



# Regulators Target Modern Slavery, Environmental Abuses in Supply Chains

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Regulators are increasing their scrutiny of corporate supply chains, pressing companies to take more responsibility for modern slavery, human rights abuses and environmental harm caused along their entire value chain. While some national rules impose hefty fines for non-compliance, others are voluntary or incentives-based, meaning that pressure isn't being applied equally across the global corporate landscape. Nearly half of the publicly traded companies worldwide haven't expressed a commitment to prohibiting the use of forced labor.

ISS Corporate Solutions examined the rapidly evolving corporate sustainability landscape, including national and international regulatory regimes, and how they influence the level of due diligence practiced by companies.

## KEY TAKEAWAYS

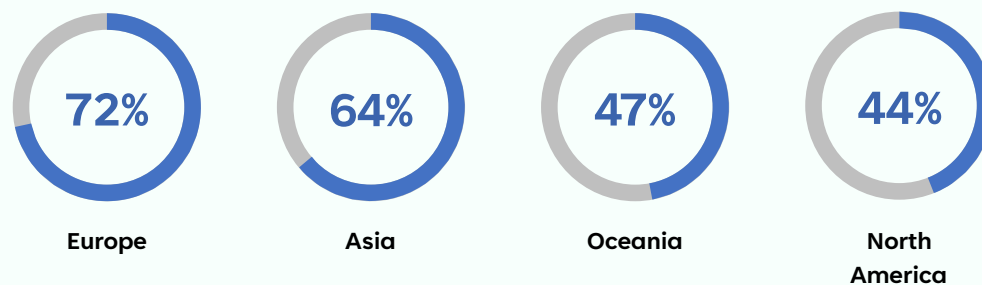
- Many initiatives cover social and environmental impacts along the full value chain, with a particular focus on direct and indirect suppliers
- Most regulations require accountability at the top, the development of public policies, robust due diligence procedures, access to grievance mechanisms, transparency regarding corrective actions as well as detailed disclosures
- Most regulations seek to incentivize performance improvements through disclosure obligations, yet proposed European regulation sets out broader responsible business conduct obligations
- Most regulations are mandatory and non-compliance can result in substantial fines and, in some cases, civil liability
- There are substantial similarities between regulations as most are based on the foundational concepts set out in the UN Guiding Principles on Business and Human Rights and further developed in the OECD Guidelines for Multinational Enterprises



## KEY NATIONAL REGULATORY REGIMES

The Californian Transparency in Supply Chains [Act](#), the U.K.'s Modern Slavery [Act](#) and the Australian Modern Slavery [Act](#) have been in place since 2010, 2015 and 2018 respectively. They each require large companies to disclose the steps they have taken to identify and address modern slavery risks. However, other countries have been slower to adopt such legislation.

According to ISS ESG data just over 55% of public companies globally expressly commit to prohibiting the use of forced or compulsory labor in public disclosures.



Source: ISS ESG data, covering 8,000 companies globally as of March 20, 2023

The most recent set of regulations is the German [Act](#) on Corporate Due Diligence Obligations in Supply Chains, adopted in January of this year and therefore a key area of focus for corporations and their representatives. The Act initially applies to enterprises in Germany with at least 3,000 employees and will expand to include those with at least 1,000 employees from 2024. Non-compliance can lead to fines of up to EUR8 million or 2% of annual global turnover.

The due diligence obligations of the Act include the “establishment of a risk management system to identify, prevent or minimize the risks of human rights violations....” It also establishes preventive and remedial measures, mandates complaint procedures, and requires regular reporting. While these due diligence obligations directly apply to large German companies, they have a knock-on effect, imposing requirements on any contractual partners along the entire supply chain, whether they are German SMEs or companies based in other parts of the world, such as the U.S. and Asia.

Just a few months before the introduction of the German Act, in September 2022, Japan released [guidelines](#) on respecting human rights in responsible supply chains. While these guidelines don't have the force of the German Act, they have a number of elements in common with existing regulations, as they are based on the Organisation for Economic Cooperation and Development (OECD) guidelines and those promulgated by the International Labor Organization (ILO), as well as the UN Guiding Principles on Business and Human Rights. Unlike other national regulations, however, the guidelines are not legally binding, though they do apply to every business, even sole proprietors.



