



**INVESTOR ALLIANCE
FOR HUMAN RIGHTS**
AN INITIATIVE OF ICCR



**World
Benchmarking
Alliance**

Mandating Due Diligence in the EU and Beyond: Where are we now, how did we get here, and where do we go?

May 2, 2024
10am – 11am EST

Panelists:



**INVESTOR ALLIANCE
FOR HUMAN RIGHTS**
AN INITIATIVE OF ICCR



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***Mandating Due Diligence in the EU and Beyond:
Where are we now, how did we get here, and
where do we go?***

May 2, 2024 – 10am ET/3pm UK/4pm CET

***Investor Alliance for Human Rights
ICCR's Equitable Global Supply Chain Program,
World Benchmarking Alliance***

2 May 2024

Part 1 – Intro



CSDDD – 5 years in the making

October/November 2019

6 Parliamentary Committees question
7 incoming Commissioners about an EU
due diligence law



October 2020

EC begins public consultation this initiative
(closed in February 2021 - [link to EC page](#))

9 European
Parliamentary
Committees
debated CSDDD

Tabling 3000+
amendments

500,000+
responses to
the
consultation

Final votes - First voting session

Subject	AM	Voting	+	-	o
Wolters (A9-0018/2021) Corporate due diligence resolution (as a whole)			695	504	79 112

March 2021

MEPs vote on Report on
"Corporate Due Diligence
& Corporate Accountability"

April 2020

Commissioner Reynders publicly commits to
introduced a "Sustainable Corporate Governance
Initiative" that will cover mHREDD ([link](#))

February 2022

European Commission published
legislative proposal ([Full details here](#))



Inside the final months of "The Deal"

December 2023



7am Twitter pic says we have a deal...



.... But looks can be deceiving

- Revolt from German liberals
- Italian govt gets cold feet
- Many blame Spanish Presidency for being too hasty

Jan / Feb 2024

Descent

Feb / March



MEPs & EC decide its now to never & adopt a "delete until they agree" approach

Redemption

15 March



Council finally agrees a deal

19 March



MEPs quickly start to ratify this deal



Council expected to give final sign off on 24 May

Summary of the final CSDDD deal

The key outcomes of the final deal can be summarised as:



- ✓ All sectors in scope
- ✓ Mandates both upstream & downstream due diligence
- ✓ Expands HRDD to HR-E-DD
- ✓ Mandates stakeholder engagement as a key part of due diligence
- ✓ Mandates grievance mechanisms
- ✓ Mandates remediation measures
- ✓ Mandates obligation to have a Paris aligned climate plan
- ✓ Sanctions of up to 5% global revenue for breaches
- ✓ Liability for breaches of Due Diligence that lead to harm

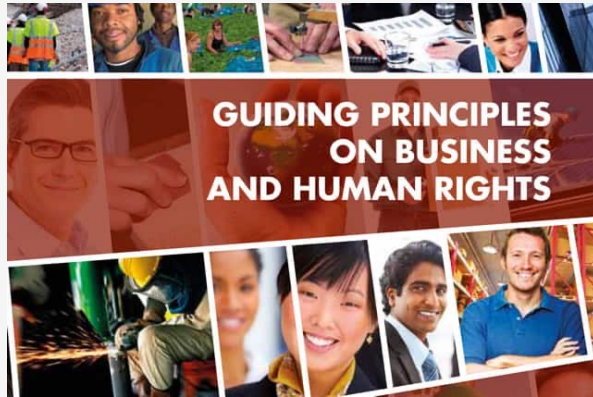


- × Reduction of final scope to companies with 1000 employees & 450m turnover
- × Long phase in period for law to be implemented
- × Financial sector only in scope for upstream due diligence & climate plans
- × No reporting obligations (all linked to CSRD)
- × No explicit inclusion of public procurement



- ⚡ Deletion of directors' variable remuneration linked to sustainable performance
- ⚡ Removal of directors' duties and responsibilities to implement DD processes
- ⚡ No explicit climate due diligence

How does CSDD expand on the UNGPs?



CSDDD realises the UNGP commitment that

“States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.”



