Text of the Postponement Regulation.
Guidance and Resources	For additional information on the implementation of the Regulation, click here. For the Guidance on the Regulation, click here. For the Factsheet for SMEs, click here. For the Factsheet for smallholders, click here. For the FAQs, click here.

Ropes & Gray Resources	Client alerts related to the Regulation: • EU Deforestation Regulation Breaking News – One Year Delay Proposed, Guidance and FAQs Issued and More (October 2, 2024) (link here). • With Six Months to Go, Will the EU Deforestation Regulation Get Pushed Back? (June 24, 2024) (link here). • The EU Deforestation Regulation Is Coming Soon – Will Your Products Be Deforestation-free? (June 6, 2023) (link here). • An Update on the EU Deforestation Regulation – The Parliament’s Proposal (November 15, 2022) (link here). • Pending and Proposed Deforestation Legislation Will Add New Supply Chain Due Diligence and Reporting Requirements – An Overview of U.K., EU and U.S. Federal and State Initiatives (March 8, 2022) (link here).
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Note: This summary is for informational purposes only and does not constitute legal advice.

(Updated February 28, 2025)

Applying the Law



Environment Act – Use of Forest Risk Commodities in Commercial Activity (Compliance Pending) United Kingdom

Overview

Law / Country	Environment Act 2021 – Section 116, incorporating Schedule 17, Use of Forest Risk Commodities in Commercial Activity (the “Act”) (United Kingdom)
Goal	To protect forests.
Adoption / Status	The Act was adopted on November 9, 2021. However, Section 116 of the Act will only come into force after the Secretary of State issues regulations stating so. The Secretary of State was authorized to begin making regulations on September 30, 2022 (“Commencement No. 3”). After a consultation process to prepare secondary legislation and accompanying guidance for Section 116 of the Act (the “Consultation”), on December 9, 2023, the UK Department for Environment, Food & Rural Affairs (“Defra”) issued a press release (the “Defra Press Release”) announcing upcoming secondary legislation, which would provide details on covered entities, the initial list of forest risk commodities and civil sanctions. The secondary legislation was expected in early 2024, but did not successfully pass through Parliament before the announcement of the General Election. Defra has not released updated information on the timing of the secondary legislation. The Defra Press Release indicated that organizations will have a grace period to prepare for the regulation between the enactment of secondary legislation and the beginning of the first reporting period.
Issue Addressed	• Deforestation • Forest degradation
Definition of “Forest Risk Commodity”	A “forest risk commodity” is a commodity to be specified in regulations made by the Secretary of State. The regulations may specify only a commodity produced from a plant, animal or other living organism. In addition, the regulations may specify a commodity only if the Secretary of State considers that forest is being or may be converted to agricultural use for the purposes of producing the commodity. The regulations may not specify timber or timber products within the meaning of the EU Timber Regulation. According to the Defra Press Release, the initial list of forest risk commodities will include palm oil, cocoa, beef, leather and soy, and any products deriving from those commodities. Notably, this initial list would not include coffee, maize or rubber, each of which Defra sought feedback on as potential commodities during the Consultation.
Definition of “Forest”	A “forest” is an area of land of more than 0.5 hectares with tree canopy cover of at least 10%, excluding trees planted for the purpose of producing timber or other commodities. Land that is wholly or partially submerged in water, whether temporarily or permanently, is included in the measurement.

