

EC – Proposal for a Directive on Corporate Sustainability Due Diligence

Human rights and environmental impacts




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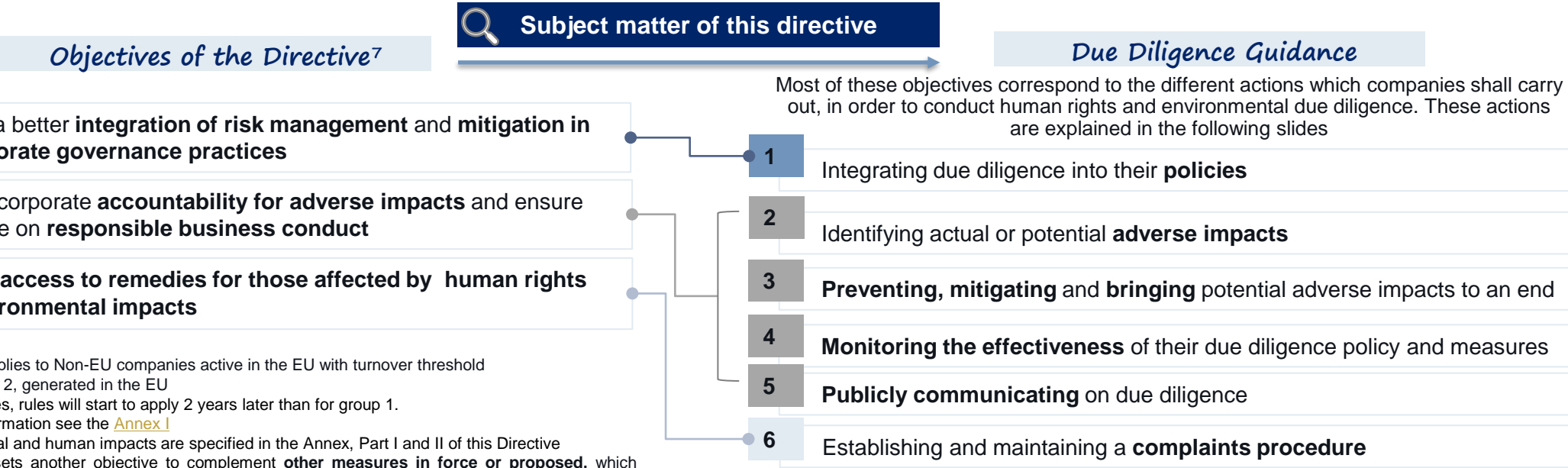
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1 Executive summary

General overview of the Due Diligence Directive

This Directive lays down common rules within the EU on the obligations for companies regarding actual and potential human rights and environmental adverse impacts and on liability for violations of these obligations

|  Companies in scope ⁽¹⁾ |  Perimeter |  Next steps |
|---|--|--|
| <ul style="list-style-type: none"> • Group 1 → Companies with > 500 employees and > EUR 150 million in net turnover worldwide. • Group 2 → Companies operating in defined high impact sectors³, which do not meet both Group 1 thresholds, but have > 250 employees and a net turnover of > EUR 40 million provided that at least 50% of this net turnover was generated in one or more of those high- impact sectors. | <ul style="list-style-type: none"> • Obligations for companies regarding actual and potential human rights adverse impacts and actual and potential environmental adverse impacts⁴ , with respect to own operations and operations of their subsidiaries, and the value chain operations⁵ carried out by entities with whom the company has an established business relationship⁶. • Liability for violations of the obligations. | <ul style="list-style-type: none"> • EP and the Council to approve. • Once adopted, Member States will have 2 years to transpose it into national law and communicate the relevant texts to the EC². |



(1) This Directive also applies to Non-EU companies active in the EU with turnover threshold aligned with Group 1 and 2, generated in the EU
 (2) For group 2 companies, rules will start to apply 2 years later than for group 1.
 (3), (5),(6) For more information see the [Annex I](#)
 (4) Adverse environmental and human impacts are specified in the Annex, Part I and II of this Directive
 (7). The Directive also sets another objective to complement **other measures in force or proposed**, which directly address some **specific sustainability challenges**. For more information see the [Annex II](#).

