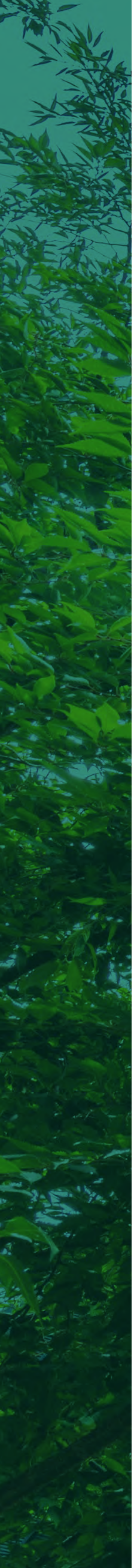
True Diligence

Preparing for a new era of
corporate responsibility



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Foreword

In the face of escalating societal demands, intensified stakeholder scrutiny and expanding global regulatory requirements, the pressure is on businesses to assume their collective responsibility towards both people and the planet. Reputation stands as an ever more vital asset, driving tangible value. Organisations must ask themselves the fundamental questions: “How do we want to contribute to the world we live in, and how will we demonstrate that through our actions?”

These questions pose complex challenges for leaders, who must now bring ethics and integrity to the forefront of business strategy alongside existing legal obligations. Defining a business’s ethos and addressing real and potential risks is a formidable task, especially when expectations are constantly shifting. It demands unwavering transparency and integrity, encompassing thorough due diligence to assess environmental and human rights impacts across the entire value chain.

In 2022, the UN General Assembly recognised access to a clean, healthy, and sustainable environment as a fundamental human right, acknowledging the undeniable link between human rights and environmental sustainability. However, as the 2030 deadline for achieving the UN Sustainable Development Goals (SDGs) looms, many organisations are still taking a siloed approach to addressing these issues.

We only have to look at SDG 1 – which aims to eradicate poverty in all its forms – to see the intricate relationship between human rights and environmental sustainability. Human activity remains a primary contributor to environmental harm, and we as people bear the brunt of its consequences, with our most vulnerable communities disproportionately impacted. Communities, particularly in the global south, often depend on natural resource assets and ecosystem services for their livelihoods and survival, and this can result in deforestation, soil degradation, and other forms of environmental damage. By improving individual protection and community well-being, we can break this cycle, fostering a more sustainable relationship between people and the planet.

To unlock real change, we must embrace a holistic approach to due diligence. By pinpointing and addressing the areas of greatest risk to people and the planet within their value chain, leaders can cement the credibility of their commitment to ‘doing the right thing’. Not only does this align with ethical imperatives, but it’s also good business. Engaging in responsible business practices is essential for meeting the expectations of stakeholders, capitalising on emerging opportunities and mitigating material risks.

Consistent regulatory guidance is imperative to steer businesses toward achieving this comprehensive approach. The proposed EU Corporate Sustainability Due Diligence Directive (CS3D) will be the first regional piece of regulation to bring together human rights, climate and environmental obligations. The Directive will go beyond assessment and reporting to mandate action, with large corporations required to mitigate adverse impacts across their value chain (including ‘chain of activities’).

This might seem daunting but, at least conceptually, it’s nothing new. Many organisations have already committed to initiatives such as the UN Guiding Principles on Business and Human Rights, the 10 Principles of the UN Global Compact, the UN Sustainable Development Goals and the OECD Guidance for Responsible Business Conduct. Regulation such as the CS3D and the Corporate Sustainability Reporting Directive (CSRD) codify these commitments into law.

“To unlock real change, we must embrace a holistic approach to due diligence. By pinpointing and addressing the areas of greatest risk to people and the planet within their value chain, leaders can cement the credibility of their commitment to ‘doing the right thing’.”

The UN coined this decade as the ‘decade of action’ for accelerating sustainable solutions to the world’s biggest challenges. If we’re going to make this a reality, a piecemeal approach simply won’t work. Unified mandatory regulation paves the way forward: six in 10 C-suite leaders say their business needs clear regulation to drive immediate action when it comes to addressing its impact on climate change, the environment and human rights. Only once they have this will organisations be in a position to truly define what they stand for and drive true diligence.

Tracey Groves

Head of Sustainable Business
& ESG Advisory Practice, DWF

About this report

***True Diligence* is based on opinion research amongst 1,200 C-suite leaders from companies with a minimum global turnover of €150 million that are based in France, Germany, Italy, Poland, Spain, or the UK.**

Job roles included: Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief People/Human Resources Officer, Chief Sustainability Officer, Chief Ethics/Compliance Officer, Chief Risk Officer and General Counsel.

The research focused on the following sectors: consumer and retail; energy; insurance; private equity; real estate; and transport and logistics.

Executive summary

True Diligence, a new study from DWF, sheds light on the critical role of regulation in empowering organisations to address their adverse impacts on both people and the planet.

Mind the integrity gap

When it comes to measuring an organisation's environmental and human rights impacts, there is a gap between what businesses commit to do and what they *actually* do. The lack of clear, consistent standards is a major contributor to this, meaning that regulation has a central role to play in closing the gap.

72%

72% of C-suite leaders say the environment is embedded in their organisation's core strategy.

68%

68% say human rights are embedded in their core strategy.

62%

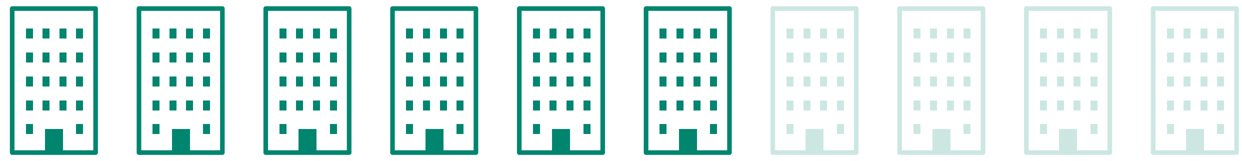
Only **62%** of organisations within our sample currently measure greenhouse gas emissions (GHG) as part of their due diligence processes.

36%

Moreover, only **36%** have sought to identify fair wages across their value chain.

14%

14% have sought to identify modern slavery.