Covered Entities	Any “regulated person,” which is a person (other than an individual) who: • Carries on commercial activities in the United Kingdom; and • Meets an annual turnover threshold to be determined by the Secretary of State; or • Is a subsidiary of another enterprise that meets such conditions. “Commercial activities” include (1) producing, manufacturing and processing, (2) distributing, selling or supplying or (3) purchasing for a purpose within either of the foregoing (other than purchasing as a consumer). According to the Defra Press Release, a regulated person will be an organization that uses forest risk commodities in its UK supply chains and has global annual turnover of over £50 million. Based on feedback received during the Consultation, Defra has noted it will align the definition of turnover in secondary legislation with the definition in the UK Companies Act and set thresholds based on turnover in the previous financial year.
How It Works	
Mandatory?	Yes.
Use of Forest Risk Commodities	A regulated person may only use a forest risk commodity, or a product derived from that commodity, in their UK commercial activities if the regulated person complies with relevant local laws in relation to that commodity. “Relevant local law” means a local law which (1) relates to the ownership of the land on which the source organism was grown, raised or cultivated, (2) relates to the use of that land, or (3) otherwise relates to that land and is specified in regulations made by the Secretary of State. The Act does not apply to the use of a forest risk commodity, or a product derived from that commodity, where (1) the commodity is waste within the meaning of the Renewable Transport Fuel Obligations Order 2007, and (2) the use of the commodity is for the purpose of making renewable transport fuel (a) that qualifies for the issue of an RTF certificate under article 17 of that Order, and (b) in respect for which an additional RTF certificate may be issued under article 17A(4) of that Order.
Due Diligence Requirements	A regulated person who uses a forest risk commodity or a derived product in their UK commercial activities must establish and implement a due diligence system in relation to that commodity. A “due diligence system” means a system for (1) identifying and obtaining information about the forest risk commodity, (2) assessing the risk that relevant local laws were not complied with and (3) mitigating that risk. The Secretary of State may by regulations make further provisions regarding the due diligence system, including (1) the information that should be obtained, (2) the criteria to be used in assessing risk and (3) the ways in which risk may be mitigated. The Consultation sought input on the Act’s due diligence provisions. Defra’s responses to the Consultation note that, in developing the secondary legislation, it will consider the degree to which businesses will be required to mitigate risk. Alongside legislation, Defra will provide guidance to help businesses understand how to comply with those provisions, including on how they may use certifications and standards to help evidence legality.