- Aligning with UNGPs
- Mandating due diligence
 - Defining human rights abuses
 - Mandating stakeholder engagement, remediation, grievance mechanisms

- Beyond UNGPs
- Aligns with the OECD steps for due diligence
 - Goes beyond HRDD to HR-E-DD
 - Defines upstream & downstream due diligence
 - Attempts to determine liability for abuse caused by non-adherence to the directive
 - Attempts to streamline Transition Planning & linking it to due diligence

Reminder - Timeline for application

2027

Largest Companies
*5000 employees on average
and generated a net
worldwide turnover of more
than EUR 1500 million*

Both EU & non-EU

2028

Second wave
*3000 employees on
average and generated
a net worldwide
turnover of more than
EUR 900 million*

2029

Final wave
*1000 employees on
average and had a net
worldwide turnover of
more than EUR 450
million*

Spotlight: Financial sector and the regulatory landscape

Hazell Ransome, Policy Specialist



PRi investor
briefing on CSDDD

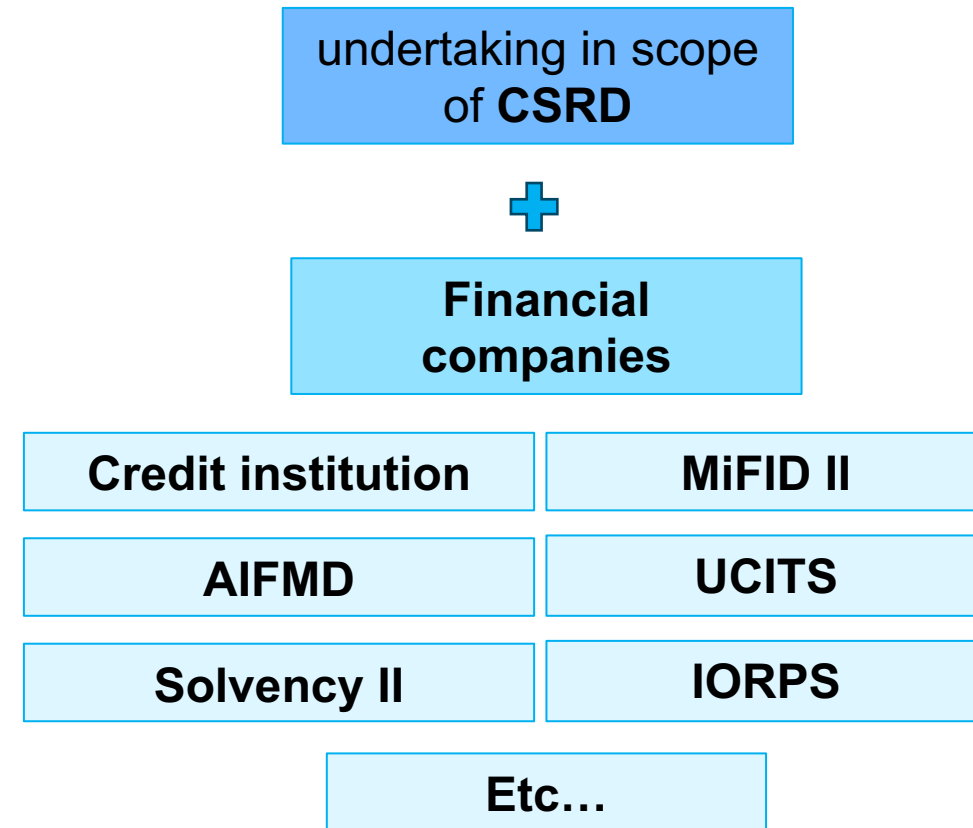


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Financial companies covered in CSDDD

	Very large companies
EU companies	>1000 employees on average and net worldwide turnover >€450m in last financial year
Non-EU companies	Net turnover >€450m in the Union in the financial year preceding the last financial year

+ Parent companies & franchises



Due diligence requirements for financial companies [1/2]



The definition of chain of activities excludes the provision of services downstream. Therefore,