The [United Nations Guiding Principles on Business and Human Rights](#) are a set of 31 principles organized under a 3-pillar framework: protect, respect and remedy.’ They set out expectations for states and companies for the prevention and mitigation of adverse human rights impacts caused by business activities. They were developed through an extensive multi-stakeholder dialogue and adopted by the UN Human Rights Council in 2011. They have since been widely endorsed by governments, NGOs and business. The Guiding Principles have been integrated and expanded in the 2011 update to the [OECD Guidelines for Multinational Enterprises](#).

The Japanese guidelines require companies to establish a human rights policy, conduct due diligence, report, address, prevent and mitigate adverse impacts, disclose to stakeholders, and offer remedies for violations, as well as track the effectiveness of policies and processes.

Both the U.S. and Canada have introduced forced labor regulations. The Uyghur Forced Labor Prevention [Act](#) (UFLPA) was signed into law on Dec. 23, 2021. It establishes a presumption that the “importation of any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People’s Republic of China,” is banned under Section 307 of the Tariff Act. The presumption may be rebutted if the Commissioner of U.S. Customs and Border Protection determines that the merchandise was not produced using forced labor. The ban, which went into effect in June 2022, also applies to certain [entities](#) not involved in manufacture involving forced labor, but which import goods produced by forced labor or are involved in “recruiting” forced labor.

Canada’s Fighting Against Forced Labor and Child Labor in Supply Chains Act, [S-211](#), is slowly making its way through parliament. The Act requires both public -and private-sector organizations to disclose measures taken to prevent and reduce the risk that “forced labor or child labor is used by them or in their supply chains.” An inspection regime is also included in the application of the Act. The regulations will also amend the Customs Tariff to ban the importation of goods manufactured or produced, in whole or part, by forced labor or child labor.

France’s [Corporate Duty of Vigilance Law](#), in force since 2017, has led to a significant number of cases being brought against companies for alleged violations. The law applies to French companies with more than 5,000 employees in the company’s direct or indirect France-based subsidiaries and those with more than 10,000 employees globally. The requirements include the mapping of “actions to mitigate risks or prevent severe impacts, an alert mechanism, and a system to monitor the effectiveness of measures implemented.” Failure to comply can lead to a court order to comply and remedy the situation, including the development of a vigilance plan where there is none or improve measures found to be inadequate. Courts can impose penalties for each day of non-compliance.

The law has resulted in ongoing [litigation](#) on the following human rights issues: land expropriation and indigenous people’s rights; workers’ rights in call centers and road transport; gender discrimination, water rights and forced labor among many others. The law also covers environmental damage.



## REGULATIONS IN EUROPE

Regulatory developments on a European level have been accelerating. In November last year, EFRAG [European Financial Reporting Advisory Group] as part of the Corporate Sustainability Reporting Directive (CSRD) which came into effect in early 2023, released a first set of [Draft European Sustainability Reporting Standards \(ESRS\)](#). The proposed standards have a significantly wider scope than those being developed by the International Sustainability Standards Board (ISSB) (see below), and cement the concepts of double materiality (the concept of information being relevant to both its financial performance and its impact on people and the environment) and due diligence along the value chain.

The EFRAG draft standards set out universally applicable disclosure requirements: those that are always mandatory, those that are triggered by the company's materiality assessment under a double materiality approach and those that are voluntary. The standards also allow for supplementary entity-specific disclosures, acknowledging that unique circumstances can result in a varying combination of impacts, risk and opportunities. Future sector-specific standards, currently under development, are expected to make entity-specific disclosures redundant.

European Union institutions are reviewing the proposed [European Corporate Sustainability Due Diligence Directive](#) (CSDDD, or CS-triple-D,) which would set comprehensive performance obligations for companies to respect human rights and protect the environment along their global value chains. Companies would be required to "identify and, where necessary, prevent, end or mitigate adverse impacts of their activities on human rights, such as child labor and exploitation of workers." The directive aims to provide more effective protection of human rights and the environment in line with international instruments and commitments. The rules would be administered and fines imposed, in cases of non-compliance, at the national level. The proposal includes civil liability provisions that continue to be debated.