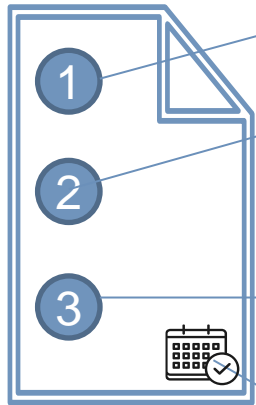
2 | Integrating due diligence into policies

Due diligence policy

Companies shall have in place a due diligence policy that contains a set of aspects. Also, companies need to have a plan to ensure that their business strategy is compatible with limiting global warming to 1.5 °C

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Content of the due diligence policy



A **description** of the company's approach, including in the long term, to conduct due diligence.

A **code of conduct** describing rules and principles to be followed by the company's employees and subsidiaries in order to improve human rights and environmental factor inside the company. The code of conduct should **apply in all relevant corporate functions and operations**, including procurement and purchasing decisions

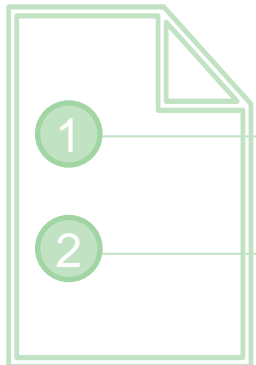
A description of the **processes** put in place to implement due diligence, including the measures taken to verify compliance with the code of conduct and to extend its application to established business relationships.

Companies shall update their due diligence policy annually.

This plan shall identify, on the basis of information reasonably available to the company, the **extent to which climate change is a risk for, or an impact of, the company's operations.**

In case climate change is or should have been identified as a principal risk for, or a principal impact of, the company's operations, the company includes **emission reduction objectives.**

Plan for combating climate change



Implications for Directors

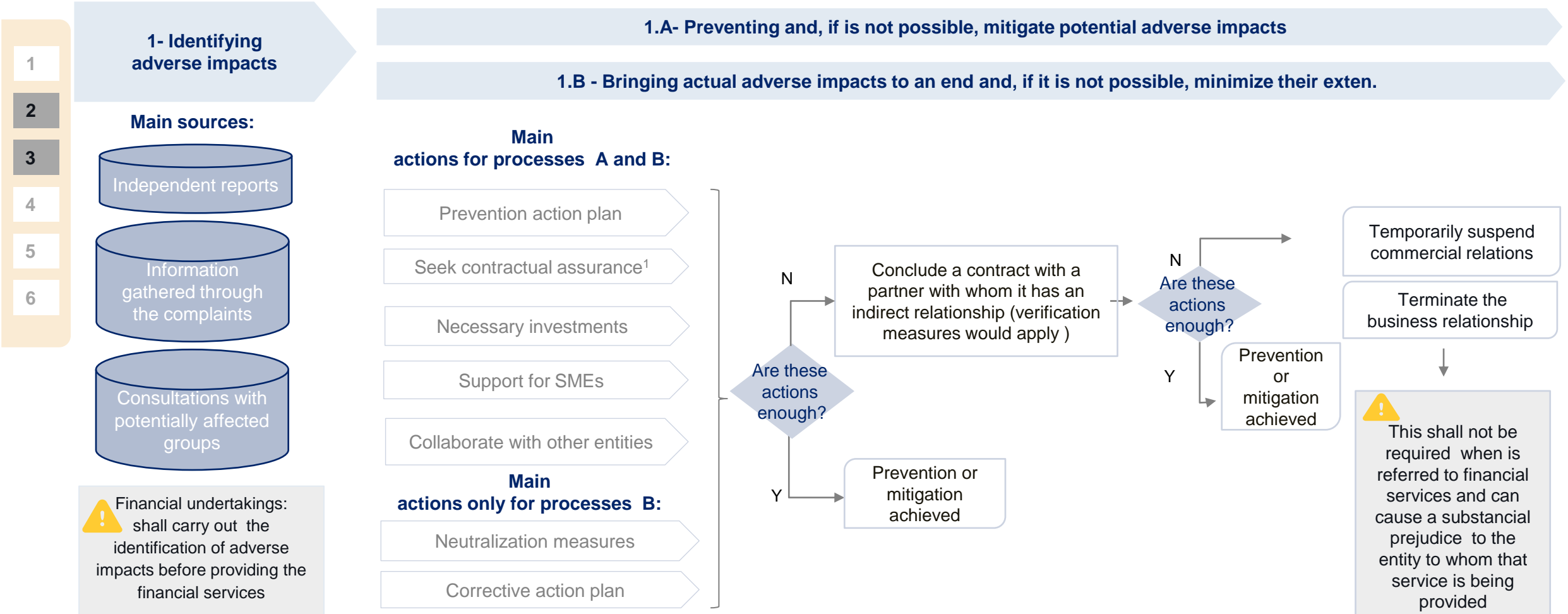
- Directors must put in place and overseeing the due diligence actions and in particular, the due diligence policy.

