

Top Questions Regulated Firms Should Ask About CSDDD

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There has been much debate at European level as to how and to what extent [Corporate Sustainability Due Diligence Directive](#) (CSDDD) obligations should apply to regulated financial services providers (RFSPs). During the negotiation process, RFSPs argued that it was unreasonable to expect firms to conduct sustainability due diligence on all the financial services they provide to third parties.

However, a compromise has been reached. The official publication of the CSDDD confirms that certain RFSPs will be required to carry out due diligence regarding their own operations but will have a carve-out for the financial services they provide, i.e. their “downstream” activities.

Which financial institutions will CSDDD apply to?

CSDDD will apply to RFSPs, including banks, investment firms and insurance companies, which meet the size criteria set out in CSDDD. Essentially, CSDDD applies to companies with more than 1,000 employees on average and a net worldwide turnover of more than €450 million in the last financial year. It also applies to the ultimate parent company of a group which reached those thresholds in the last financial year. Certain non-EU companies and companies who enter into franchise or licence agreements may also fall within scope if they meet specific criteria.

When will CSDDD obligations apply to in-scope RFSPs?

CSDDD entered into force on 25 July 2024 and must be transposed into Irish law by 26 July 2026. CSDDD will apply on a phased basis:

- On 26 July 2027 for EU companies with more than 5,000 employees and which generated a net worldwide turnover of more than €1.5 billion in the previous financial year
- On 26 July 2028 for EU companies that had more than 3,000 employees and generated a net worldwide turnover of more than €900 million in the previous financial year, and
- On 26 July 2029 for EU companies with more than 1,000 employees and a net turnover in excess of €450 million

What will CSDDD compliance entail?

In-scope RFSPs will need to engage in risk-based human rights and environmental due diligence on their operations. This will include:

- Integrating due diligence into policies and risk management systems
- Identifying and assessing actual and potential adverse human rights impacts and adverse environmental impacts from their own operations
- Establishing and maintaining a complaints procedure for persons who have legitimate concerns regarding actual or potential adverse impacts of an RFSP's operations, and
- Monitoring the effectiveness of their due diligence policy and measures

In-scope RFSPs will also need to adopt and put into effect a transition plan for climate change mitigation. The transition plan approach aims to ensure, through best efforts, compatibility of the business model and of the strategy of the company with the transition to a sustainable economy, and with the limiting of global warming to 1.5C in line with the Paris Agreement.

Importantly, RFSPs which have already produced a transition plan for CSRD[1] purposes will be deemed to comply with this CSDDD obligation.

Where should in-scope RFSPs start?

The transposition date of 2026 may seem far away to many. However, in-scope RFSPs should not underestimate the amount of preparatory and implementation work which will be required to meet CSDDD requirements.

RFSPs should take note that CSDDD's scope goes well beyond simply reporting sustainability data. CSDDD will require RFSPs to take a proactive stance when it comes to sustainability including:

- Preventing and mitigating potential and actual adverse impacts
- Bringing actual adverse impacts to an end, and
- Publicly communicating on due diligence

CSDDD will require an enterprise-wide level of engagement which Boards and senior management should prepare for. In addition, CSDDD will oblige in-scope RFSPs to consult with employees and their representatives and interested stakeholders.

Comment

In-scope RFSPs should note the potential for significant financial penalties for infringements of CSDDD. CSDDD provides that Member States shall ensure that the maximum limit of monetary penalties for infringements shall be not less than 5% of the net worldwide turnover of the company in the financial year preceding the decision to impose the fine.

We advise that in-scope RFSPs get a head start on CSDDD now. RFSPs should consider:

- Mapping chains of activities
- Identifying stakeholders who will need to be engaged
- Assessing contractual arrangements which will need to be uplifted

- Setting up a cross-functional team to execute an implementation plan, and
- Identifying a board member who can be an “ESG champion” to spearhead the process

Our [Financial Regulation](#) and [Corporate Governance](#) teams have extensive experience advising on sustainability matters and would be happy to provide support to your implementation plan.

People also ask

What does CSDDD stand for?
Corporate Sustainability Due Diligence Directive
What is the maximum sanction under CSDDD?
Member States must prescribe a limit of not less than 5% of net worldwide turnover.
What was the purpose of publishing the proposal for CSDDD?
The proposal aimed to introduce a harmonised human rights due diligence requirements for large companies operating in the EU.

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[1] The Corporate Sustainability Reporting Directive.