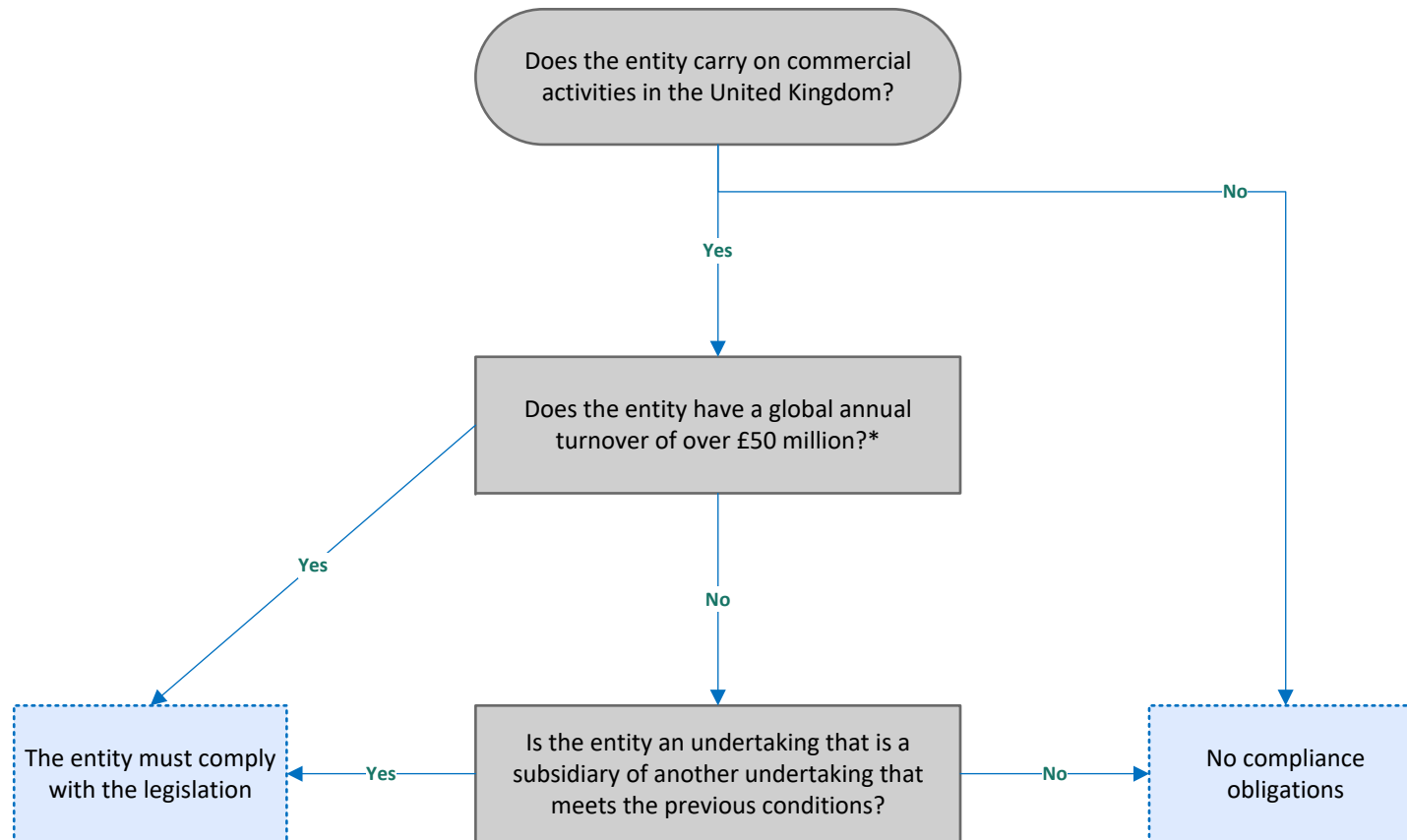
Reporting	A regulated person who uses a forest risk commodity or derived product in their UK commercial activities must, for each reporting period, provide the Secretary of State or another designated UK authority with an annual report on the actions taken to establish and implement a due diligence system. The reporting period will generally be the 12-month period from April 1 to March 31. The report must be provided no later than six months after the end of the applicable reporting period. The Secretary of State may by regulations make provision about (1) the content and form of reports to be provided and (2) the manner in which reports are to be provided. The relevant authority must make the reports public in the way and to the extent specified in regulations made by the Secretary of State. Respondents to the Consultation provided a wide variety of suggestions related to the content of these annual reports and Defra noted in its responses to the Consultation that it would use this range of views to inform the secondary legislation and accompanying guidance.
Exemptions from Due Diligence and Reporting	A regulated person is exempt from providing an annual due diligence report if two conditions are met: • Before the start of the period, the person gives a notice to the relevant enforcement authority containing a declaration that the person is satisfied on reasonable grounds that the amount of a forest-risk commodity used in their UK commercial activities during the period will not exceed the threshold prescribed in secondary regulations (by reference to weight or volume); and • The amount of the commodity used in the person's UK commercial activities during the period does not exceed the prescribed threshold. According to the Defra Press Release, organizations whose use of the covered commodities does not exceed an annual volume threshold of 500 tons will be permitted to submit an exemption.
Enforcement	The Secretary of State may make provisions about the monitoring and enforcement of requirements imposed on regulated persons through secondary regulations. The Consultation noted that enforcement authorities should have three main functions: (1) monitoring compliance; (2) investigating compliance; and (3) imposing sanctions when a breach has been identified. Among other things, a monitoring and enforcement regime may include (1) provisions conferring on an enforcement authority powers of entry, inspection, examination, search and seizure subject to the authority of a warrant, (2) civil sanctions for failing to comply with the Act or obstructing or failing to assist an enforcement authority and (3) criminal offenses punishable with a fine for failure to comply with any civil sanctions or obstructing or failing to assist an enforcement authority. The Act provides that the enforcement provisions must provide that a regulated person who fails to comply with a prohibition on using forest risk commodities may not be subject to a civil sanction for a failure to comply if an enforcement authority is satisfied that the regulated person took all reasonable steps to implement a due diligence system in relation to the commodity used by the person. According to the Defra Press Release, the secondary legislation will include unlimited variable monetary penalties for failure to comply with the Act. In the Consultation, Defra sought feedback on a proposed maximum penalty of £250,000. However,