**Table 1: Key European Sustainability Due Diligence Regulation**

	Corporate Sustainability Reporting Directive (CSRD)	European Corporate Sustainability Due Diligence Directive (CSDDD)
<b>Status</b>	Entered into force on 5 Jan. 2023, to be converted to national law by EU member states within 18 months	European Commission proposal from Feb. 2022; under review by EU institutions
<b>Content</b>	Comprehensive sustainability disclosure under double materiality approach	Sustainable and responsible business conduct rules establishing corporate due diligence obligations
<b>Applicability to EU Companies</b>	Meeting two of the three following criteria: <ul style="list-style-type: none"> <li>- &gt;EUR40m annual revenue</li> <li>- &gt;EUR20m assets</li> <li>- &gt;250 employees</li> </ul>	<ul style="list-style-type: none"> <li>- &gt;EUR150m annual revenue</li> <li>- &gt;500 employees</li> </ul>
		High-risk sectors (e.g. textiles, agriculture, extraction of minerals): <ul style="list-style-type: none"> <li>- &gt;EUR40m annual revenue, 50% or more from high-risk activity</li> <li>- &gt;250 employees</li> </ul>
<b>Applicability to non-EU companies</b>	<ul style="list-style-type: none"> <li>- &gt;EUR150m annual revenue in Europe</li> <li>- &gt;EUR40m annual revenue from EU subsidiary/branch</li> </ul>	<ul style="list-style-type: none"> <li>- &gt;EUR150m annual revenue in Europe</li> </ul>
		High-risk sectors: <ul style="list-style-type: none"> <li>- &gt;EUR40m annual revenue in EU in high-risk sectors</li> </ul>
<b>Stages of implementation</b>	<ul style="list-style-type: none"> <li>- From 2025, FY 2024 results: Companies subject to Non-Financial Reporting Directive (NFRD), listed companies with &gt;500 employees</li> <li>- From 2026, FY 2025 results: Large companies not subject to NFRD</li> <li>- From 2027, FY 2026 results (opt-out until 2028): Listed SMEs</li> <li>- From 2029, FY 2028 results: Non-EU companies</li> </ul>	

Source: European Commission, [Corporate Sustainability Reporting](#)

The EU also put forward a proposal for banning the trade of products made with forced labor on the EU market, in September last year. The proposal prohibits making products available on the EU market and the export from the EU of “products made with forced labor, including forced child labor.” The prohibition covers both domestically produced and imported products. While some of the prohibition will be administered, as is common, by member states’ national agencies, a number of elements call for EU-wide administration. Since divergence in national laws risks creating distortions in the marketplace, enforcement must be uniform. Risks related to forced labor in companies’ value chains often have cross-border effects, affecting multiple EU countries.



## GLOBAL REGULATORY REGIMES

At the global level, disclosure requirements including supply chain due diligence are being developed by the ISSB, which is part of the IFRS Foundation alongside the International Accounting Standards Board (IASB). ISSB released [draft](#) General Requirements for Disclosure of Sustainability-related Financial Information and [draft](#) Climate-related Disclosures in March last year. The ISSB is expected to issue this first set of IFRS Sustainability Disclosure Standards around mid-2023.

The proposals were developed to be applied to financial statements with any jurisdiction's Generally Accepted Accounting Principles (GAAP), either based on IFRS Accounting Standards or any other generally accepted practices. For this reason, the draft standards do not specify where the disclosures must be made. The proposals aim to enable users to understand the processes by which sustainability-related risks and opportunities are identified, assessed and managed, as well as whether these processes are integrated into overall risk management processes. They will also allow users, such as investors, to evaluate an entity's risk profile. The sustainability-related risks include an entity's employment practices and those of its suppliers as well as events that could disrupt its supply chain.

Many of the new regulations have a number of common elements. These include:

- Public policy
- Accountability of top management
- Access to grievance or complaint mechanisms
- A risk-based due diligence approach that guides and allows to prioritize preventive and mitigating measures
- Transparent response to grievances or incidents
- Comprehensive and standardized reporting



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