Regulatory updates

ESG developments

Last update: September 2023

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Scope of this publication

This publication focuses on the topics of ESG standards and sustainability reporting and disclosure frameworks. Further insights into the ESG topic – for instance tax-related matters – are addressed on the following PwC webpages:

Sustainability in general: https://www.pwc.ch/en/insights/sustainability.html

Tax developments (Swiss focus): https://www.pwc.ch/en/insights/regulation/tax.html

Tax developments (international focus): https://www.pwc.com/gx/en/services/tax/esg-tax.html

1. Counter-Proposal to Responsible Business Initiative (CP-RBI)

Introduction of non-financial reporting obligations for large companies as well as due diligence and transparency obligations in connection with minerals and metals from conflict-affected areas and child labour.

Enactment:
- Transparency for raw material companies: 1 January 2022 (i.e. first-time reporting in 2023)
- Due diligence in the value chain:
  - Minerals and metals from conflict-affected areas: 1 January 2023 (i.e. first-time reporting in 2024 on FY 2023)
  - Child labour: 1 January 2023 (i.e. first-time reporting in 2024 on FY 2023)
- Non-financial (sustainability) reporting:
  - Based on Swiss CO 964a-c: 1 January 2023 (i.e. first-time reporting in 2024 on FY 2023)
  - Based on Ordinance on climate related reporting: 1 January 2024 (i.e. first-time reporting in 2025 on FY 2024)

The adjustments in the Swiss Code of Obligations (CO) (art. 964a–964l) and the related ordinances (for the Ordinance on Climate Disclosures, refer to the section on TCFD below) enter into force as of 1 January 2022 and 1 January 2023, respectively. The reporting obligation applies as of 2024 for the 2023 financial year (FY).

Non-financial (sustainability) reporting

Companies/groups of public interest (including entities regulated by the Swiss Financial Market Supervisory Authority FINMA) with 500 or more full-time employees on average in two consecutive financial years and that exceed at least one of the following in two consecutive financial years

(i) total assets of CHF 20 million; or
(ii) turnover of CHF 40 million

are required to report annually on non-financial matters.

It is required to report on core elements (such as the business model, policies, due diligence applied, measures taken and assessed for effectiveness, main risks identified and their treatment as well as relevant indicators) in the areas of the environment (in particular, CO2 targets), social issues, employee and human rights as well as the fight against corruption.

In a permissive provision, the law states that the report may be based on national, European, or international reporting standards. If such standards are used, they must be considered and followed in their entirety. This means that companies have some leeway in implementing the Swiss law. However, it must be ensured that all required aspects of the Swiss law are covered, which in practice is best implemented through a reference table.

For smaller companies reporting sustainability information for the first time, it is advisable to focus first on the core elements without applying specific reporting standards, whereas for larger companies with established sustainability reporting it is recommended to designate and apply appropriate standards accordingly.

In August 2021, the Federal Council resolved to specify the non-financial reporting obligation on climate-related information by means of a separate implementation ordinance (Ordinance

on Climate Disclosures) and to implement it based on the recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD).

Whilst the law applies for the 2023 reporting period (i.e. first-time reporting in 2024), the specifications of the Ordinance on Climate Disclosures are in force only for the 2024 reporting period (i.e. first-time reporting in 2025). We recommend companies/groups consider the clarifications contained in the Ordinance when drafting their disclosures for the 2023 reporting period, if possible. Please refer to the section on TCFD below for details.

There is currently no assurance requirement for the non-financial reporting in accordance with CO 964a-c. However, the Federal Council communicated on 22 September 2023 that Swiss law shall be coordinated internationally, in particular the latest developments in European Union (EU) regulation shall be reflected. Until July 2024 at the latest, the Federal Council intends to present a consultation proposal, which is expected to include the following cornerstones:

- Similar to the EU, Swiss companies/groups with over 250 (currently 500) full-time employees on average in two consecutive financial years also shall be required to report on non-financial matters (other thresholds remain unchanged).
- Reporting on non-financial matters shall be subject to mandatory assurance by an external auditor.
- Swiss companies/groups shall have a choice to adopt either the EU standard (ESRS) or another comparable international standard (e.g. OECD standard).

Due diligence and transparency in connection with minerals and metals from conflict-affected areas

Specific due diligence must be carried out if the company/group – having its seat, head office or principal place of business located in Switzerland – imports or processes minerals and metals originating from conflict-affected or high-risk areas exceeding the thresholds mentioned in Annex 1 of the Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour (DDTrO). The specific thresholds are in line with EU law. The thresholds refer to tariff numbers defining the exact form of the metals and minerals. For instance, Annex 1 refers to gold or tin as a raw material (in unwrought form), i.e. gold or tin imported as part of computer chips is not subject to this regulation.The minerals category includes ores and concentrates containing tin, tantalum or tungsten, as well as gold, also in the form of by-products. Metals are those containing or consisting of tin, tantalum, tungsten as well as gold, also in the form of by-products. If companies/groups can prove that they exclusively import/process recycled materials, an exemption applies for part of these obligations.

Furthermore, compliance with internationally recognised regulations – either (1) the OECD (Organisation for Economic Co-operation and Development) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas or (2) the Regulation (EU) 2017/821 – exempts a company/group from the obligations as specified in the Swiss law. The company/group needs to prepare a report in which it names the internationally recognised regulations and applies them in their entirety.

The companies concerned are required to:

- Define the supply chain policy (including used instruments) in writing and communicate the policy to their suppliers (including integration in contracts) and the public;
- List in writing information about production facilities and service providers in a supply chain traceability system;
- Ensure that concerns in the supply chain in respect to conflict minerals/metals can be reported;
- Identify and assess the risks of adverse effects in its supply chain in the areas of minerals and metals and take appropriate measures; and

- Report on the above; in the case of conflict minerals and metals, this report is subject to an assurance obligation in accordance with the DDTrO.

Those charged with governance must report annually on compliance with the due diligence obligations. A limited assurance engagement in accordance with PS/NAS 980 must be performed by an audit firm supervised by the Federal Audit Oversight Authority (FAOA) to assess the appropriateness of the Compliance Management System (CMS) to determine if the due diligence obligations have been complied with (negative assurance).