Six in 10 C-suite leaders say their business needs clear regulation to drive immediate action when it comes to addressing its impact on climate change, the environment and human rights.*

*This data point is based on the responses of 50 C-suite leaders from the original sample (with a minimum global turnover of €450 million) that were recontacted following the latest iteration of the CS3D in March 2024.

Chain (re)action

'True diligence' requires businesses to assess environmental and human rights impacts across their entire supply chain. Collaboration and communication between companies, their subsidiaries and supply chain partners will be essential for implementing robust transparency measures and driving the urgent transformation required.

Only half of **C-suite leaders** (**51%**) say their organisation currently **measures the negative human rights impacts** of its business operations, and **32%** say it **measures the impacts of its immediate suppliers.**

C-suite leaders predict that **at least half** of their supply chain **will not be CS3D compliant** in the next two years.

57% of C-Suite leaders predict that **most businesses will not be CS3D compliant** by 2030.

The realities of regulation

Businesses face a tsunami of incoming sustainability-related regulation to comply with. Identifying priorities and planning ahead will be increasingly important for economic success, safeguarding organisations and driving transformation to ensure a future-proofed value chain. Bridging knowledge gaps among the C-suite regarding the rationale behind regulations and the benefits of compliance is crucial to drive meaningful change.

Two-thirds of CEOs (**65%**) say their organisation's leadership team is too busy handling immediate business priorities or economic pressures to put a plan in place to measure the human rights impacts across its value chain.

Vs. the cost of non-compliance: Failure to comply with CS3D could result in a maximum average penalty of nearly **€216 million** per company for the organisations in our research.

The cost of compliance: On average, leaders estimate that a total of **€3.8 million** would be required to achieve a fully compliant value chain in the next two years.

Just **27%** of C-suite leaders say their organisation understands the application of CS3D to their business.

The road ahead

Businesses are ready to embrace greater accountability and participate in transformative collaboration on preventing and addressing adverse harm. However, they are calling for clear and consistent regulation to help them define boundaries and meet expectations.

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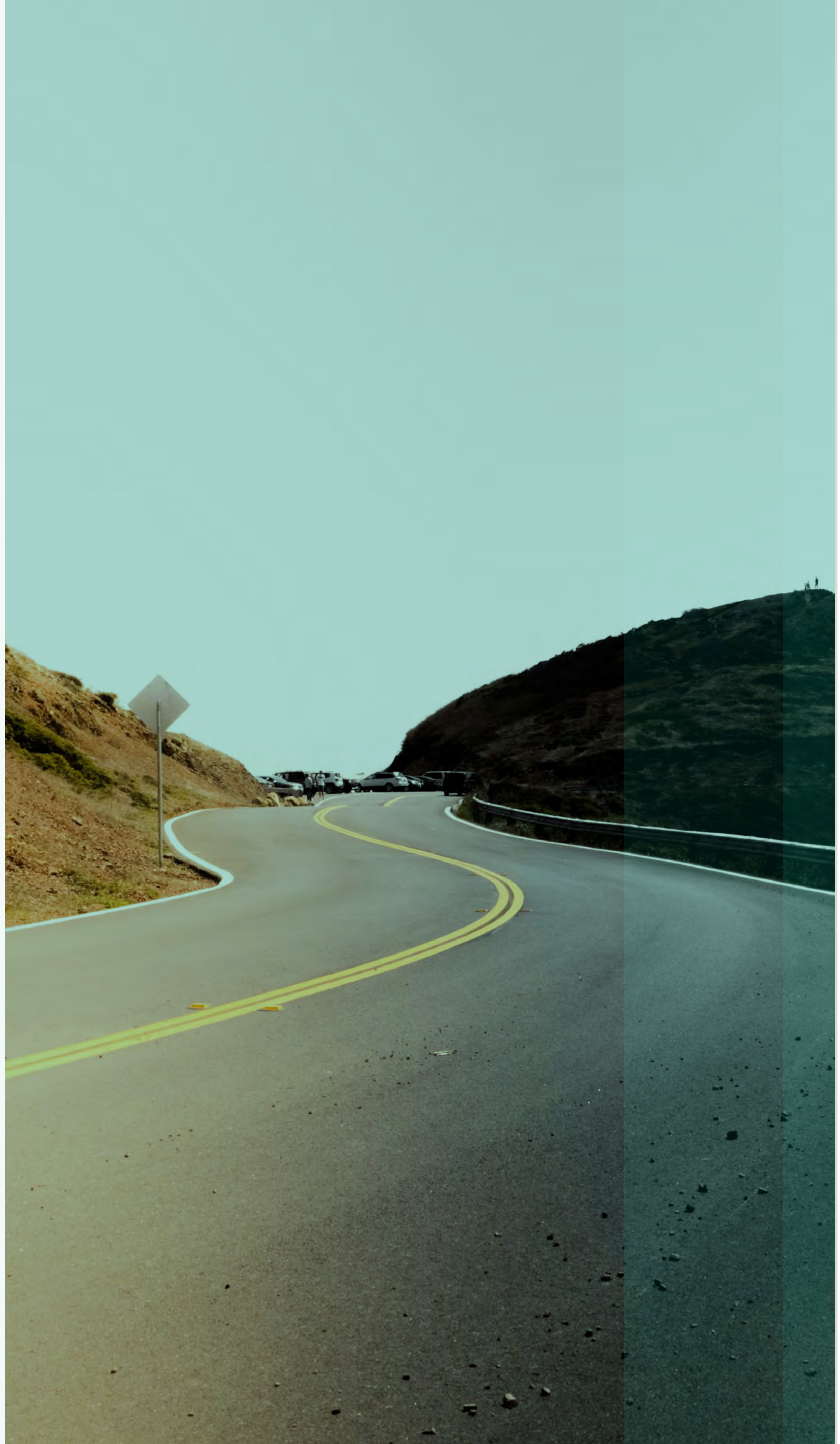
Two-thirds of leaders (**65%**) identify a lack of globally consistent measurement and reporting standards as a significant barrier to their organisation measuring its human rights impacts.

62%

62% of C-suite leaders believe the CS3D is the biggest incentive for organisations to assess the human rights impacts of business.

72%

72% believe that the CS3D will spark similar pieces of legislation to be enacted across the globe.