- The plan should be duly taken into account when setting **directors' variable remuneration**, if variable remuneration is linked to the contribution of a director to the company's business strategy and long-term interests and sustainability.

3 Measures against adverse impacts

Identifying, preventing, mitigating and bringing to an end

Companies shall identify actual and potential adverse impacts arising from their own operations or those of their subsidiaries, to prevent them and make every effort to eliminate them



(1) From a business partner with whom it has a direct business relationship that it will ensure compliance with the company's code of conduct including by seeking corresponding contractual assurances from its partners, to the extent that their activities are part of the company's value chain (contractual cascading). When such contractual assurances are obtained, shall be accompanied by the appropriate measures to verify compliance.

4 | Monitoring and publicly communicating Supervision, monitoring and disclosure

For conducting appropriate due diligence, companies shall monitor the effectiveness of the taken measures and communicate publicly on their due diligence. In order to ensure these, supervisory rules have been laid down

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Monitoring

- **Periodic assessments (at least every 12m)**, qualitative and quantitative, of **own operations** and measures, those of **subsidiaries** and, where related to the **value chains** of the company, those of their established business relationships, to monitor the effectiveness of the **identification, prevention, mitigation, bringing to an end and minimization** of the extent of human rights and environmental adverse impacts.
- The **due diligence policy shall be updated** in accordance with the outcome of those assessments.



Disclosure

NFRD companies?

- Non-financial disclosure statement.

Non-NFRD companies?

- Publication on their website of an **annual statement¹** in a language customary in the sphere of international business.
- The statement shall be published **by 30 April each year**, covering the previous calendar year.

5 | Complaints procedure and company civil liability

Main characteristics

Companies shall establish complaints procedure to hear cases from potentially affected persons or its representatives. Also, companies shall be liable for damages caused by adverse impact that could have not been prevented, mitigated or brought to an end

COMPANY COMPLAINTS PROCEDURE

Who can submit complaints

- **Persons** who are **affected** or have a reasonable grounds to believe that they might be affected by an adverse impact.
- **Trade unions** and other **worker's representatives** representing individuals working in the value chain concerned.
- **Civil society organizations** active in the areas related to the value chain concerned.

How to deal with complaints

- Establishing a procedure for **dealing with these complaints** (founded and unfounded) and inform the relevant workers and trade unions of those procedures. **Where the complaint is well-founded**, the adverse impact that is the subject matter of the complaint is deemed to be identified.

Complainants' rights

- Requesting **appropriate follow-up on the complaint** from the company with which they have filed a complaint.
- Meeting the **company's representatives** at an appropriate level **to discuss potential or actual** severe adverse **impacts** that are the subject matter of the complaint.

COMPANY CIVIL LIABILITY

When companies **fail to achieve the objectives of preventing** potential adverse impacts, adequately **mitigated** or **bring adverse impacts to an end** they shall be **liable for damages**.

- When a company has **sought contractual assurances** from their business partner, and they are accompanied by the appropriate measures to verify compliance, that company **shall not be liable for damages** caused by an adverse impact arising as a result of the activities of an indirect partner with whom it has an established business relationship.
- The civil liability of a company shall be without prejudice to the one of its subsidiaries or business partners.

6

Why Management Solutions Differential aspects

Management Solutions has extensive knowledge and experience in the field of sustainability

1

Member of the Chair of Sustainability and Social Impact at ICADE

MS is a member of the Coordinating Council of the ICADE Social Impact Chair to promote training and development of social impact measurement methodologies.

2

Detailed knowledge of the implications of Sustainability in industries and businesses

with a fundamental focus on diagnosis and development of strategic Sustainability plans, ESG risk measurement, ESG Risk Management - with a fundamental focus on integration in credit risk management and ESG reporting models, both in Spain and abroad. In addition, we have extensive experience in regulatory adaptation in Sustainability.