In the event of a breach of the reporting obligation, fines up to CHF 100,000 could be imposed.

The Federal Council communicated on 22 September 2023 that due diligence requirements in the EU are already well advanced, and it is currently in the process of analysing in depth the impact of the planned EU directive on Swiss companies. This analysis shall be available by the end of 2023.

Due diligence and transparency in connection with child labour

Specific due diligence must be carried out by Swiss companies/groups if they offer products or services in relation to which there is a reasonable suspicion that they have been manufactured or provided using child labour. Exemptions may apply in the case of small and medium-sized entities/groups (SMEs) that fall below two of the thresholds (total assets of CHF 20 million, revenue of CHF 40 million and 250 full-time equivalents on average) in two consecutive years. Furthermore, low-risk companies/groups are exempt from the due diligence and reporting obligations (low risk is assumed, among others, if companies/groups are operating in countries whose due diligence response is rated as ‘basic’ by UNICEF). However, such an assessment must be documented.

Lastly, compliance with internationally recognised regulations (either (1) the International Labour Organisation (ILO) Conventions and the ILO-IOE (International Organisation of Employers) guidance or (2) the OECD Due Diligence Guidance for Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights) exempts a company/group from the respective Swiss obligations. The company/group needs to prepare a report in which it names the internationally recognised regulations and applies them in their entirety.

The companies concerned are required to:

- Define the supply chain policy (including used instruments) in writing and communicate the policy to their suppliers (including integration in contracts) and the public;
- List in writing information about production facilities and service providers in a supply chain traceability system;
- Ensure that concerns in the supply chain in respect to child labour can be reported;
- Identify and assess the risks of adverse effects in its supply chain around child labour and take appropriate measures; and
- Report on the above.

Those charged with governance must report annually on compliance with the due diligence obligations. In the event of a breach of the reporting obligation, fines up to CHF 100,000 could be imposed.

The Federal Council communicated on 22 September 2023 that due diligence requirements in the EU are already well advanced, and it is currently in the process of analysing in depth the impact of the planned EU directive on Swiss companies. This analysis shall be available by the end of 2023.

Transparency for raw material companies

An additional requirement arising from the revised CO (art. 964d) applies to companies subject to ordinary audit by law that themselves or through a controlled subsidiary are active in the extraction of minerals, oil, gas or wood. Such companies are required to report annually on payments to government institutions. This requirement already applied for the 2022 financial year (i.e. first-time reporting in 2023).

2. TCFD – Task Force on Climate-Related Financial Disclosures

Recommendations for consistent climate reporting, which will be implemented for the first time in Switzerland for companies subject to articles 964a and 964b CO (non-financial reporting obligations) effective for the 2024 financial year.

Enactment: • The Ordinance on Climate Disclosures will come into force on 1 January 2024.

Background

The Swiss Federal Council adopted the Ordinance on Climate Disclosures that will come into force on 1 January 2024. The new rules implement the recommendations of the TCFD, which have gained global and cross-sector acceptance in climate reporting.

In accordance with the Ordinance, reporting must cover the four core elements of governance, strategy, risk management, and metrics and targets. In addition, reporting must consider both the cross-sectoral and sector-specific guidance on the eleven recommendations and should consider the 'Guidance on metrics, targets and transition plans' of October 2021.

Whilst the Ordinance refers to TCFD, it also carries an important caveat as it allows companies/groups to meet the disclosure requirements of the Swiss law in another way. As a result, many businesses may look to developments beyond Swiss borders, where initiatives and standards are much stricter. This is not only a necessity for those Swiss companies falling within the scope of foreign regulation (e.g. CSRD in the EU), but a strategic decision for all others to gain a distinct competitive advantage.

Notably, with regard to the recommendations pertaining to strategy and specifically the reduction of CO2 emissions, companies are expected to disclose a transition plan comparable with the Swiss climate goals to reinforce validity and comparability.

Correspondingly, metrics and targets should also cover quantitative CO2 targets and, if relevant, targets for other greenhouse gases (GHG), while considering the short-, medium- and long-term implications. In line with other global initiatives, all GHG emissions, including the relevant categories of so-called 'Scope 3' emissions, must be reported when possible. Financial institutions are subject to further scenario analysis requirements.

The implementation of the recommendations regarding 'metrics and targets' requires companies to set targets and disclose metrics for the relevant business areas. The metrics should be disclosed separately for Scopes 1 and 2 GHG emissions, and, if possible, for Scope 3 emissions as well.

Recommendations of the TCFD

The Task Force makes eleven disclosure recommendations concerning four core elements of every company:

(1) Governance,
(2) Strategy,
(3) Risk management, and
(4) Metrics and targets

In its report, the Task Force also recommends a defined role for the Board of Directors in assessing climate risks, identifying material climate-related risks and opportunities, using

scenario analyses to assess their financial impact and defining a process for managing these risks.

There are some key challenges to be considered for companies that want to implement the recommendations of the TCFD:

1) Integration in the core areas of the company

The company has to integrate holistically the identification, evaluation and management of the opportunities and the risks in its structures and make them measurable through appropriate metrics and targets. This means that various functions, from risk management, financial controlling and investor relations to strategy and sustainability, have to be integrated, and various processes and structures adjusted or expanded.

2) Impact on the company and scenario analyses

The TCFD highlights the financial impact on the company. To this end, significant opportunities and risks over the short-, medium- and long-term horizons should be identified and their financial impact quantified and assessed using scenario analyses. This should ensure a longer-term and more holistic perspective in the assessment of opportunities and risks. The Swiss Ordinance on Climate Disclosures explicitly requires forward-looking analyses for financial institutions (see TCFD's 'Guidance on Scenario Analysis for Non-Financial Companies', October 2020).

3) Materiality and broader understanding of opportunities and risks

As in financial reporting, the determination of the materiality should consider the financial effects of climate-related risks and opportunities on income and expenses, assets and liabilities, the conditions for raising capital and refinancing. In addition, companies are required to broaden their opportunity and risk assessments to include climate-related aspects. This means dealing with market and regulatory risks arising from the transition to a low-emission economy.