Section 1: Mind the integrity gap

Organisations are under increasing pressure to prioritise multiple, often competing, elements of sustainable business simultaneously.

And they must do this whilst navigating an increasingly complex legal landscape, with multiple types of regulation and soft legal requirements with similar but differing requirements across the different jurisdictions. This uncertainty is creating a gap between what businesses say they are doing – and, indeed, what they *want* to be doing – and the action they're taking. Regulatory clarity, through measures such as the CS3D and CSRD, is needed to close this gap.

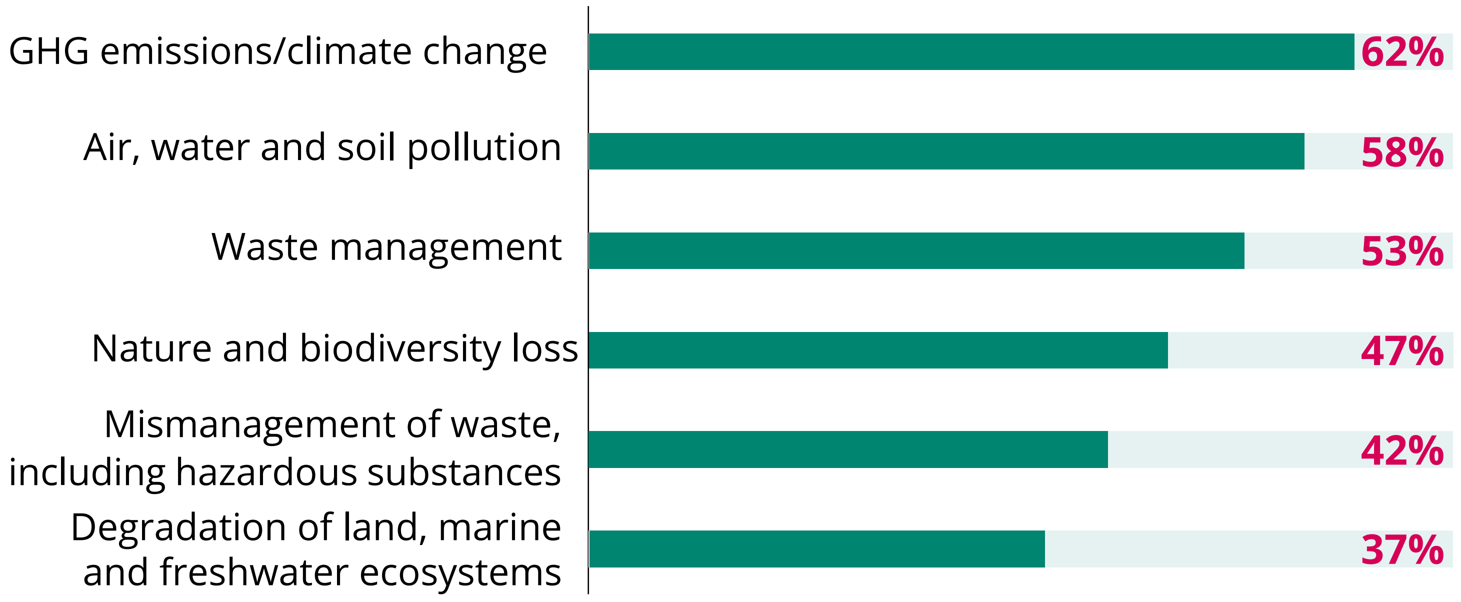
Actions shout, words whisper

Over 21,000 companies and SMEs worldwide are members of the United Nations Global Compact and have committed to implementing their 10 principles centred on environmental sustainability and respect for human rights.

While an increasing number of businesses are integrating environmental and human rights policies into their business model and strategies, many are unable or struggling to implement them consistently. Almost three-quarters of C-suite leaders (72%) say the environment is embedded in their organisation's core strategy, and 68% say human rights are embedded in their organisation's core strategy. However, in practice, both areas need further attention and a greater focus on strategic implementation is required.

When it comes to the adverse environmental impacts of their value chain, only 62% of organisations within our sample currently measure GHG emissions as part of their due diligence processes, and less than half (47%) measure nature and biodiversity loss.

What are organisations currently measuring when it comes to their negative environmental impacts across their value chain?



Since the adoption of the UN Guiding Principles on Business and Human Rights in 2011, there has been worldwide acknowledgement that businesses, regardless of size or structure, bear responsibility for upholding human rights. Many organisations have policies in place – whether these are covered in their business continuity plan, risk registers or employment rights – but do not understand the breadth of human rights issues that need addressing or how these might impact workers and other stakeholders across their value chain.

Our research reveals the dire need for progress in the assessment of potential human rights impacts. Just over half of C-suite leaders report that their organisation has sought to identify safe and healthy work conditions (53%) and workers' liberty and security (51%) across their value chain. More alarmingly, only a small proportion of organisations have sought to identify fair wages (36%) and slavery impacts (14%), where some legal obligations already exist.

When it comes to the link between the environment and human rights, just one in five organisations in our sample have sought to identify harmful effects on livelihoods from environmental degradation within their value chain.

> "Businesses want to make a positive contribution to society and the environment, but they are currently grappling with ambiguity in regulatory requirements. Compliance is achievable, but only when businesses are given clear guidance and sufficient time to implement necessary changes. Ultimately, a collaborative approach between businesses and regulators is needed to drive meaningful progress towards sustainable and socially responsible practices."
>
> **Hilary Ross**, UK & Ireland Regional Managing Partner, DWF

"The escalating impact of climate change on individuals is evident, from the devastation caused by natural disasters to the health repercussions of emissions. It's impossible to tackle environmental and climate challenges without addressing the human dimension. Therefore, we need to move beyond looking at things in siloes. Wherever businesses are identifying environmental risks, this should prompt immediate consideration of the connected human rights impacts.

Adopting a rights-based approach to supply chain due diligence will bring about a virtuous cycle, demonstrating that enriching people's lives positively impacts the environment and vice versa."

Kirsty Rogers, Global Head of ESG & Sustainability, DWF

What are organisations seeking to identify when it comes to their negative human rights across their value chain?