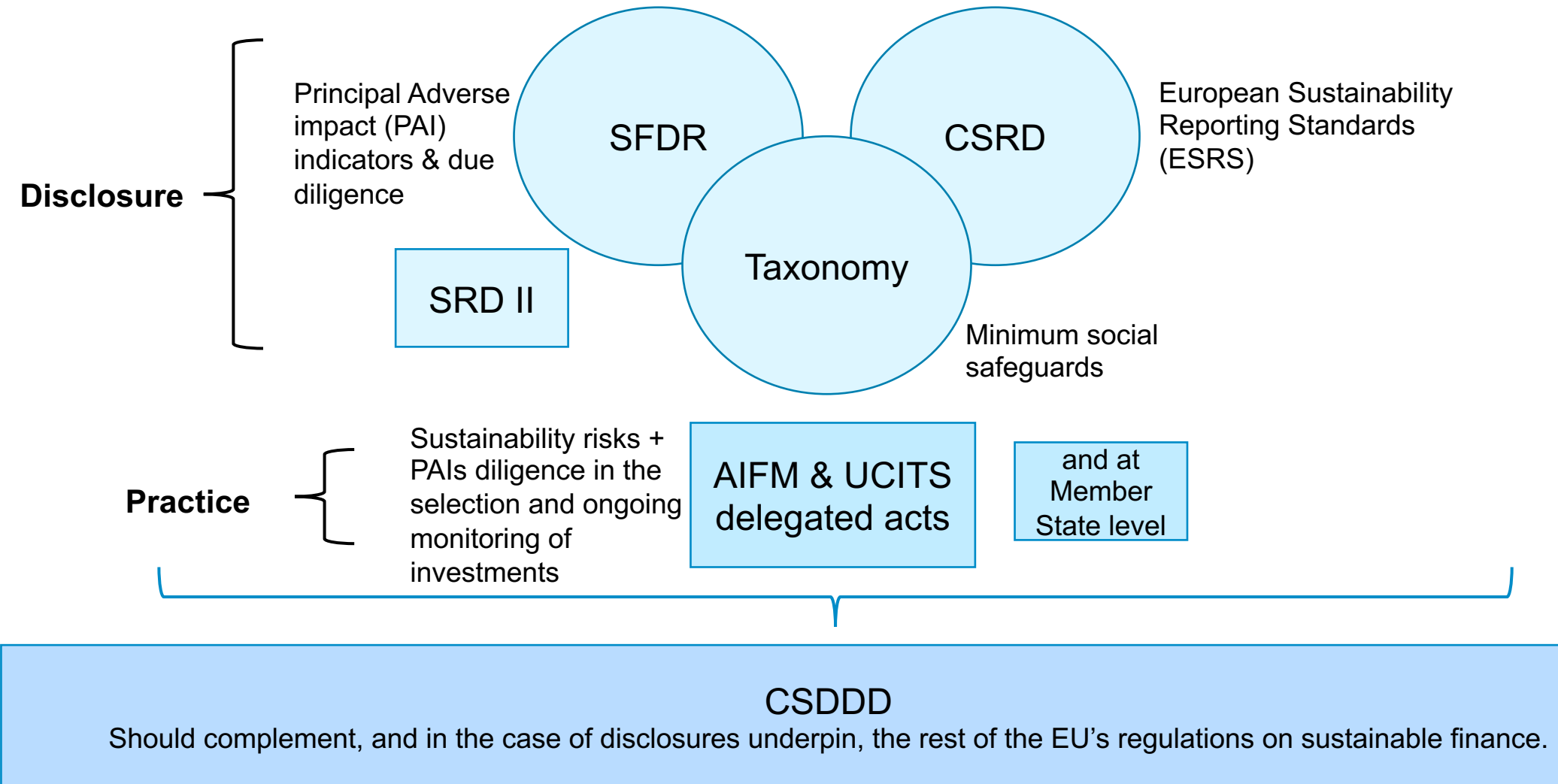
- **Financial undertakings are required to carry out due diligence on their own operations and those of their subsidiaries.**
- **Regarding the financial services or products they develop or provide, they must only conduct due diligence on actual or potential impacts from their upstream business partners.**
- **No due diligence duties exist in relation to their customers.**

This approach will be reviewed in a report published approximately no later than September 2026. It will be accompanied, if appropriate, by a legislative proposal.

Due diligence requirements for financial companies [2/2]

- **Risk based approach.**
 - Prioritisation based on severity and likelihood.
 - Can be informed by country, sector and company level risk assessment. See [PRI's practical guide to identification](#) in HRDD
- **Termination of business relationships (divestment) as a last resort and based on risk assessment.**
- **Non-duplicative requirements.**
- **Collaboration allowed.**
- **Guidance.**

Due diligence in the broader EU sustainable finance framework



Lessons learned from the German supply chain law



Regulation has a higher impact than voluntary measures

- ▶ Changes in HRDD processes within companies
 - ▶ Risk management
 - ▶ Increased focus also on indirect and high risk suppliers
 - ▶ Higher quality of data (reporting)

Soft law > hard law = CSR > Compliance

- ▶ Insecurity with legal terms / concepts
- ▶ Compliance dominance
 - ▶ Higher weight within the company
 - ▶ Lawyers tend to simply shift risks
 - ▶ Input of resources in compliance rather than CSR