4) Linking climate-related reporting and financial metrics

Companies are required to report on climate-related opportunities and risks from a financial perspective. They are also required to publish the metrics used to assess and manage the financial impact of the opportunities and risks.

Future outlook on the TCFD

The Financial Stability Board has announced that the work of the TCFD has been completed. From 2024 onwards, the IFRS Foundation® will take over responsibilities from the TCFD for the monitoring of progress on companies' climate-related disclosures. Companies that apply the IFRS® Sustainability Disclosure Standards will meet the TCFD recommendations and there will be no need to apply the TCFD recommendations in addition to the International Sustainability Standards Board standards.

3. CSRD – Corporate Sustainability Reporting Directive

Increased requirements for sustainability reporting by companies in the EU, which could also impact Swiss companies with subsidiaries in the EU.

Enactment: Phased approach:

- From 2025 on FY 2024 data for companies previously falling under NFRD as well as large EU companies and third country companies with securities listed on an EU exchange
- From 2026 on FY 2025 data for large companies in the EU (including large EU subsidiaries of third country parent companies)
- From 2027 on FY 2026 data for SMEs with securities listed on an EU exchange (2 year opt out possible)
- From 2029 on FY 2028 data for third country parent companies with at least one large EU subsidiary (or a branch >EUR 40 million turnover) and >EUR 150 million consolidated turnover in the EU

Background

In April 2021, the European Commission (EC) published its proposal for a Corporate Sustainability Reporting Directive (CSRD), which will replace the current Non-Financial Reporting Directive (NFRD). The EU is thus increasing the requirements for sustainability reporting. After being formally adopted in November 2022, the CSRD entered into force on 5 January 2023. EU Member States have 18 months to implement the directive into national law.

Impacted companies

While the NFRD was only applicable to PIEs (Public Interest Entities) with more than 500 employees, the CSRD significantly expands the scope of applicability:

- All ‘large’ companies, regardless of their capital market orientation, that meet two of the following three criteria (i) an annual average of 250 employees, (ii) EUR 40 million in net turnover and (iii) EUR 20 million total assets.
- All capital market-oriented companies – including SMEs – except for micro-companies.
- Non-EU companies with at least one large subsidiary or branch[1] (certain size criteria apply) in the EU and above EUR 150 million consolidated EU revenue.
- Reporting at group level exempts non-listed subsidiaries of their own reporting obligation, provided the standard applied of the parent company is ESRS (European Sustainability Reporting Standards) or accepted as equivalent. The subsidiary must refer to the group report.

Timeline

For companies that are already subject to the NFRD, reporting obligations apply from 2025 for the 2024 financial year. For all other large companies and large subsidiaries of a non-EU parent company, the reporting obligation will apply as of 2026 for the 2025 financial year and for listed SMEs and non-EU companies as of 2029 the latest (for the 2028 financial year).

[1] As defined by Chapter 1, Article 3 of the Directive 2013/34/EU of the European Parliament and of the Council: Exceed at least two criteria: EUR 40 million in net turnover, EUR 20 million in balance sheet total, or more than 250 employees.

Format

The CSRD requires companies to provide more consistent and transparent sustainability-related information about their business practices than previously. The aim is to bring sustainability reporting to the same level as financial reporting.

Companies will no longer be able to choose where to publish the information. In future, the required information must be included in the management report section of the annual report. This is to be published at the latest four months after the end of the financial year and at the same period as the financial information.

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The content of European sustainability reporting is developed by the European Financial Reporting Advisory Group (EFRAG) and specified in the new ESRS. The ESRS were eventually adopted on 31 July 2023. Compared to the draft version, the final standards entailed several simplifications, including a reduction of disclosure requirements and several phase-in provisions for specific disclosures. These changes are a consequence of Commission President von der Leyen's aim to ease the burden for in-scope companies.

The ESRS include general standards as well as standards on environmental, social and governance topics. Additional standards (ESRS third country standards, ESRS SME standards) are in preparation. The EC is expected to publish a proposal amending the CSRD in October 2023 with the intention of postponing the sector-specific and third country-specific ESRS from 2024 to 2026. This forms part of the 25% reduction of the reporting burden package and gives the EFRAG more time to finalise the implementation guidance on the materiality assessment and value chain, and to work on the SME standards. In preparing the standards, the EFRAG is working closely with existing sustainability reporting standard setters (such as the Global Reporting Initiative GRI) and tries to achieve compatibility with other new reporting standards, such as those developed by the International Sustainability Standards Board (ISSB). These collaborations have created hope for a gradual harmonisation of ESG reporting standards.

The CSRD requires all information to be provided to understand the company's development and performance, as well as the impact of its activities.

The concept of double materiality is to be enshrined in the regulations. In this case, sustainability aspects are to be considered material for a reporting entity if they are material from an ecological or social perspective either regarding the company's impacts on society and environment (impact materiality/inside-out-perspective) or on the company's risk and opportunities related to business and financials (financial materiality/outside-in perspective). The EFRAG issued non-authoritative implementation guidance for the materiality assessment in August 2023.

All content should be measurable with the help of indicators. For instance, ESRS E1 'Climate change' requires in 'Disclosure Requirement E1-6 – Gross Scopes 1,2,3 and Total GHG emissions' that an entity shall disclose its:

- gross Scope 1 GHG emissions;
- gross Scope 2 GHG emissions;
- gross Scope 3 GHG emissions; and
- total GHG emissions.

In this regard, the ESRS refer to the Greenhouse Gas Protocol Corporate Standard (GHG Protocol – version 2004) as an additional source of guidance with already widespread application and acceptance. The GHG Protocol started in 1998 with the aim of developing internationally accepted GHG accounting and reporting standards and promoting their broad adoption.

In the future, sustainability reports should be both retrospective and forward looking, contain quantitative and qualitative data, take into consideration intangible resources, e.g. human capital or intellectual property, and address the entire value chain.

Phase-ins

Various transitional reliefs are foreseen, such as that the information on the value chain can first be limited to information available in-house or that comparatives are not mandatory in the first year of application. Furthermore, appendix C of ESRS 1 includes a detailed list of phased-in disclosure requirements aimed at facilitating the first-time application for ESRS preparers.