The role of regulation

Businesses aspire to act with integrity and fulfil their pledges to promote environmental sustainability, ensure climate resilience, and uphold human rights. However, this requires careful strategic planning. Almost two-fifths of organisations have not developed an action plan for ensuring their business strategy is compatible with limiting global warming to 1.5°C (38%), and a similar proportion have not developed a plan for mitigating adverse human rights impacts (39%).

Over the past decade, we've seen an increasing trend towards mandatory ESG-related legislation. Germany and France, for example, have already put their own respective legislation in place to encourage supply chain due diligence (the French Vigilance Law and the German Supply Chain Due Diligence Act). However, two-fifths of French C-suite leaders and 38% of German C-suite leaders say their organisations have not developed an action plan for aligning human and social impacts with their business strategy. This indicates that national legislation has yet to fully catalyse the concerted action required.

Six in 10 C-suite leaders say their business needs clear regulation to drive immediate action when it comes to addressing its impact on climate change, the environment and human rights*. Unified, or at least consistent, regulation will level the playing field and set clear expectations.

Leading with integrity

Businesses will be looking to law firms for guidance to navigate this complex regulatory landscape, making it crucial that law firms lead with integrity.

'RSGI' is a think-tank for the legal industry that focuses on resilience, sustainability, growth and innovation for law firms. RSGI's GreenPrint is a rating system for the maturity of responsible business reporting by major international law firms. The 2023 research revealed that, out of the 180 firms studied, nearly 82% did not score high enough to be classed as responsible businesses. Yet, at the same time, almost two-thirds (65%) state that they advise clients on ESG obligations, energy transition and other related sustainability issues.

In order to guide businesses through this decade of action, law firms must first demonstrate their own commitment to protecting human rights, ensuring climate resilience and environmental sustainability.

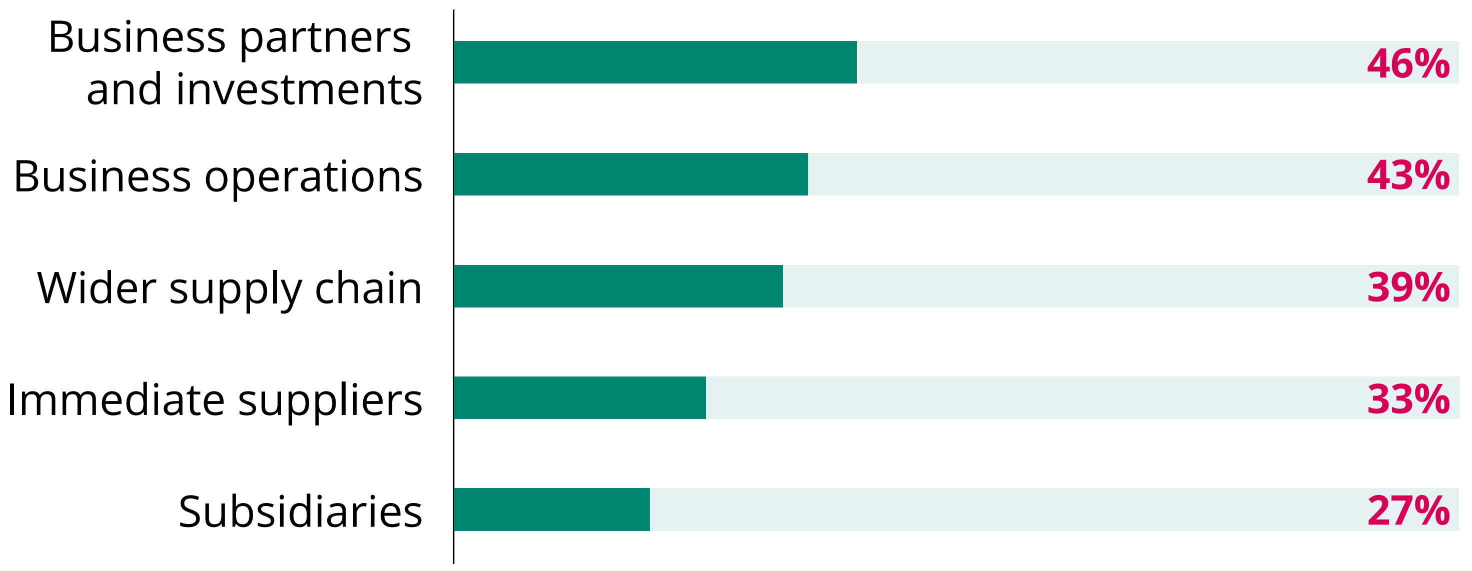
*This data point is based on the responses of 50 C-suite leaders from the original sample (with a minimum global turnover of €450 million) that were recontacted following the latest iteration of the CS3D in March 2024.

Section 2: Chain (re)action

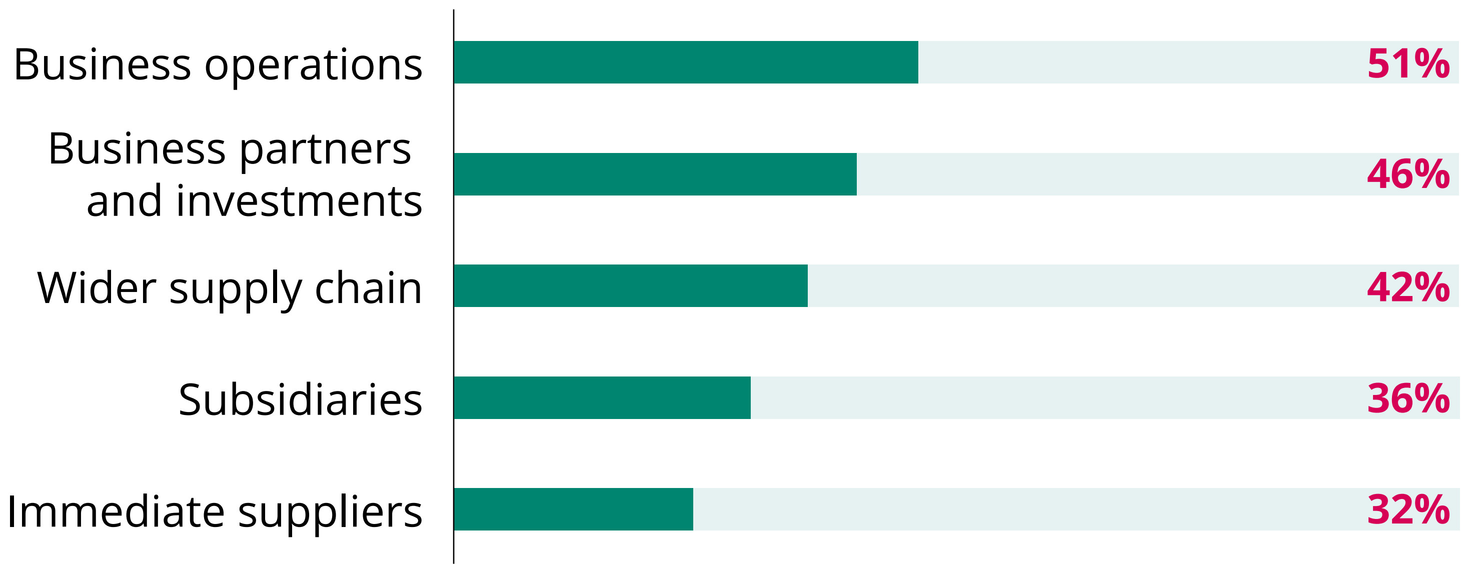
'True diligence' requires businesses to assess environmental and human rights impacts across their entire value chain. Collaboration and communication between companies, their subsidiaries and supply chain partners will be essential for implementing robust transparency measures and driving the urgent transformation required.