„Risk shifting“

- ▶ Risks simply passed on to direct suppliers
 - ▶ LkSG has a focus on direct suppliers
 - ▶ Standardized screening of suppliers
 - ▶ Fueled the narrative of overload of SME

Guidelines and handouts missing at the beginning

- ▶ Controlling authority / department was built up
- ▶ Different pathways accepted by BAFA

Some challenges remain

- ▶ Company level
 - ▶ Taking effective mitigation and preventive measures
 - ▶ implementing due diligence obligations for indirect suppliers
 - ▶ Engaging rightsholders
- ▶ Upholding the LkSG
 - ▶ Strong forces to weaken the German legislation
 - ▶ Focus should be on strengthening European legislation
 - ▶ Due diligence fosters resilience

Part 2 – Preliminary analysis



What companies will be in the scope of CSDDD?

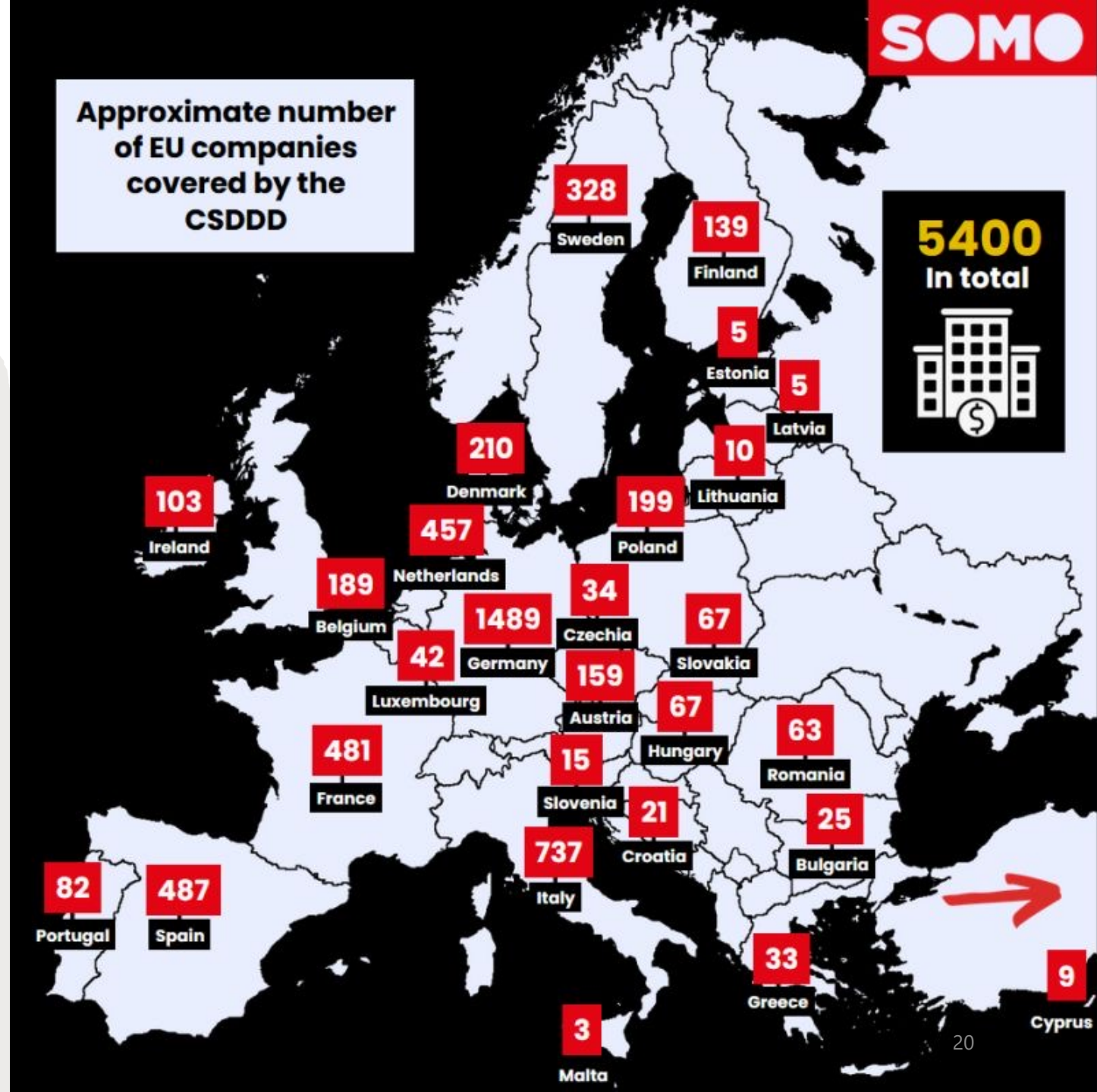
Commission proposal

- Companies with 500+ employees and EUR 150 million+ in net turnover worldwide
 - Other companies operating in defined high impact sectors, with more than 250 employees and a net turnover of EUR 40 million worldwide and more
- ✓ **Estimated inclusion of 13K EU companies & 4K non-EU companies**