3

Specialist ESG modelling capabilities (and proprietary tools)

MS has an R&D team specialised in defining and implementing methodologies for measuring climate risk and analysing physical and transition risk scenarios, as well as benchmarks for sustainability dissemination. In addition, it has produced several specialised publications and has participated as a speaker in different international forums. We also have databases and tools that we make available free of charge to the projects in which we collaborate.

4

ESG Regulatory Experts

MS has a Regulatory Observatory that provides in-depth knowledge of the regulatory requirements of financial and non financial entities at the European level and, in particular, those specific to sustainability and climate change risks.

6

Why Management Solutions Areas of collaboration

MS has an expert working group that supports its clients in the development and implementation of the sustainability and climate risk management framework, with a top-down approach in each of the 6 defined lines of action

Areas of collaboration in the field of sustainability and climate change

Business

1
Strategy, Governance and Culture

- Diagnosis, strategic framework and general action plan
- Change management
 - Governance (PMO)
 - Observatory (Regulation / Market)
 - Training
- Communication with stakeholders

2
Self-assessment of sustainability

- Adaptation and gap analysis to regulatory requirements.
- Definition of regulatory and internal taxonomy: eligibility criteria and definition of certification processes.
- Taxonomy implementation: inputs, drivers and outputs.
- Equator Principles v4 implementation.

3
Sustainable business development

- Market diagnosis and analysis (depending on the business, including market research, SWOT analysis, etc.).
- Product/service definition (*sprints*)
- Launch and implementation

4
Risk Management

- Risk policies and frameworks
- Measurement methodologies (portfolio screening, impact assessment - transitional and physical scenarios-) and alignment
- Integration of ESG principles in admission model
- Integration in management (Appetite, Rating, Collateral, Pricing).

5
Data & Tecnology

- ESG model definition and requirements (conceptual, logical and physical)
- Model metrics definition and KPIs gap analysis
- Definition of functional and technological architecture
- Alternatives analysis (vendors/in house)
- Implementation

6
Reporting

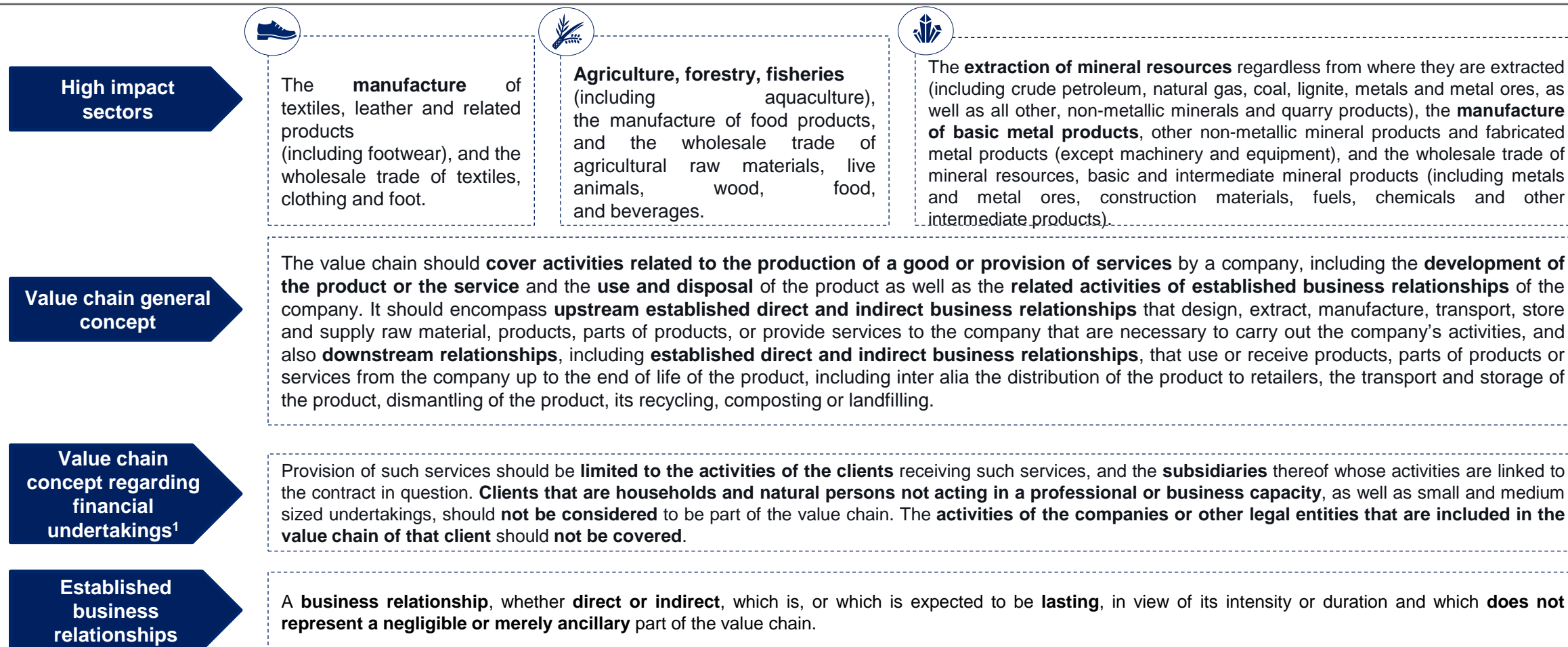
- Implementation of requirements (NFRD Supplement, SRDR, ECB Guidelines, Taxonomy, EBA Mandates...) + (benchmarking of best practices of peers)
- Definition of contents
- Governance and mechanisms for information quality and consistency