Our research reveals that less than half of C-suite leaders (43%) say their organisation currently measures **environmental impacts** across its business operations, and a third say their organisation measures the impacts of its immediate suppliers. This is closely mirrored when looking at organisations' measurement of human rights impacts. Only half of C-suite leaders (51%) say their organisation currently measures **human rights** impacts across its business operations, and 32% say their organisation measures the impacts of its immediate suppliers.

Where businesses are measuring environmental impacts



Where businesses are measuring human rights impacts



"Conducting thorough due diligence is about putting in the hard yards. It requires going beyond reporting the numbers or talking about the headlines, it requires taking action to address the underlying issues. This starts with businesses carrying out environmental, climate and human rights risk assessments and devising governance to minimise risk. This is no mean feat as environmental and human rights issues have different starting points and require different methods of assessment through supply chains of varying lengths and complexity.

We can't expect to go from zero to hero on this overnight. As with any new regulation, particularly where it leads to increased scrutiny, we will see organisations sharing good practice – as well as few test cases – and we will also gain tools from regulatory bodies which will streamline the process. Ultimately, it's about education – unpacking what is required from businesses and where the responsibility lies – and this will require time, global buy-in and a mindset shift from leadership."

Dominic Watkins, Head of Consumer Sector, DWF

Delivering in the decade of action

The UN has dubbed this decade 'the decade of action' for accelerating progress on the UN Sustainable Development Goals agreed by world leaders. However, it is difficult for organisations to transform as quickly as they would like.

The Corporate Sustainability Due Diligence Directive (CS3D) is a key piece of EU legislation that seeks to set mandatory obligations for companies to identify, mitigate, prevent and terminate the negative impacts of their value chain (including 'chain of activities') on human rights, climate change and the environment. Overall, it creates a legal imperative to perform due diligence, supporting the enforcement of other ESG laws.

Rapid change is needed. C-suite leaders expect that at least half of their supply chain will not be CS3D compliant in the next two years. Moreover, 57% predict that most businesses will not be CS3D compliant by 2030. Businesses need guidance and support to deal with this moving regulatory frontier.

No clear leader

According to the C-suite leaders in our sample, no single sector is leading the way when it comes to measuring environmental and human rights impacts across their value chain. Progress needs to be made across the board.

The highest scores are seen when it comes to business operations and business partners and investors. Over half of C-suite leaders in the Real Estate and Insurance sectors say their organisation measures the environmental impacts of its business partners and investments.

The Transport and Logistics sector faces intense scrutiny, driven by the important role of reducing emissions from road transport, marine and aviation in combatting climate change and achieving net-zero targets. Half of C-suite leaders in this sector say their organisation measures the environmental impacts across its own business operations.

And, according to C-suite leaders, the Private Equity and Consumer and Retail sectors take the lead on measuring the human rights impacts across their own business operations (at 54%).

While customers have long scrutinised the social and environmental initiatives of the Consumer and Retail sector, the Private Equity sector has been influenced by the growing interest in businesses with strong ESG credentials by investors.

We see the lowest scores when it comes to measuring the environment and human rights impacts of subsidiaries. Less than a quarter of leaders in the Insurance and Real Estate sectors say their organisation measures the environmental impacts of its subsidiaries, and 27% of leaders in the Consumer and Retail sector say their organisation measures the human rights impacts of its subsidiaries.

Where businesses believe they are measuring environmental impacts across value chain

	Sector					
	Private Equity	Real Estate	Energy	Transport & Logistics	Consumer & Retail	Insurance
Business partners and investments	49%	51%	44%	44%	41%	51%
Business operations	44%	44%	35%	50%	43%	45%
Wider supply chain	44%	35%	38%	37%	39%	39%
Immediate suppliers	35%	36%	32%	33%	35%	31%
Subsidiaries	27%	24%	30%	30%	27%	23%

Where businesses believe they are measuring human rights impacts across their value chain

	Sector					
	Private Equity	Real Estate	Energy	Transport & Logistics	Consumer & Retail	Insurance
Business operations	54%	51%	44%	51%	54%	51%
Business partners and investments	49%	49%	48%	42%	51%	41%
Wider supply chain	38%	45%	40%	38%	48%	46%
Subsidiaries	37%	36%	40%	44%	27%	36%
Immediate suppliers	34%	31%	31%	35%	30%	33%

Section 3: The realities of regulation

Businesses face a tsunami of incoming sustainability-related regulation to comply with. Identifying priorities and planning ahead will be increasingly important for economic success, safeguarding organisations and driving transformation to ensure a future-proofed value chain. However, two-thirds of CEOs (65%) say their organisation's leadership team is too busy handling immediate business priorities or economic pressures to put a plan in place to measure human rights impacts across its value chain.