Assurance requirements

The EC's proposal requires external assurance of the reported information – initially with limited assurance. However, it is envisioned to move to reasonable assurance in the medium term. Statutory auditors will be allowed to provide sustainability assurance as well, but there is no requirement to do so. Specific requirements regarding auditors' experience and expertise are planned to ensure quality.

Impact on companies in Switzerland and link to other EU regulations

Swiss companies with subsidiaries or branches in the EU and/or transferable securities listed in the EU will also be affected by the CSRD. The requirements apply to large companies, regardless of their capital market orientation, i.e. also to subsidiaries of Swiss groups. It is recommended that the CSRD requirements be implemented at group level on a timely basis to exempt the non-listed subsidiaries from the reporting obligation and, at the same time, to meet the Swiss reporting obligations.

PwC Switzerland has developed a free-to-use online tool, the Swiss Sustainability Reporting Advisor, that allows Swiss companies to carry out an initial check of their reporting requirements under EU and Swiss sustainability reporting regulation.

Further, the EU also plans a Corporate Social Due Diligence Directive (CS3D) which will go beyond the Swiss due diligence requirements (refer to separate section below). Companies active in the EU (i.e. subject to CSRD) should anticipate this in their implementation of Swiss requirements. This directive will also underpin the Sustainable Finance Disclosure Regulation (SFDR) that has recently entered into force and applies to financial market participants (such as investment fund and portfolio managers, insurance companies selling insurance-based investment products and companies providing various pension products) and financial advisers. Under the SFDR, these companies 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. At the same time, for companies with more than 500 employees, the publication of such a statement is mandatory, and the Commission is empowered to adopt regulatory technical standards on the sustainability indicators in relation to the various types of adverse impacts (refer to separate chapter on SFDR below).

4. EU Taxonomy Regulation

Binding classification standard for sustainable economic activities in the EU, which will also impact Swiss companies with subsidiaries or branches in the EU as well as Swiss financial companies that offer their products in the EU.

Enactment: Phased approach:

- From 2024 on FY 2023 alignment on environmental objectives 1 and 2 including amendments of economic activities. Voluntary regarding environmental objectives 3–6
- From 2025 on FY 2024 alignment on all environmental objectives and corresponding economic activities

Background

With the EU Taxonomy adopted in July 2020, the EC is creating a binding classification standard for sustainable economic activities in the EU. The act published in July 2021 supplementing article 8 of the Taxonomy Regulation ('delegated act') specifies the formal disclosure requirements for reporting companies in the context of the EU Taxonomy.

Technical screening criteria

The EU Taxonomy distinguishes between six environmental objectives in terms of classification:

(1) Climate change mitigation
(2) Climate change adaptation
(3) Sustainable use and protection of water and marine resources
(4) Transition to a circular economy
(5) Pollution prevention and control
(6) Protection and restoration of biodiversity and ecosystems

The Taxonomy Regulation ranks certain economic activities based on technical screening criteria as sustainable and non-sustainable activities. The technical screening criteria for economic activities which have to make a significant contribution to climate change mitigation and adaptation were adopted in June 2021 (commonly referred to as NACE or Nomenclature of Economic Activities). Economic activities in emission-intensive sectors, such as energy, manufacturing, transport, forestry and buildings, which account for almost 80% of direct GHG emissions in Europe, were addressed. NACE codes are used to classify these economic activities.

Who is impacted by the EU Taxonomy Regulation?

On the one hand, the Regulation concerns **non-financial companies**, i.e. capital market-oriented companies with more than 500 employees that are subject to the NFRD, and in the future all companies subject to the CSRD.

On the other hand, the Regulation concerns **financial companies**, such as banks, asset managers, investment firms and insurance/reinsurance companies. The Regulation is based on information on the proportion of environmentally sustainable economic activities in the total assets that financial companies finance or invest in.

Procedure for companies

Since only selected economic activities are included in the Taxonomy, **non-financial companies** must first consider which of their economic activities fall within the scope of the Taxonomy (so-called ‘Taxonomy-eligible’). It is then necessary to demonstrate for the identified activities that they (1) make a substantial contribution to one of the six EU

environmental objectives based on the technical screening criteria, (2) do no significant harm to the other environmental objectives and (3) meet the minimum social standards and technical screening criteria for the activity concerned. the companies concerned must report on the sustainable proportion (so called 'Taxonomy alignment') of their turnover, their investments (Capex) and their operating expenses (Opex).

Financial market players in the EU offering financial products need to disclose how their products contributes to the goals of the EU Taxonomy. After the disclosure of eligibility KPIs (CapEx, OpEx, Turnover), the companies concerned must report on the sustainable proportion (so called 'Taxonomy alignment') of their turnover, their investments (Capex) and their operating expenses (Opex).

What is the time horizon?

The introduction will take place in several phases. As of 1 January 2022 (for the 2021 financial year), **non-financial companies** were only required to disclose the proportion of Taxonomy-eligible and non-Taxonomy-eligible economic activities for the three KPIs (Turnover, Capex, Opex, Turnover) As of 1 January 2023 (for the 2022 financial year), it is necessary to report on compliance with the criteria for classification as Taxonomy-aligned for the first two environmental objectives. The delegated acts containing the technical screening criteria for the remaining four environmental objectives were adopted on 27 June 2023. As of 1 January 2024 (for the 2023 financial year) companies report on their eligibility on the remaining four objectives. As of 1 January 2025 (for the 2024 financial year) the same timeline as for CSRD applies to report on alignment for all six environmental objectives.

As of 1 January 2022, **financial companies** must disclose their risk positions in Taxonomy-eligible and non-Taxonomy-eligible activities as a share of their total assets. Credit institutions also have to disclose their trading portfolio and short-term interbank loans as a share of their total assets. Insurance and reinsurance companies must indicate their share of Taxonomy-eligible and non-Taxonomy-eligible activities in their non-life business. As of 1 January 2024 (for the 2023 financial year), **asset managers** must disclose the proportion represented by their investments in Taxonomy-aligned economic activities of the value of all managed investments (Green Investment Ratio or GIR). As of 1 January 2024, **credit institutions** must disclose the Green Asset Ratio (GAR), which indicates the ratio of risk positions in Taxonomy-aligned activities to the total assets of the credit institution. In addition, KPIs for off-balance-sheet assets (green ratio for financial guarantees (FinGuar KPI)) and for fees and commission income (F&C KPI) are planned for 1 January 2026 (for the 2025 financial year). As of 1 January 2024, **investment firms** will disclose (both on their own account and on behalf of clients) the proportion of their total assets accounted for by Taxonomy-aligned activities. As of 1 January 2024, **insurance and reinsurance companies** shall disclose KPIs relating to the Taxonomy-aligned activities of their managed assets and insurance activities.

