

A photograph of a person wearing a bright red hooded jacket and blue jeans, standing in a lush green forest. The person is seen from the back, looking towards a dense stand of tall evergreen trees. The forest floor is covered in green moss and low-lying plants. The image is partially obscured by a dark grey diagonal overlay on the left and a red diagonal overlay at the bottom right.

A BDO LEGAL GUIDE

The impact of the Corporate
Sustainability Due Diligence
Directive (CSDDD) on large
companies and SMEs

A BDO Legal Guide to the impact of the Corporate Sustainability Due Diligence Directive (CSDDD) on large companies and SMEs

INTRODUCTION.

The European Parliament has agreed on their position regarding the proposed Corporate Sustainability Due Diligence Directive (CSDDD). **This marks a major step towards completion**, as the European Commission, the European Parliament (Parliament) and the European Council (Council) can now begin negotiations on the CSDDD’s final text.

Under the CSDDD, certain (large) companies will be required to reduce and address negative impacts in terms of human rights and on the environment within their chain of operations. In this factsheet – based on the Parliament’s position as of 1st June 2023 – we discuss the background and scope of the CSDDD. In doing so, we also address some changes from previous proposals and explain why SMEs may be indirectly affected by the CSDDD. **Finally, we look at how the CSDDD relates to the Corporate Sustainability Reporting Directive (CSRD).**

SCOPE OF THE CSDDD.

UNDER THE PARLIAMENT’S LATEST PROPOSAL, THE CSDDD APPLIES TO - PUT BRIEFLY - FOUR GROUPS OF COMPANIES:

	GROUP 1	GROUP 2	GROUP 3	GROUP 4
	LIMITED LIABILITY COMPANIES IN THE EU	PARENT COMPANIES IN THE EU WITH LIMITED RESPONSIBILITY	COMPANIES OUTSIDE THE EU	PARENT COMPANIES OUTSIDE THE EU
 GLOBAL NET SALES	€40 million	€150 million	€150 million <small>provided that €40 million of the net sales are generated within the EU.</small>	€150 million <small>provided that €40 million of the net sales are generated within the EU.</small>
 EMPLOYEES	>250	>500	N/A	>500

Previous CSDDD proposals had included for Group 1 that 50% of sales had to be achieved in a designated “high risk sector” (including agriculture, textiles, mineral products and resources). This requirement seems to have been extended in the Parliament’s position, thus bringing more companies under the scope of the CSDDD. The final text will still be negotiated by the Council, Parliament and Commission during the coming period.

Given the significant differences between the Parliament’s proposal and the positions of the Commission and the Council, an agreement is not expected to be reached before Q4 2023. Once it has been formally adopted, EU member states will have two years to transpose the CSDDD into national legislation.

IMPACT ON SMEs.

SMEs are not initially covered by the scope of the CSDDD. The expectation is that SMEs will inevitably be faced with the CSDDD indirectly if they supply (as a direct or indirect business relationship) to a company that does fall within the scope of the CSDDD.

OBLIGATIONS UNDER THE CSDDD.

Some key obligations in the CSDDD include:



Companies' obligation
of due diligence



The (mandatory) fight
against climate change.



**The CSDDD also has a sanction
option if the obligations set out in
the CSDDD are not met.**



Due diligence.

Companies must take appropriate measures to counter negative impacts on the environment and human rights. This applies to both a company's own activities and those of its subsidiaries, as well as to any activities overseeing direct and indirect business relationships in the value chain. **The extent and nature of this due diligence may vary and depends on the sector, operational context, and risk profile of the companies.** There is no requirement for companies to ensure in all circumstances that no negative impact ever occurs or is eliminated. It is about companies doing what is within their means.



Combating climate change.

Companies covered by the CSDDD must adopt and implement a transition plan to ensure that the company's business model and strategy are compatible with the transition to a sustainable economy and limiting global warming to 1.5°C. In addition, the transition plan must include clear obligations for the Board of Directors, or similar bodies, to ensure that environmental and climate risks are embedded within the company's strategy. In addition, for companies with more than 1,000 employees, the remuneration policy of the Board of Directors is linked to the targets in the transition plan.