This regulatory overwhelm is compounded by a lack of understanding around the scope of regulation such as CS3D and the motivations behind it. However, the risks of failing to embrace a holistic approach, alongside the advantages of a robust process, underscore the importance of compliance.

Executive knowledge gaps

Bridging knowledge gaps within the C-suite around the aims of due diligence regulation and the benefits of compliance is to drive meaningful change. Currently, just over a quarter of C-suite leaders (27%) say their organisation understands the application of CS3D to their business. This drops to 18% of C-suite leaders in the Real Estate sector, compared to 30% of C-suite leaders in the Consumer and Retail sector.

Our research also uncovers a significant knowledge gap around the penalties of non-compliance with CS3D, with seven in 10 Chief Ethics/Compliance Officers saying their organisation's leadership team is not clear on the potential penalties for failing to comply with the CS3D.

While many CEOs will be turning to their General Counsel for guidance, a large proportion of General Counsels, who are already navigating the incoming tsunami of sustainability regulation, also do not feel totally confident about the Directive's requirements. In fact, seven in 10 GCs (69%) report that they do not currently understand how the scope of the CS3D extends beyond their organisation's operations.

This knowledge gap is stark around the interconnection between environmental and social factors. Despite the COVID pandemic demonstrating the strong link between the two, more than half of C-suite leaders (56%) believe that human rights impacts will not be taken as seriously as environmental impacts across their industry.

"The need to focus on the most salient human rights impacts, wherever that is, rather than focusing on the largest group of people affected is inconsistent with an organisation's usual approach to risk assessments. Education on the appropriate due diligence for the most salient human rights is therefore critical.

Whereas scope three emissions can be estimated using spend-based methods, when it comes to ascertaining the greatest human rights risks, a more proactive and considered approach is needed. It requires consideration of the worst thing that could possibly happen to a person in their value chain. Whatever that is, this is the thing they should be looking to address first, regardless of how likely it is or how close it is to their own operations."

Kirsty Rogers, Global Head of ESG & Sustainability, DWF

Return on compliance

Compliance is often seen as a burden, but prioritising due diligence is becoming increasingly important for economic success and seizing opportunities as well as mitigating risks. Regulation, such as the CSRD and CS3D, plays a vital role in ensuring businesses act responsibly and sustainably. It also drives transformational change, helping businesses flourish and create long-term value.

On average, C-suite leaders estimate that 9% of their revenue will be required to achieve a fully CS3D compliant value chain in the next two years. This equates to a total of €3.8 million per organisation in our sample*.

Unlike most existing sustainability-related obligations which ask organisations to 'comply or explain', with few consequences for non-compliance, the CS3D will ask organisations to 'comply or be liable'. The maximum penalty for non-compliance with CS3D is 5% of organisations' global net turnover – topping the maximum penalty of 4% for GDPR violations. This could result in a maximum average penalty of €216 million per company for our sample. Organisations that fail to comply also run the risk of class action lawsuits, removal of goods from the market and faring less favourably in EU public procurement.

The cost of non-compliance:

The maximum penalty for non-compliance is **5%** of their global net turnover.

The positive return on compliance:

61% of UK leaders say the CS3D will encourage them to invest or increase their investment in EU.

Beyond the court of law, organisations increasingly face the court of public opinion. Aside from the potential penalty that could arise from a significant human rights violation or environmental catastrophe, the human cost and reputational damage flowing from an incident are likely to seem significant in comparison to the output.

As compliance standards strengthen, this will serve as a rising tide, elevating standards across governance, risk management, integrity and stakeholder engagement. This will compel organisations to operate sustainably and responsibly, aligning their practices more closely with the values of their customers, employees, investors, and other stakeholders.

"In many cases, it is not even necessary to do something wrong; you just appear to have done something wrong, and this will be enough to tarnish your hard-earned reputation. It only takes one incident or to buy once from the wrong supplier to cause serious reputational damage. And, regardless of who is at fault, the biggest brand in the supply chain will be associated with the story. We are already seeing this in the UK where the regulators are investigating one of the largest, most respected, FMCG companies in relation to green claims.

In a world where reputation is everything, this can impact growth. Organisations found to be acting irresponsibly may face restrictions on accessing public contracts. And prospective clients and partners will increasingly prioritise compliance considerations, including whether your organisation has received any due diligence notifications or penalties, when deciding if they wish to do business with you."