Impact on companies in Switzerland

Swiss non-financial companies, which are subject to the NFRD or after the entry into force of the CSRD, are also subject to the EU Taxonomy Regulation. Swiss financial companies offering financial products in the EU are also subject to the EU Taxonomy Regulation regarding the product disclosure requirements.

At present, it is advisable for companies to examine the EU requirements and to pursue their implementation at group level.

Please refer to the following PwC publication for an explanation of the basics of the EU taxonomy.

5. SFDR – Sustainable Finance Disclosure Regulation

The SFDR imposes transparency and disclosure requirements for financial market participants and financial advisors at entity and product level.

Enactment:	• 10 March 2021 (1 January 2023 – detailed technical standards)

Background

The Sustainable Finance Disclosure Regulation (SFDR) is a fundamental pillar of the package of measures implementing the EU Action Plan on Sustainable Finance. By introducing comprehensive sustainability-related disclosure obligations for financial institutions, SFDR aims to provide greater transparency on sustainability within the European financial markets in a standardised way, thus preventing greenwashing and ensuring comparability.

Key requirements

The sustainability-related disclosure requirements under the SFDR must be met at both company and product levels.

Disclosure requirements at company level

Financial market participants (FMPs) and financial advisors (FAs) have to disclose the following sustainability-related information on their website since 2021:

- how sustainability risks are included in the investment decision-making process and in investment advice;
- the extent to which the remuneration policy is consistent with the inclusion of sustainability risks; and
- whether the so called principal adverse impacts (PAI) on sustainability factors are considered in investment decisions and investment advice at company level.

The obligation on FMPs to disclose PAI requires comprehensive and detailed qualitative and quantitative information based on a specified template. The reporting template includes a set of quantitative PAI indicators depending on the underlying asset type and requires the reporting of all pre-defined mandatory PAI indicators as well as at least one environmental and one additional social PAI indicator. Examples of indicators include GHG emissions of all investments, the GHG intensity of investee companies and investee countries, the share of investments in investee companies that have been involved in violations of the UNGC (United Nations Global Compact) principles or OECD Guidelines for Multinational Companies, share of investments in energy-inefficient real-estate assets and others. The qualitative information to be disclosed includes information such as a description of the policies to identify and prioritise PAIs within the investment process, the data sources used, the consideration of PAIs within the engagement policies, as well as references to alignment with international standards for due diligence and reporting and, where relevant, the degree of their alignment with the objectives of the Paris Agreement.

The obligation to consider the PAI obligations at entity level is mandatory for companies with more than 500 employees and is applicable on a comply-or-explain basis for all other companies. The reporting based on the prescribed template has to be conducted annually starting by 30 June 2023, at the latest.

Disclosure requirements at financial product level

All financial products in scope of SFDR have to disclose information on sustainability risks and the (non-) consideration of the PAI on sustainability factors of the financial product in their pre-contractual disclosures (e.g. fund prospectuses). In addition, increased transparency requirements apply to financial products that promote environmental and/or social characteristics (art. 8 ' Light Green') and those that have sustainable investments as their objective (art. 9 'Dark Green"). Such products must include additional sustainability-related information based on detailed templates in the pre-contractual documents, in periodic reporting (e.g. annual reports from funds) and on websites. The templates include, among others, the disclosure and regular reporting of:

- the promoted environmental and/or social characteristics and objectives and how they were attained;
- the binding elements of the sustainability-related investment strategy;
- sustainability indicators; and
- detailed asset allocation of the portfolio in terms of % investments aligned with the promoted environmental and/or social characteristics and sustainable investments.

The templates also require the disclosure and reporting of the proportion of investments that are environmentally sustainable as defined by the EU Taxonomy ('Taxonomy-aligned investments'). Complementary product information, such as methodologies, data sources and processing and due diligence processes, is to be disclosed on the website of the FMP.

Who is impacted by SFDR?

The regulation applies to all **FMPs** and **FAs** within the EU. This includes, among others, asset managers, investment firms, credit institutions, insurance companies and pension funds.

Impact on Swiss financial institutions

Although Swiss financial institutions are often not directly within the scope of the requirements, they are indirectly impacted through their European subsidiaries and their exposure to EU clients and services. For example, Swiss companies who manage, market or act as a delegate for investment funds registered in the EU, often have to provide the required ESG information for the disclosures and include the respective obligations in their investment process and controls. Hence, many Swiss financial institutions are impacted by the transparency requirements of SFDR.

Recent developments and future outlook

Since its first application in March 2021, the SFDR regime has been concretised through regulatory technical standards as well as Q&As, clarification documents and supervisory expectations. Below are the most recent developments.

In February 2023, the Commission Delegate Regulation (EU) 2023/363 was published amending the SFDR Delegated Regulation (SFDR RTS), which introduced new aspects to the original pre-contractual and periodic disclosure templates for financial products under SFDR in respect of fossil gas and nuclear energy-related activities to ensure alignment with the EU Taxonomy.

Furthermore, following their mandate to review and revise the SFDR Delegated Regulation, the three European Supervisory Authorities (ESAs) recently published a joint consultation paper on a potential revision of SFDR. The proposal entails, among others, an extended list of the universal social PAI indicators, a revision of the content of other PAIs, improvements on the disclosures on how sustainable investments 'do no significant harm' to any sustainable objectives and simplifications of the pre-contractual and periodic disclosure templates.

Moreover, the EC has just published a long-awaited list of answers on the interpretation of certain SFDR queries, clarifying various interpretative aspects such as clarifications of the definition of ‘sustainable investments’, the consideration of the PAI and financial products that have a reduction in carbon emissions as their objective, among others.