● SANCTIONS IN CASE OF A BREACH.

Member states are required to appoint a supervisory authority to monitor compliance with the CSDDD. Among other things, this body will have the power to order companies to take corrective action and may eventually even impose a fine. Any fine will be based on the company's sales. Negotiations are still ongoing regarding the circumstances under which civil liability comes into effect under the CSDDD.

● RELATIONSHIP TO THE CORPORATE SUSTAINABILITY REPORTING DIRECTIVE.

Under the Corporate Sustainability Reporting Directive, certain companies, including private companies that qualify as large, are required to report on sustainability. Certain companies falling within the scope of the CSRD will also have to comply with the CSDDD. These two schemes are closely linked. The Parliament's position, for instance, requires companies to prepare a transition plan as mentioned above, in consultation with stakeholders and in line with the reporting requirements of the CSRD. For companies falling under the scope of both the CSRD and the CSDDD, it is important - once the final version of the CSDDD is in place - to identify the similarities and differences between the two regulations.

● FURTHER INFORMATION.

It remains to be seen what the outcome will be from the negotiations between the Parliament, Council and Commission. This outcome will lead to the final text of the CSDDD. For companies that may fall under the scope of the CSDDD, it will be important to continue monitoring developments over the coming period. If you have any questions about the CSDDD (or the CSRD), please get in contact or visit our [Sustainability page](#).

CONTACT.



MARINKA VAN FALIER

Senior Lawyer | Impact Manager ESG
BDO Legal Netherlands

+31 13 466 62 02
marinka.van.falier@bdo.nl



LEEN LEFEVERE

Senior Manager
BDO Legal Belgium


+32 473 71 24 25
leen.lefevere@bdo.be



DANIËLLE KRIST

Corporate Lawyer
BDO Legal Netherlands

+31 (0)6 4568 6390
danielle.krist@bdo.nl



Under the CSDDD, certain (large) companies will be required to reduce and address negative impacts in terms of human rights and on the environment within their chain of operations.

FOR MORE INFORMATION:

MARINKA VAN FALIER

SENIOR LAWYER | IMPACT MANAGER ESG
BDO LEGAL | NETHERLANDS

+31 13 466 62 02
marinka.van.falier@bdo.nl

LEEN LEFEVERE

SENIOR MANAGER
BDO LEGAL | BELGIUM

+32 473 71 24 25
leen.lefevere@bdo.be

DANIËLLE KRIST

CORPORATE LAWYER
BDO LEGAL | NETHERLANDS

+31 (0)6 4568 6390
danielle.krist@bdo.nl

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained herein without obtaining specific professional advice. Please contact the appropriate BDO Member Firm to discuss these matters in the context of your particular circumstances. Neither the BDO network, nor the BDO Member Firms or their partners, employees or agents accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.

The provision of professional services under the BDO brand is the sole preserve of each of the BDO Member Firms in their own country. For legal, regulatory or strategic reasons, not all BDO Member Firms provide legal services. Neither BDO LLP (UK) nor BDO USA LLP (USA) provide legal advice. Where BDO does not provide legal services, we work closely with "best friend" external law firms.

BDO is an international network of professional services firms, the BDO Member Firms, which operate under the name of BDO. Each BDO Member Firm is a member of BDO International Limited, a UK company limited by guarantee that is the governing entity of the international BDO network. Service provision within the BDO network is coordinated by Brussels Worldwide Services BVBA, a limited liability company incorporated in Belgium with its statutory seat in Zaventem.

Each of BDO International Limited, Brussels Worldwide Services BVBA and the member firms of the BDO network is a separate legal entity and has no liability for another such entity's acts or omissions. Nothing in the arrangements or rules of the BDO network shall constitute or imply an agency relationship or a partnership between BDO International Limited, Brussels Worldwide Services BVBA and/or the member firms of the BDO network.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

© BDO, July 2023.