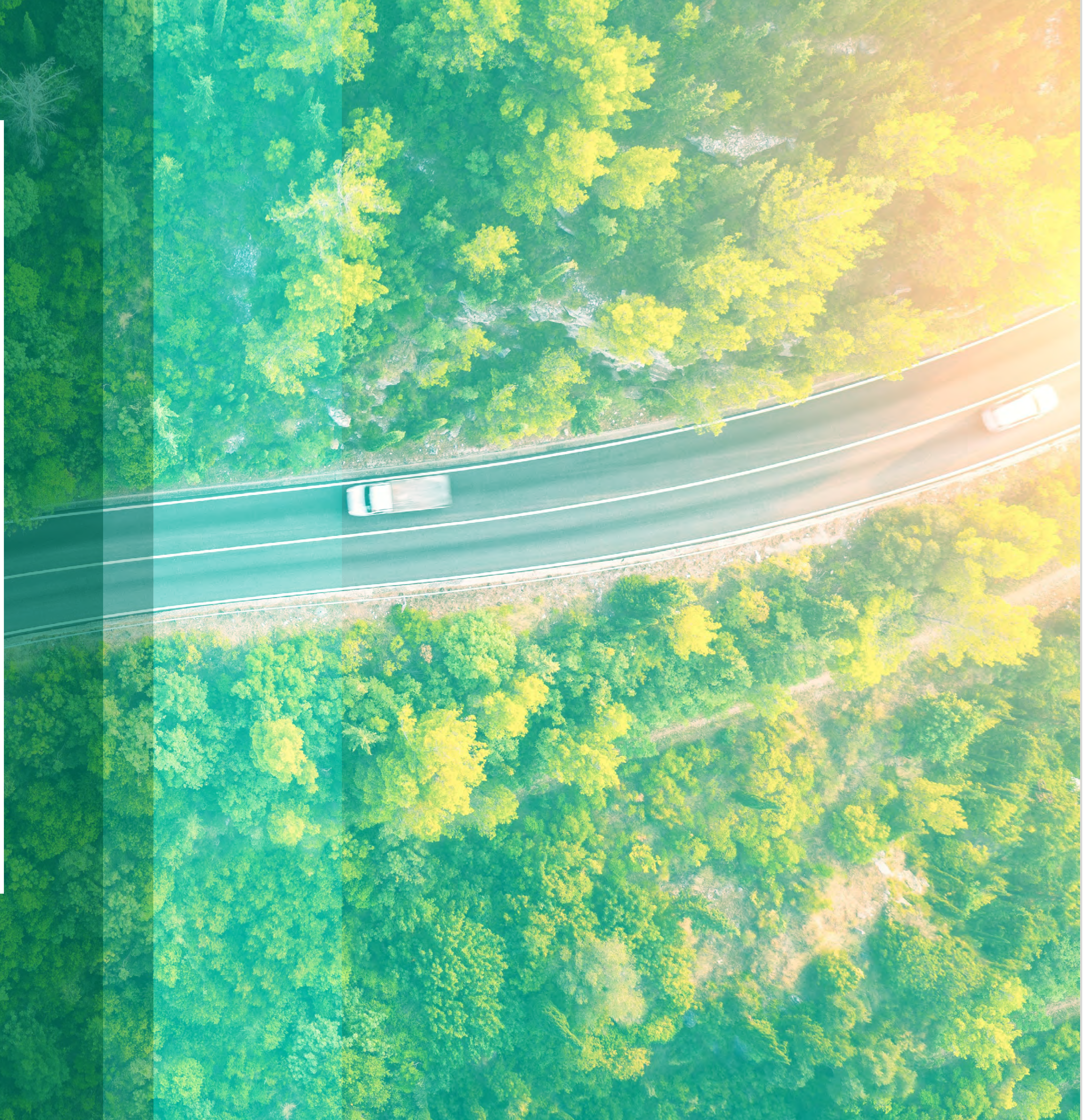
Hilary Ross, UK & Ireland Regional Managing Partner, DWF

*The figures in this section were calculated from a subgroup of leaders in our sample from organisations with a global net turnover of more than €450 million (i.e. the organisations that will fall directly under the scope of the CS3D as it stands at March/April 2024).

“In getting caught up with following a checklist of metrics, leaders are forgetting to look at due diligence from the perspective of business transformation and value creation. By putting their operations – and those of their subsidiaries and business partners – under a magnifying glass, businesses can demonstrate commitment to the long-term sustainability of their value chain. This builds confidence among stakeholders, from employees – showing that there is investment for the future and provide stability in an unstable world – to investors, who are looking at how they can assess appropriate business conduct and behaviour.

Collaboration within sectors and across supply chains is an area of growing importance and competitive advantage. Taking a consistent and connected approach to due diligence that embraces both human rights and the environment will build better networks, greater trust and a positive reputation. Compliance is not only more cost-effective than non-compliance, it’s key to sustainable business transformation and growth.”

Tracey Groves, Head of Sustainable Business & ESG Advisory Practice, DWF



Section 4: The road ahead

The expectations on businesses to act sustainably, transparently and responsibly are not going away; in fact, this is just the beginning.

Irrespective of increasing legal duty, there is a clear business case for mandatory environmental and human rights due diligence, and businesses are ready to embrace greater accountability and participate in transformative collaboration.

What's missing are clear and consistent regulations to delineate boundaries and align expectations. Facing hundreds of plausible definitions for some concepts in scientific literature around environment and human rights, it is no wonder that businesses are calling for clarity.

The call for accountability and alignment

When it comes to due diligence, businesses acknowledge the necessity of being held accountable to propel progress forward. Two-thirds of leaders identify increased demand for preventing and mitigating negative human rights impacts from trading partners as an important factor in accelerating their organisation's human rights due diligence process, and 63% identify stronger penalties as an important factor.

While countries implementing national due diligence laws is a step in the right direction, this creates friction and increases costs for businesses with global supply chains that must design or refine systems to deal with each jurisdiction individually. Two-thirds of leaders (65%) identify a lack of globally consistent measurement and reporting standards as a significant barrier to their organisation measuring its human rights impacts.

Progress towards greater coherence and consistency in the reporting of climate-related financial information, and wider environmental and social issues, is gathering pace. These strides have been driven by the implementation of the CSRD, S1 and S2 sustainability reporting standards issued by the International Sustainability Standards Board (ISSB) and recommended disclosures from the Task Force on Climate-related Financial Disclosures (TCFD) and now the Task Force on Nature-related Financial Disclosures (TNFD). The CS3D stands out as the inaugural instance of an integrated European and extra-territorial approach to fostering sustainable business action, in parallel with the vast array of EU laws with sustainability at their core.

Growing regulatory appetite among UK corporates

The CS3D will not apply directly to UK-based businesses, but many will fall within scope by virtue of their sales activities within the EU.

Our research shows that, when it comes to addressing their sustainability priorities, UK organisations are forging ahead. The nation has been propelled by legislative frameworks such as the 2015 Modern Slavery Act, which mandates measures to combat modern slavery and human trafficking, and the 2021 Environment Act, which establishes legally binding targets for enhancing air quality, biodiversity, resource management and waste reduction.

C-suite leaders in UK-based organisations demonstrate strong commitment to human rights considerations, with 72% saying their organisation's leadership team is actively supportive of addressing potential and actual adverse human rights impacts across its value chain. This is compared to just six in 10 C-suite leaders in Poland. Furthermore, two-thirds of UK leaders (67%) say their organisation has an action plan for aligning human and social impacts with business strategy – the highest of the countries included in our research.

UK C-suite leaders are also supportive of increased policy-making and stronger penalties around corporate environmental and human rights due diligence:

- 71% say government policy-making would be a significant factor in accelerating their **environmental** due diligence process.
- Three-quarters (74%) say stronger penalties would be an important factor in accelerating their organisation's **human rights** due diligence process, and 64% say standardised global human rights measurement, disclosure and ratings frameworks would be an important factor.

