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Corporate Sustainability Due Diligence - provisional agreement

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On 14 December 2023, the Council of the EU and the European Parliament reached a provisional agreement on the Corporate Sustainability Due Diligence Directive (“CSDDD”). The CSDDD will introduce mandatory due diligence obligations on both EU and non-EU companies and will also establish the basis for those companies to incur liability for violating those obligations. The provisional agreement has resulted in a more limited scope of the CSDDD but stronger provisions on civil liability and sanctions. This alert presents the key elements of the provisional agreement, to the extent known based on the Council of the EU’s [press release](#), compared to the Commission’s [proposal](#).

	Commission’s proposal	Provisional agreement
Covered entities	<p><u>EU companies:</u></p> <ul style="list-style-type: none"> with 500+ employees and net worldwide turnover of EUR 150 mln with more than 250 employees and net worldwide turnover of EUR 40 mln if more than 50% of that turnover was generated in high-impact sectors <p><u>Non-EU companies</u></p> <ul style="list-style-type: none"> with net EU turnover of EUR 150 mln with net EU turnover of EUR 40 mln if more than 50% of that turnover (EUR 20 mln) was generated in high-impact sectors 	<p><u>EU companies:</u></p> <ul style="list-style-type: none"> with 500+ employees and net worldwide turnover of EUR 150 ml <p><u>Non-EU companies</u></p> <ul style="list-style-type: none"> with net EU turnover of EUR 300 mln three-year delay in application the Commission will publish a list of non-EU companies falling under the CSDDD
	Applies to regulated financial undertakings	Does not apply to the financial sector , which however may be added later under a review clause
Scope of the obligations	Applies to the related activities of upstream and downstream “established business relationships”	Applies to upstream and partially to downstream business partners in the covered entities’ “business chain of activities” (e.g. distribution and recycling)
Main obligations	Identification, prevention, mitigation and accounting of actual and potential adverse impacts resulting from violations of international human rights and environmental agreements	Adds a more detailed list in Annex I of specific rights and prohibitions which constitute adverse impacts when violated
Civil liability	Member States must establish civil liability for failure to comply with the due diligence obligations when this results in adverse impacts leading to damage	Establishes a limitation period of five years for those concerned by adverse impacts to bring claims
Penalties	Where fines are imposed by a Member State, they shall be based on the company’s turnover	Where fines are imposed by a Member State, they shall be based on the company’s net turnover (e.g., minimum/maximum 5% of the company’s net turnover). Where imposed fines are not paid, injunction measures apply

For further information, please see our previous client alerts on the [proposal](#) and the [key issues discussed during the trilogue negotiations](#).

Lawyers to contact



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