



## **ESG REGULATION: WHAT COMPANIES NEED TO PREPARE FOR NOW**

In recent months, the EU Parliament has passed a large number of ESG-related (ESG: Environmental, Social and Governance) legislative proposals. Given the speed and variety of new laws, it is important for entrepreneurs and organisations to stay informed about the latest developments in ESG legislation. Below we provide an overview of the current ESG regulatory requirements in the package of measures relating to the Green Deal and explain what companies should consider in the near future.

A comprehensive overview of the **current ESG framework** can be found [here](#). Even though the proposed legislation depends on company size, turnover figures and other factors, a clear direction is foreseeable: the EU is to become more sustainable.

### **I. THE GREEN DEAL**

In the European Green Deal, the strategy presented in 2019 for a sustainable transformation of the economy and society, the EU has set itself the overarching goal of climate neutrality by 2050. Extensive investment is required to achieve the objectives of the Green Deal. As part of this, various models have been implemented to ensure that investments are made precisely where the EU has identified the greatest benefit in terms of the relevant objectives.

The transition to a more sustainable economy requires a clear understanding of what sustainability means in corporate management and external communication and how it can be measured and reported.

### **II. CSRD: WHO IS AFFECTED BY THE SUSTAINABILITY INFORMATION OBLIGATION?**

There have been significant changes in both the scope and methods of sustainability reporting. Directive (EU) 2022/2464 on corporate sustainability reporting (Corporate Sustainability Reporting Directive, CSRD) came into force on 5 January 2023. As the successor to the Non-Financial Reporting Directive (NFRD), the CSRD requires large companies and listed small and medium-sized companies in the EU to report in detail on their environmental and social impact. A key component of the CSRD is the introduction of the double materiality analysis, which requires companies to consider their material impact on the environment and society, as well as the financial impact of the environment and society on the company. The CSRD is being introduced gradually. The first companies will have to apply the new rules for the first time in the 2024 financial year for reports to be published in 2025.

### **III. ESRS: HOW SHOULD SUSTAINABILITY PERFORMANCE BE REPORTED?**

The CSRD calls for transparent and comparable sustainability reporting by prescribing the type and content of reports through the use of uniform European reporting standards, the ESRS (European Sustainability Reporting Standards). The aim is to improve the quality of the reports and increase the comparability of sustainability reporting in the EU. The standards were published on 22 December 2023 and are to be applied as part of the CSRD.



#### **IV. TAXONOMY REGULATION: WHICH INVESTMENTS ARE SUSTAINABLE?**

In order to achieve the EU's climate and energy targets, future investments must be directed towards sustainable economic activities. The EU taxonomy is a classification system that defines which economic activities can be considered "sustainable". The regulation, which came into force on 1 January 2022, currently includes six environmental protection goals, such as climate change adaptation and the transition to a circular economy. According to the regulation, an economic activity is to be classified as sustainable if it makes a substantial contribution to the achievement of one or more environmental objectives and does not violate any of the other objectives, while complying with minimum social standards (human rights, working conditions, etc.).

The EU Taxonomy Regulation is closely linked to the CSRD, as companies reporting under the CSRD must also explain how and to what extent their activities comply with the EU Taxonomy.

#### **V. THE RENATURATION ACT: WHAT MEASURES ARE PLANNED?**

On 17 June 2024, the Regulation on the Restoration of Nature (2022/0195 (COD) ("The Renaturation Act") was adopted. The regulation requires EU member states to restore at least 30% of the ecosystems to which the new regulations apply (terrestrial, coastal, freshwater and marine ecosystems) from poor to good condition by 2030. This will be followed by a gradual increase: 60% by 2040 and 90% by 2050. Exceptional provisions concerning deterioration outside Natura 2000 sites include: force majeure, including natural disasters; unavoidable habitat changes directly caused by climate change or when no less damaging alternative solutions are available for a project of public interest. The regulation also regulates the restoration of marine, urban and agricultural ecosystems. In urban areas, for example, no green spaces should be lost and their proportion should increase by 2050. At the same time, the number of trees in cities is to be increased.