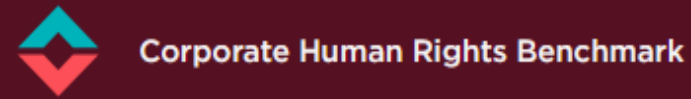


Final CSDDD agreement

- Companies with 1000 employees & 450m turnover
- No additional high risk sectors inclusions
- **Current estimated inclusion of approx. 5400 companies**



CSDDD will positively impact meaningful stakeholder engagement

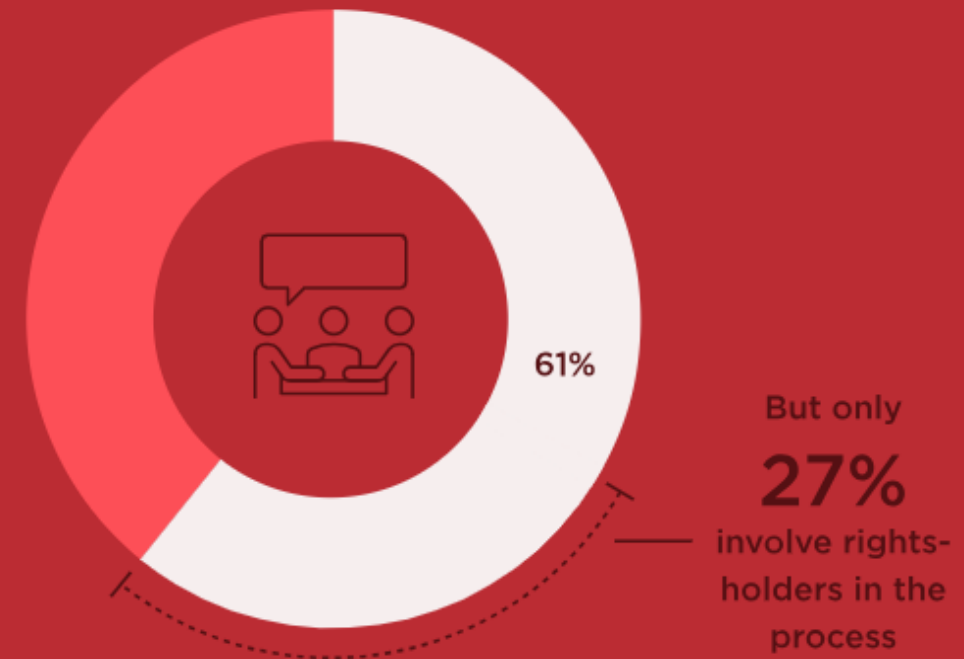


KEY FINDING

Most companies fail to include rightsholders in their human rights due diligence processes

While 61% of companies have a part of a human rights due diligence process in place, only 27% engage with rightsholders during this process. This raises concerns about their effectiveness, as engaging with rightsholders empowers them, fosters trust and enhances a company's capacity to effectively address human rights challenges.

61% of companies disclose taking some HRDD steps



CSDDD will force companies to re-design their grievance mechanisms



Corporate Human Rights Benchmark

KEY FINDING

Access to grievance mechanisms without trust and ownership hinders just remedies

While most companies provide access to grievance mechanisms, they are failing to ensure the meaningful participation of rightsholders needed to provide fair remedies. Only 5% demonstrate building rightsholder trust through providing predictability and transparency, and 10% ensure rightsholder ownership by involving users in the mechanism's design.

Access to grievance mechanisms without trust and ownership hinders just remedies



But only 10% ensure rightsholder ownership by involving them in its design

And only 5% ensure rightsholder trust by providing predictability and transparency

CSDDD will change the current level of supplier engagement



Corporate Human Rights Benchmark

KEY FINDING

Suppliers are expected to respect human rights and promote gender equality but are set up to fail by buying companies

In the apparel sector, most companies set high standards for their suppliers regarding human rights and gender equality. However, only 27% of apparel companies enable their suppliers to meet their human rights and gender equality expectations through practicing responsible purchasing.