The EC launched a public and targeted consultation on the implementation of SFDR, lasting from 14 September 2023 until 15 December 2023. The aim is to assess potential shortcomings, focusing on legal certainty, the useability of the regulation and its ability to play its part in tackling greenwashing, ultimately exploring possible options to improve the framework.

6. IFRS® Sustainability Disclosure Standards

Sustainability disclosure standards developed by the International Sustainability Standards Board (ISSB) aimed at developing standards for a global baseline of sustainability disclosures. The objective is not only to provide relevant and comprehensive sustainability information to global capital markets and investors, but also interoperability with local requirements and to address information needs with a variety of stakeholders.

Enactment:	• 26 June 2023 (IFRS S1 and S2) • Like the IFRS® Accounting Standards, jurisdictional bodies will decide whether IFRS® Sustainability Disclosure Standards may be used within a certain territory. The standards are not enacted in Switzerland.

Background and current stage

Investors increasingly consider sustainability information when making their decisions and require information that is globally comparable and of high quality. The ISSB was formed in November 2021 by the IFRS Foundation® with the intention to develop standards aiming to meet this requirement, and to address a wide range of sustainability-related standards with the aim to reduce complexity, costs and risks to issuers and stakeholders.

The ISSB issued its inaugural global sustainability disclosure standards 'IFRS S1: General Requirements for Disclosure of Sustainability-related Financial Information' and 'IFRS S2: Climate-related Disclosures' on 26 June 2023.

What are the objectives?

The standards are focused on cost-effectiveness, relevance for decision-making and market-information.

The ISSB defined the following four key objectives:

- Develop standards for a global baseline of sustainability disclosures
- Meet the information needs of investors
- Enable companies to provide comprehensive sustainability information to global capital markets
- Facilitate interoperability with disclosures that are jurisdiction-specific and/or aimed at broader stakeholder groups.

The ISSB on the sustainability reporting standards map

The ISSB is – among others – supported by the G7 and the G20. The close collaboration with the GRI ensures compatibility and interconnectedness between the investor-focused standard of the ISSB and the broader range of addressees of GRI. The ISSB benefits from the work and other support of leading investor-focused sustainability and integrated reporting organisations.

In this endeavour, the ISSB actively uses the work of the Climate Disclosure Standards Board (CDSB), the TCFD, the Value Reporting Foundation's Integrated Reporting Framework (responsibility jointly held by the International Accounting Standards Board (IASB) and the ISSB), industry-based Sustainability Accounting Standards Board (SASB) Standards, and the World Economic Forum's Stakeholder Capitalism Metrics.

The CDSB and the Value Reporting Foundation (Integrated Reporting Framework and SASB Standards) were integrated into the IFRS Foundation in 2022 where the responsibility for the

SASB Standards is now with the ISSB. Also, from 2024 onwards, the IFRS Foundation will take over the responsibilities from the TCFD concerning the monitoring of progress made on companies' climate-related disclosures. Companies applying the ISSB™ standards will meet the TCFD recommendations.

ESRS and ISSB standards still differ in many key areas such as impact materiality or separate standards for different ESG matters. Work undertaken on interoperability, however, still enables companies to apply both sets of climate-related standards with a very limited duplication of effort. To facilitate such reporting, the ISSB collaborates with the EC and EFRAG to provide interoperability guidance aiming at assisting companies that intend to report under both ISSB and ESRS standards.

What is the content?

It is noteworthy that IFRS Accounting Standards and IFRS Sustainability Disclosure Standards are highly compatible. Whilst the combined application of these standards is possible and intended, the IFRS Sustainability Disclosure Standards are designed in a way that they can be used independently of the applied GAAP (Generally accepted accounting principles).

The IFRS Sustainability Disclosure Standards currently consist of the following:

a) IFRS S1: General Requirements for Disclosure of Sustainability-related Financial Information

- asks for disclosure of material information about sustainability-related risks and opportunities;
- sets out general reporting requirements;
- points to other standards and frameworks (e.g. SASB Standards and CDSB Framework application guidance) in the absence of specific IFRS Standards;
- emphasises the need for consistency and connections between financial statements and sustainability disclosures, requiring financial statements and sustainability disclosures to be published at the same time.

b) IFRS S2: Climate-related Disclosures

- sets out disclosure of material information about climate-related risks and opportunities;
- Incorporates TCFD Recommendations and includes SASB Standards' climate-related industry-specific topics and metrics as illustrative guidance;
- requires disclosure of information, when material, about physical risks (e.g. flood risk), transition risk (e.g. regulatory change) and climate-related opportunities (e.g. new technologies); and
- sets out disclosure for transition planning, climate resilience, and Scopes 1, 2 and 3 emissions.

Considering materiality, the ISSB uses the same definition of 'material' as the IFRS Accounting Standard: information is material if omitting, obscuring or misstating it could be reasonably expected to influence investor decisions.

Transitional reliefs

For the first year using the ISSB standards, companies need not:

- provide disclosures about sustainability-related risks and opportunities beyond climate-related information;
- provide annual sustainability-related disclosures at the same time as the related financial statements;
- provide comparative information;

- disclose Scope 3 greenhouse gas emissions; and
- use the Green House Gas Protocol to measure emissions, if they are currently using a different approach.

In addition, the ISSB decided that companies that only report on climate-related risks and opportunities in the first year are provided with additional relief from providing comparative information (in the second year, comparatives are required only for climate-related risks and opportunities).

What is the expected use?

The International Organisation of Securities Commissions (IOSCO) announced its endorsement of the IFRS Sustainability Disclosure Standards in July 2023. Member jurisdictions are now asked to consider how ISSB standards can be incorporated in respective regulatory frameworks. It is expected that this will encourage the adoption of these standards. Like the IFRS Accounting Standards, legislative bodies will decide whether IFRS Sustainability Disclosure Standards may be used within a certain territory. For that purpose, the ISSB created the Sustainability Standards Advisory Forum for a closer collaboration with jurisdictional representatives.

Compatibility with other standards

If a company already applies either SASB Standards, TCFD Recommendations, the CDSB Framework or the Integrated Reporting Framework, the recommendation is to continue doing so since the IFRS Sustainability Disclosure Standards is based on these materials. Thus, it should facilitate a potential adoption of the standards developed by the ISSB.