	respondents to the consultation largely disagreed with establishing any fixed maximum monetary penalty, instead proposing penalties be fixed as a percentage of annual global turnover.
Additional Information/Resources	
Law	Text of the Act . Text of Commencement No. 3 .
Defra Communications	For Defra’s responses to the Consultation, click here . For the Defra Press Release, click here .
Ropes & Gray Resources	Client alerts related to the Act: • Recent Developments in Deforestation Legislation – the UK, U.S. and EU (January 29, 2024) (link here). • Pending and Proposed Deforestation Legislation Will Add New Supply Chain Due Diligence and Reporting Requirements – An Overview of UK, EU and U.S. Federal and State Initiatives (March 8, 2022) (link here).

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*According to the Defra Press Release, the £50 million global annual turnover threshold will be included in the upcoming secondary legislation.

Companies Act, section 135 India

Overview

Law / Country	section 135 of the Companies Act (The Companies Act, 2013, amended 2015, 2017, 2019, 2021, 2022) (the “ Law ”) (India)
Goal	To further corporate social responsibility (“ CSR ”) in India by requiring investment in CSR initiatives.
Adoption / Status	On August 29, 2013, the Law was adopted. Since that time, rules have been adopted under the Law and there have been several amendments to the Law, as further described below.
Issues Addressed	• Corporate social responsibility
Covered Entities	The Law applies to Indian companies and foreign companies doing business in India that, during the immediately preceding financial year: • Have a net worth of five hundred crore rupees or more; • Turnover of one thousand crore rupees or more; or • A net profit of five crore rupees or more.

How It Works

Mandatory?	Yes.
CSR Activities	“CSR activities” means the activities undertaken by a company pursuant to its statutory obligation under the Law and the rules thereunder. Schedule VII of the Companies Act outlines recognized CSR activities. These relate to, among other things: • Eradicating extreme hunger and poverty; • Promotion of education, gender equality and empowering women; • Reducing child mortality and improving maternal health; • Protection of national heritage and culture; • Measures for the benefit of military veterans; • Training to promote sports; • Ensuring environmental sustainability; • Employment enhancing vocational skills and social business projects; • Rural development and slum area development; and • Disaster management, including relief, rehabilitation and reconstruction. A capital asset is a qualifying CSR expenditure if the asset created is owned either by the organization supported, the persons served by the project or a public authority. The following do not qualify as permissible CSR activities: • Normal course of business activities generally; • Activities outside of India generally;

	• Contributions to political parties; • Activities that significantly benefit employees; • Sponsorships for deriving marketing benefits for products or services; and • Activities carried out to fulfill other Indian statutory obligations. However, for companies engaged in research and development of new vaccines, drugs and medical devices in their normal course of business, those activities are permissible CSR activities for fiscal years 2020-21 to 2022-23 to the extent related to COVID-19.
CSR Committee	Covered entities generally are required to have a CSR Committee of three or more directors. At least one of these directors generally must be independent, unless stated otherwise in section 149(4) of the Companies Act. This CSR Committee must formulate and recommend to the board of directors (the “Board”) an annual action plan pursuant to its CSR Policy (defined below).
CSR Policy	The CSR Policy is defined as a statement containing the approach and direction given by the Board, considering the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan. The CSR Policy must include the following: • The list of CSR projects and programs approved to be undertaken; • The manner of execution of the projects or programs; • The manner of utilization of funds and implementation schedules for projects or programs; • Monitoring and reporting mechanisms for projects or programs; and • Details of need and impact assessment, if any, for the projects and programs undertaken.
Implementation of the CSR Policy	A covered entity must spend at least 2% of its average net profits made during the three immediately preceding fiscal years (the “Minimum CSR Amount”) on CSR initiatives in accordance with its CSR Policy. If the company spends an amount in excess of the Minimum CSR Amount, the company may set-off the excess against the spending requirement for up to the next three fiscal years. Administrative overhead may not exceed 5% of total CSR expenditures for the fiscal year. Only the following classes of companies/entities can undertake CSR activities on behalf of a company: • A company established under Section 8 of the Companies Act (a “Not-For-Profit Company”), a registered public trust or a registered society established by the company, either singly or along with another company; • A Not-For-Profit Company, a registered trust or a registered society established by the Central Government or a State Government; • An entity established under an act of Parliament or a State legislature; or • A Not-For-Profit Company, a registered public trust or a registered society with an established track record of at least three years in undertaking similar activities. A covered entity may engage an International Organisation for designing, monitoring and evaluating CSR projects or programs as well as for CSR capacity building of its personnel. An “International Organisation” is an organization notified by the Central Government as an international organisation under Section 3 of the United Nations (Privileges and Immunities) Act, 1947. The Board is required to monitor the implementation of ongoing projects and make modifications, if any, for the smooth implementation of the project within the permissible time period. The Board is responsible for ensuring funds are being utilized for approved purposes. The chief financial officer or the person responsible for financial management of the covered entity is