Annex I

Definitions in relation to the perimeter and companies in scope

Definitions of high impact sectors, value chain and established business relationship, will help to better understand the perimeter and the companies in scope of this Directive



Annex II

Related normative

The new directive will affect entities already impacted by NFRD, CSRD, SFDR and Taxonomy Regulation and will complement them

Previous regulation

1 **Non-Financial Reporting Directive (NFRD)**¹ requires certain large companies to disclose information related to:

- Environmental matters
- Social matters and treatment of employees
- Respect for human rights
- Anti-corruption and bribery
- Diversity on company boards (in terms of age, gender, educational and professional background).

2 The proposal on a **Corporate Sustainability Reporting Directive (CSRD)**² extends the scope of the companies covered by NFRD to all large and all listed companies (except listed microcompanies).

3 **The Sustainable Finance Disclosure Regulation (SFDR)**³ introduces **disclosure requirements for sustainability-related information to financial firms selling investment products and financial advisers.**

4 The **EU Taxonomy Regulation**⁴ for sustainable activities consists of a transparency tool that facilitates decisions on investment and helps tackle greenwashing by providing a **categorization of environmentally sustainable investments in economic activities that also meet a minimum social safeguard.**

★ New Directive on corporate sustainability due diligence

- ✓ Complements the current NFRD and proposal for CSRD by adding a **substantive corporate duty** for some companies to **perform due diligence** to identify, prevent, mitigate and account for external harm resulting from adverse human rights and environmental impacts in the company's own operations, its subsidiaries and in the value chain.
- ✓ Thus, this Directive will lead to **companies' reporting being more complete and effective.** Therefore, complementarity will increase effectiveness of both measures and drive corporate behavioural change for those companies

- ✓ This Directive will also underpin the SFDR, as the undertakings under its scope are required to **publish**, among others, a **statement on their due diligence policies** with respect to principal adverse impacts of their investment decisions on sustainability factors on a comply or explain basis.

- ✓ Complements the Taxonomy Regulation as it has the potential to further **help investors to allocate capital to responsible and sustainable companies.**

(1) NFRD applies from January 2017; (2) CSRD is expected to apply from January 2023; (3) SFDR applies from 10 March 2021; (4) The EU Taxonomy applies from January 2022.

Abbreviations

| Abbreviation | Meaning |
|--------------|---|
| CSRD | Corporate Sustainability Reporting Directive |
| EC | European Commission |
| EU | European Union |
| NFRD | Non-Financial Reporting Directive |
| OECD | Organisation for Economic Co-operation and Development |
| SFRD | Sustainable Finance Disclosure Regulation |
| SME | Small and Medium Enterprise |
| UCITS | Undertakings for the Collective Investment of Transferable Securities |



International
One Firm



Multiscope
Team



Best Practice
Know-How



Proven
Experience



Maximum
Commitment



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