There is a mismatch between companies' expectations of suppliers and their purchasing practices





Investor HREDD Precision Tools

What investors need to assess
human rights and environmental due diligence



INVESTOR HREDD PRECISION TOOLS

[HOME](#)[TOOLS](#)[ENGAGE WITH US](#)[HREDD CORPORATE
ENGAGEMENT SCRIPT](#)[RESPONSIBLE
CONTRACTING](#)[CERTIFICATION RED
FLAGS](#)[STAKEHOLDER
ENGAGEMENT GUIDE](#)[REMEDY GUIDE](#)

Supporting Investors to Uphold Human Rights

What investors need to assess human rights and environmental due diligence

This set of tools will equip investors to evaluate the quality of portfolio companies' human rights and environmental due diligence (HREDD), which is essential to grasping their true risk exposure. The Investor HREDD Precision Tools are designed to support investors in their corporate engagement to discern the quality of HREDD. Each tool addresses a pain point in human rights and environmental due diligence.

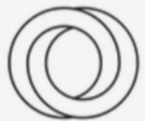




Responsible Contracting



INTERFAITH
CENTER ON
CORPORATE
RESPONSIBILITY



Responsible
Contracting
Project

Developed by Responsible Contracting Project and the Interfaith Center on Corporate Responsibility (ICCR), the Investor Guidance on Responsible Contracting equips investors to engage their portfolio companies on how they integrate human rights and environmental due diligence (HREDD) into their commercial contracts. The Guidance provides an overview of key concepts to explain the critical role that due diligence-aligned contracts play in promoting better HREDD, better HRE outcomes, and better legal compliance. It includes the following tools for carrying out company engagement:

INVESTOR
GUIDANCE ON
RESPONSIBLE
CONTRACTING

Template Shareholder
Proposal on Responsible
Contracting

Template
Corporate
Engagement
Letter

Questions to Pose
to Companies to
Assess Integration
of Responsible
Contracting



Certifications Red Flags



Tailor-made for investors and developed with investor input, Certifications Red Flags provides warning signs that a certification may not be a reliable indicator of corporate performance, as well as positive signals that investors can look for in certifications that they are capable of reducing social risks in supply chains. It is designed to facilitate investors' engagement with companies.

Alignment with
International
Standards

SELECT

Scope

SELECT

Audits

SELECT

Grievance
Mechanisms

SELECT

Governance &
Accountability

SELECT



What's Next

Jan '22 - Dec '23	Responsible Contracting and Certification Red Flags first drafts
Jan '23 - April '23	Developed concept for Investor HREDD Precision Tools
Oct '23	ICCR Fall Conference: workshopping Responsible Contracting and Certification Red Flags drafts
Dec '23 - Feb '24	Certification Red Flags beta-testing sessions with investors Review of Certification Red Flags
Apr '24	Responsible Contracting Published Expert review of Certification Red Flags and feedback integration
May '24	Launch the Investor HREDD Precision Tools website with Responsible Contracting and Certifications Red Flags tools
June '24 - Dec '24	Certifications Red Flags beta-testing session in Brazil Interactive learning sessions with investors Commence drafting the Stakeholder Engagement and Remedy Guides

Investor Guidance on Responsible Contracting



Investor Guidance on Responsible Contracting

- Why and what of responsible contracting
- Investor Tools
 - Questions to pose to companies
 - Template Engagement Letter and Shareholder Proposal
 - Answers to Frequent Pushbacks (FBPs) from companies

Why Should Investors Care?

- UNGP-alignment and corporate adherence to regulations like CS3D, LkSG, Tariff Act, UFLPA
- Along with other responsible purchasing practices, responsible contracting promotes prudent, risk-sensitive corporate governance

Why Should Investors Care?

- Improves reputational standing and corporate performance on benchmarks
- Promotes stable supply chains (decreased turnover, increased resilience, healthier workforce)
- Institutional investor commitment to HREDD in their own investment portfolios (see OECD report on [Responsible Business Conduct for Institutional Investors](#))



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Q&A

Investor Alliance for Human Rights

A collective action platform connecting institutional investors with tools and strategies to promote corporate respect for human rights.

Join Us

Sign up to become a member: <https://bit.ly/2IOYDA9>

For more information, contact: [Rebecca DeWinter-Schmitt](#)