	required to certify that funds are being used for approved purposes. If a covered entity has an average CSR obligation of 10 crore rupees or more in the three immediately preceding fiscal years, it must undertake an impact assessment of its CSR projects with outlays of one crore rupees or more that have been completed at least one year before undertaking the impact study. The impact study must be conducted by an independent third party.
Unspent Funds	Any unspent Minimum CSR Amount relating to an “Ongoing Project” must be transferred within 30 days after the end of the fiscal year to a special account (“Unspent CSR Account”) maintained by the company. An “Ongoing Project” is a multi-year project undertaken by a company in fulfilment of its CSR obligation having a timeline not exceeding three years (excluding the fiscal year in which it was commenced) and includes a project that initially was not approved as a multi-year project but whose duration has been extended beyond one year by the Board based on reasonable justification. The money in the Unspent CSR Account is required to be spent by the company in furtherance of its CSR Policy within three fiscal years from the date of transfer to the account. If the company fails to spend the money in the Unspent CSR Account within the prescribed three-year period, the unspent amount is required to be transferred to a CSR fund set up by the Government of India (“Government CSR Fund”), within 30 days after the end of the third fiscal year. If the unspent amount in a fiscal year does not relate to an Ongoing Project, the company is required to transfer the unspent amount to the Government CSR Fund within six months after the end of its fiscal year. Any surplus arising out of CSR activities must be (1) used in the same project, (2) transferred to the Unspent CSR Account and spent pursuant to the CSR Policy and annual action plan of the company or (3) transferred to the Government CSR Fund within six months after the end of the fiscal year.
Reporting	Covered entities must furnish a report on CSR on E-Form CSR-2, as an addendum to Form AOC-4 (the form for filing financial statements). Companies must provide the following information, among other things, on the CSR-2 form: • CSR spending and information on ongoing projects; • Information on the CSR Committee; • Net profit and related information; and • If any capital assets have been created or acquired through CSR spending, information regarding the capital assets, including the address, location, pin code of the property, amount spent and registered owner. Covered entities also must disclose on their website their CSR Policy, the composition of the CSR committee and CSR projects approved by the Board.
Enforcement	Non-compliance with the Law can result in a fine of up to twice the amount required to be transferred by the covered entity to the Government CSR Fund or the Unspent CSR Account, or one crore rupees, whichever is less. In addition, every officer of the company who is in default can be fined up to 10% of the amount required to be transferred by the covered entity to the foregoing, or two lakh rupees, whichever is less. Under Section 206 of the Companies Act, the Government has powers to call for information and inspect the books of a company.
Additional Information/Resources	
Law	Text of Section 135 .

	Text of the 2017 Amendments , 2019 Amendments , 2021 Amendments and 2022 Amendment .
Indian Companies Act	Text of the 2013 Companies Act .
Ropes & Gray Resources	Client alert related to the Law: Corporate Social Responsibility in India: New Requirements for U.S.-Based Multinationals on the Horizon (July 29, 2020) (link here).

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