Next steps and future outlook

For entities new to sustainability disclosure, it is recommended to use the 2023 financial year to prepare for a potential application of IFRS Sustainability Disclosure Standards by:

- evaluating internal systems and processes for collecting, aggregating and validating sustainability-related information across the company and its value chain;
- considering the sustainability-related risks and opportunities that affect the business;
- reviewing the ISSB's proposed standards; and
- reviewing or using the SASB Standards and CDSB Framework (both of which support IFRS S1), TCFD Recommendations (which form the foundation of IFRS S1 and IFRS S2) and the Integrated Reporting Framework (whose concepts are reflected in IFRS S1).

In Q2 2023, the ISSB consulted to determine future priorities beyond the initial IFRS S1 and IFRS S2 standards. The following four projects are subject to feedback from investors and other market participants:

- biodiversity, ecosystems and ecosystem services;
- human capital;
- human rights;
- connectivity in reporting (a potential joint project with the IASB).

Currently, this process is still ongoing.

7. Equal pay

7.1. Switzerland

The revised Gender Equality Act has been in force since 1 July 2020, requiring companies with 100 or more employees to conduct an equal pay analysis and to have this analysis reviewed by an approved independent auditor. Further regulatory developments on the transparency of pay and gender quotas can also be expected at the European level.

Enactment:
- 1 July 2020, refer to the section on important dates below

Revision of the Gender Equality Act

The Federal Council enacted an amendment to the Gender Equality Act to enforce equal pay as of 1 July 2020.

Under the revised legislation, companies and public institutions with 100 or more employees (headcount) had to carry out an equal pay analysis by June 2021 and have it reviewed by an approved independent auditor by June 2022. Companies were also obliged to inform employees and shareholders about the results by June 2023.

During the period of validity, equal pay analyses must be repeated regularly every four years, unless an analysis shows that there is no inexplicable systematic wage difference between women and men. In this case, no further analysis is required.

You can learn more about how PwC can help you comply with the revised Gender Equality Act here:

a) PwC Insights on the Gender Equality Act

b) Regulatory developments promoting gender balance

c) New Swiss equal pay law – how does it fit into today's global landscape of gender pay legislation?

Please also note that companies growing in headcount might become subject to the revised Gender Equality Act over time. Switzerland-based legal entities must assess the number of employees (headcount) each year on 1 January. When companies meet or exceed the headcount of 100, the regulations of the Gender Equality Act become applicable to them, i.e. they must prepare an analysis and have this analysis reviewed by an approved independent auditor. Such companies are also obliged to inform employees and shareholders about the results.

The law does not provide for any sanctions.

Important dates to note

- 1 July 2020: the amended Gender Equality Act entered into force.
- Latest 30 June 2021: companies and public institutions had to complete their first internal equal pay analysis.
- Latest 30 June 2022: companies must have had their internal analysis reviewed by an independent auditor within one year of completing the analysis

- Latest 30 June 2023 : companies must have had informed their employees in writing of the results of the analysis. Companies whose shares are listed on a stock exchange must disclose the results of the equal pay analysis in the notes to the annual financial statements.
- 1 July 2032: the amendment to the Gender Equality Act automatically expires after twelve years in accordance with the sunset clause.

The above obligations therefore apply to the period from 1 July 2020 to 30 June 2032.

Subject to review

The review of equal pay analyses is defined as a formal review. This is designed as a limited assurance engagement: the auditor's report includes therefore a statement on whether any findings exist that would lead to the conclusion that the equal pay analysis does not comply with the law.

The legal requirements are:
- The equal pay analysis was carried out within the period prescribed by law.
- There is evidence that the equal pay analysis was carried out using a scientific and legally compliant method.
- All employees were recorded in full.
- All salary components were recorded in full.
- The required data has been collected in full.

What you need to do

The first internal analysis must be completed by the end of June 2021 at the latest. Companies must provide evidence of the scientific nature and legal conformity of the analytical method used. If the federal government's standard analysis tool (Logib) is used, the Office for Gender Equality provides a declaration of conformity.

Further information about Logib can be found at www.ebg.admin.ch.

PwC is happy to assist you with any questions you have regarding equal pay and the new legal requirements: PwC Insights on the Gender Equality Act

Are there alternative solutions?

The formal review meets the minimum legal obligation. It does not prove the existence of an effective equal payment regime, nor does it provide a statement from the employer about the related organisational measures in place.

We outline below two alternatives to the minimal legal obligation described above.

Our service offerings

Equal-Salary Certification by the Equal-Salary Foundation, with assurance by PwC

The statutory equal pay analysis can be carried out on the basis of the Equal-Salary methodology. It has been independently confirmed as a scientific and legally compliant method and substantiated as required by the revised Gender Equality Act.

For companies that want to go a step further, we recommend full Equal-Salary Certification. It is issued by the Equal-Salary Foundation (ESF) and is valid for three years.

An Equal-Salary Certification process has four phases, consisting of
- (phase 1) an in-depth statistical analysis of pay equality,

- (phase 2) on-site assurance involving qualitative assessment of the company's commitment, and management system in place for equal pay for equal work and equal opportunities.
- (phase 3) this is then followed by the certification by the EQUAL-SALARY Foundation; and
- (phase 4) two monitoring assurance engagements.

The process can be conducted in Switzerland and globally for any organisation that has at least 50 employees in a given country to undergo the certification process. To learn more about the details of each phase please visit: EQUAL-SALARY certification.

Also, please see here the list of organisations already certified.

Employers' contributions to trust and transparency

More and more listed and privately held companies support their entrepreneurial leadership with enhanced commitment to and communication about regulatory matters.

Reporting that goes beyond the financial aspects allows an organisation to highlight other key factors (the 'enablers') necessary to achieve its financial objectives. The field of ESG, which covers the dimensions of Environment (E), Social Affairs (S) and Governance (G), is of vital importance in this regard.

Expanding the scope of reporting can be tailored to specific needs and supports the company's social license to operate (SLO) by communicating its purpose and its contributions to economic, ecological, and social areas, including gender equality.