This growing regulatory mindset also strengthens investment appetites. While six in 10 EU-based C-suite leaders worry that companies based outside of the EU will reduce their involvement in the EU market due to not being able to comply with the CS3D, the same proportion of UK leaders (61%) say the CS3D will *encourage* them to invest or increase their investment in the EU. This signals a new way of doing business, heralded by regulation: businesses that hardwire CS3D due diligence requirements into business strategies will reap the rewards.

The CS3D as a catalyst

Despite hurdles and some delays in the process of approving CS3D, C-suite leaders view the Directive as a catalyst for change – particularly when it comes to organisations taking responsibility for protecting human rights. Over three-fifths of C-suite leaders (62%) believe CS3D is the biggest incentive for organisations to assess the human rights impacts of their business. Leaders are also hopeful that the Directive will prompt regulatory action in countries outside of the EU; 72% believe it will spark similar pieces of legislation to be enacted across the world.

While the Directive may not directly cover all organisations through its current applicability thresholds (which are primarily based on net turnover), its ripple effects will reverberate across entire value chains. This will affect large corporations, but it is small and medium-sized undertakings (SMEs) that will feel the biggest impact.

Over half of CEOs (58%) believe their organisation risks losing a significant proportion of its supply chain due to a lack of compliance with the CS3D. Collaboration between organisations, their subsidiaries and supply chain partners will be paramount to proactively manage risk. Six in 10 C-suite leaders say their organisation intends to collaborate with their existing value chain to educate and drive CS3D compliance.

Regulation might be the catalyst for change, but businesses cannot afford to delay in preparing themselves, engaging stakeholders and taking decisive action. Almost three-fifths of C-suite leaders (58%) identify a lack of consensus on the CS3D definition and targets as a significant barrier to measuring their human rights impacts, and 56% identify this as a barrier to measuring their environmental impacts. While practical guidance and tools will make compliance easier, businesses must start to put related policies, processes and stakeholder engagement in place now, irrespective of current regulations.

The CS3D represents the continuation of the regulatory call for increased transparency and integrity across businesses' value chains and a clear message that it is here to stay. Those businesses honouring their commitment to combatting climate change, ensuring environmental sustainability and protecting human rights by undertaking robust due diligence will position themselves ahead of the curve.

> "It is becoming clear that large corporations are raising questions about using smaller size enterprises in their supply chain, given the amount of help they will need to comply with the requirements compared to other larger suppliers.
>
> Businesses cutting loose SMEs in favour of larger suppliers isn't the way forward economically for any company nor country. The CS3D represents a significant change in the way organisations do business and, whilst businesses have a responsibility to invest in bringing their existing supply chain along with them, regulators must provide a template for businesses to work from and a portal to access this information.
>
> Financial institutions also have a key role to play as they control access to capital, favouring organisations with the strongest performance in these areas – and thereby accelerating progress for some."
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> **Nadine Robinson**, Sustainability and ESG Director, DWF

"Businesses have put too much focus on measurement and reporting, at the expense of concrete practical action. While this gives businesses a snapshot of where they are, in order to get to where they want to be, it is vital to get into the implementation and remediation phase and do something about it. We can't let the perfect be the enemy of the good."

Nadine Robinson, Sustainability and ESG Director, DWF

Conclusion: A new era of corporate responsibility

It's time for human rights, environmental sustainability and climate to share centre stage. Without addressing impacts across areas in tandem, organisations will struggle to make progress towards supporting a low-carbon, sustainable and just transition.

The emergence of sustainability-related regulation related to due diligence, like the CS3D, heralds a new era of corporate responsibility, characterised by heightened standards of accountability and transparency – an era of True Diligence. For the first time, corporate action around human rights, climate and environmental sustainability will converge under a single regulatory umbrella. The Directive will also move companies out of the sphere of reporting their plans to actioning them.

For many organisations, implementing these changes will necessitate a change to their cultural DNA. This will take time to embed, but there is a huge opportunity for businesses to get ahead of the curve and lead the transformational change needed, not least because the cost of non-compliance and the risk of adverse harm is too high to ignore. Taking action will also demonstrate genuine integrity and true diligence, in alignment with the commitments to human rights, climate change and environmental sustainability commonly stated by organisations.

To deliver sustainable value, businesses must look beyond their immediate operations and short-term goals. Achieving progress does not necessitate perfection; incremental steps can pave the way for transformative change.

Businesses need clear, consistent and achievable regulation to impel action. Consumers, investors and employees alike expect a new way of doing business, and regulation like CS3D provide C-suite leaders with the business imperative. However, regulators must also equip leaders with the tools, information and guidance to make compliance easier.

If there was ever a time for a unified and mandatory approach to due diligence it's now, in this decade of action. But, no matter what, even without the CS3D, businesses must take action to keep pace in this new era of corporate responsibility.

Getting your house in order

While there are a few additional steps to be taken for the CS3D to be enshrined in law, organisations can undertake practical action now to accelerate adoption, reduce costs, and enable greater resilience.

Step 1: Create a task force of your key internal stakeholders to determine the direct and indirect impact of the CS3D (based on criteria such as net turnover in the EU, market sector and accounting policies). If you fall outside of the direct scope, then you should also consider whether your chain of activities are in the value chain of any other entity who is in direct scope. If you are in their value chain, then they will cascade their CS3D requirements down to you.

Step 2: Map your value chain with your subsidiaries and business partners and collate the data available to you.

Step 3: Highlight the human and social value impact of the requirements across your value chain, including the risk of human trafficking, living wage, working conditions, working hours and employee health and well-being. Consider geographical differences and requirements in jurisdictions and prioritise the material issues from the human rights and environmental impacts contained in Annex 1 to the CS3D.

Step 4: Identify what you are already doing, e.g. procurement questionnaires and stakeholder engagement, and identify gaps in your current processes including in your approach to enterprise risk management.

Step 5: Undertake materiality assessments to identify relevant human rights and environmental impacts across your value chain and prioritise the material issues in your prevention and remediation action plans.

Step 6: Design and implement a climate mitigation transition plan. Establishing a collaborative partnership with an external legal partner can help organisations to understand the actual and potential areas of adverse human rights and environmental impacts across their value chain. This partner must not only have a deep understanding of the latest regulations but also around business transformation and strategy. This is a critical foundation for ensuring a targeted and effective approach to implementation.

Get in touch

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