Drained moors are to be rewetted and rivers are to flow freely again by removing physical barriers. Forests should grow more naturally again and deadwood, for example, should no longer be removed.

The planned measures are intended to contribute to the protection and conservation of biodiversity, have a positive impact on climate protection and increase the resilience of ecosystems to natural disasters. Financially attractive financing programs should encourage voluntary participation in implementation measures.

#### **VI. EU SUPPLY CHAIN ACT: WHO IS INCLUDED IN THE SCOPE OF APPLICATION?**

The EU Supply Chain Directive (Corporate Sustainability Due Diligence Directive, CSDDD) was discussed for several years. The CSDDD was formally adopted on 24 May 2024. The new directive stipulates that companies must identify and, where necessary, prevent, end or mitigate the negative impacts of their activities on human rights and the environment, such as child labour, pollution or biodiversity loss.

The scope of application includes EU and non-EU companies with more than 1,000 employees and a turnover of more than 450 million euros. Companies must implement a transition plan to achieve the goals of the Paris Agreement (limiting global warming to 1.5° degrees). The CSDDD aims to harmonize the efforts of EU member states by creating uniform requirements for the due diligence obligations of companies with regard to human rights and the environment. Different transition periods apply depending on the size of the company: In 2027 (3 years after entry into force), the directive must be applied to companies with more than 5,000 employees and a turnover of 1.5 billion euros. By 2029, the threshold will be reduced to 1,000 employees and 450 million euros in turnover.

Small and medium-sized enterprises do not fall within the scope of the directive. However, they may be indirectly affected as suppliers or service providers.



## VII. GREENWASHING: HOW IS COMMUNICATION REGULATED?

The Anti-Greenwashing Directive (EU) No. 2024/825 on empowering consumers for the green transition (“Empowering Directive”) came into force on 26 March 2024 and must be implemented into the national law of the EU member states by 27 March 2026. One of the aims of the directive is to combat misleading environmental claims (so-called “greenwashing”) by establishing strict criteria for the use of environmental claims. General environmental claims such as “environmentally friendly”, “ecological” or “energy efficient” must be proven by a recognized outstanding environmental performance. The use of sustainability seals will also be more strictly regulated and advertising with the compensation of CO2 emissions (e.g. “CO2-neutral”) will be prohibited.

The directive is intended to strengthen consumer confidence and ensure fair competition. It is a building block of the EU towards stricter regulations on environmental advertising. A further directive on environmental claims (2023/0085 (COD), Green Claims Directive) is currently in the EU legislative process.

## VIII. WHAT ARE THE CHALLENGES AND OPPORTUNITIES FOR COMPANIES?

ESG regulatory compliance requires companies to plan ahead, invest in resources and continuously adapt to changing regulations and expectations. Measures to achieve the objectives of the Green Deal are expected to come into force on an ongoing basis. Worth mentioning are the Regulation on ecodesign requirements for sustainable products (“**Ecodesign Regulation**”), the Directive on the promotion of the repair of goods (“**Right to Repair Directive**”) and the **Directive on industrial emissions** (integrated pollution prevention and control) (“**Industrial Emissions Directive**”), which have been adopted at EU level in recent months.

However, in addition to the effort involved, ESG regulation also offers companies opportunities that go far beyond mere compliance. Companies that integrate ESG approaches early and comprehensively can position themselves as pioneers and set themselves apart from the competition. Investors are placing increasing value on sustainable investments. Companies with solid ESG performance have more secure access to capital and can obtain more attractive conditions. Sustainable measures can also increase operational efficiency and reduce operating costs in the long term. Transparent and authentic ESG practices strengthen the trust of employees and customers, promote brand loyalty and increase attractiveness as an employer.

The aim of ESG regulation is to make Europe more sustainable overall. Sustainability is to be integrated both strategically and operationally into the business practices of companies and sustainability management is to be continuously improved.



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