This highlights the trust and transparency message of a company. Moreover, this message appears even stronger through external assurance; learn how PwC can assist clients in fostering trust in companies:

- ESG: Criteria and Implementation

Gender guidelines

Since 1 January 2023 the Swiss corporate law includes gender guidelines which are mandatory for large companies (Swiss CO art. 727 para. 1 cl. 2). The guideline is for women to make up at least 30 per cent of the Board of Directors and 20 per cent of the Executive Board in large companies with listed shares based in Switzerland. .

No sanctions are provided for if the guidelines are not met. However, companies are obliged to explain in the compensation report the reasons and the measures to improve the situation (comply-or-explain approach). The obligation to report gender representation begins five years after the new provisions come into force for the Board of Directors (1 January 2026) and ten years for the Executive Board (1 January 2031).

7.2. European developments

EU Directive on Gender Balanced Boards

On 14 March 2022, The EU Member States' employment and social affairs ministers have reached a preliminary agreement on a European directive to enhance gender equality on corporate boards. The directive proposes that listed companies must have at least 40% non-

executive director positions held by the under-represented sex, or 33% if all board members are considered. By 2026, companies are required to take measures to achieve these minimum targets, while countries with existing measures or progress towards the directive's goals may suspend its requirements. However, final implementation across Europe still depends on an agreement between the European Council and the EU Parliament.

The EU Pay Transparency Directive

Background

Although gender-based pay discrimination is already prohibited, it has persisted due to insufficient implementation, in part because of the lack of transparency in pay structures. The resulting EU Directive on Pay Transparency could play a crucial role in addressing this issue.

On 30 March 2023, the European Parliament approved the European Commission's legislative proposal to introduce pay transparency requirements and enforcement mechanisms to reinforce the implementation of equal pay for equal work or work of similar value between men and women. Companies that are located in an EU member state with at least 100 employees will need to comply. The EU Pay Transparency Directive entered into force on 6 June 2023. Swiss companies whose parent company is in the EU are also affected by this new directive.

Enactment:

- Member States have three years to transpose the directive into national legislation.

The directive sets out pay transparency measures, such as pay information for job seekers, a right to know the pay levels for workers doing the same work, as well as gender pay gap reporting obligations for companies – public and private – with more than 100 employees.

The directive prescribes two areas where employers will need to take action: pay transparency and pay equity.

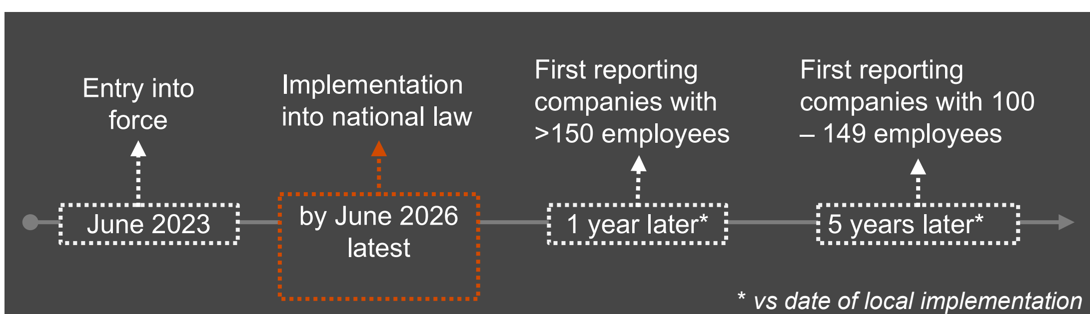
	Pay transparency:
Recruitment:	Employers will be required to inform applicants of a range of starting pay in job postings or prior to an interview and they will not be allowed to ask candidates about their pay history.
Right to information:	Workers will be allowed to ask their employer for information about their pay levels in relation to average pay levels – broken down by gender – for categories of workers doing the same work or work of equal value.
Reporting:	Employers will have to publish different data points (average and median) around the gender pay gap as well as the proportion of workers who benefitted from a pay rise following their return from (maternity) leave.

	Pay equity:
Reporting:	On top of the average and median gender pay gaps, employers are required to report on their pay gaps adjusted for gender-neutral criteria, such as experience and performance. Employees have the right to receive such information.
Correct pay inequity:	If the adjusted gender gap is above 5%, then companies need to correct the gap within six months or conduct a joint pay assessment and create a gender action plan.

Burden of proof:	Where the employer did not fulfil its transparency obligations, it will be for the employer, not the worker, to prove that there was no discrimination in relation to pay.
Compensation:	Workers who have suffered gender pay discrimination can receive compensation, including full recovery of back pay and related bonuses or payments in kind.
Sanctions:	Member States should establish specific penalties for infringements of the equal pay rule, including fines – and equality bodies and workers' representatives may act in legal or administrative proceedings on behalf of workers.

Further proceedings

Member States will have up to three years to transpose the requirements into local law, i.e. by June 2026 at the latest. Employers may then be given up to a year to start complying with key provisions, i.e. June 2027 at the latest.



The deadline to first comply with the pay gap reporting obligations depends on the size of the organisation.

100–149 employees	report within **5 years** after the date of implementation
>150 employees	report within **1 year** after the date of implementation

8. Regulatory outlook

8.1. CS3D – Corporate Sustainability Due Diligence Directive

Binding framework that helps companies to assess and manage sustainability risks and impacts across their value chains. Introduction of a link between variable remuneration of directors and the sustainability targets of a company.

Enactment:
- Not yet enacted
- This outlook does not include the tentative amendments of June 2023 (currently under negotiation)

In February 2022, the European Commission published its proposal for a Directive on Corporate Sustainability Due Diligence (CS3D). The proposed CS3D directive complements various EU initiatives such as the Corporate Sustainability Reporting Directive (CSRD). With this proposed directive, the EC aims to create an EU-wide transparent and predictable framework that helps companies to assess and manage sustainability risks and impacts with respect to core human rights and environmental risks across their value chains. By introducing a link between variable remuneration of directors and the sustainability targets of a company, this requirement could influence companies' remuneration strategies.

Scope

The proposed directive provides due diligence requirements for large companies and for smaller companies in certain high-risk sectors, in the EU and in third countries. The due diligence obligation requires companies to identify actual or potential negative impacts on human rights and the environment, and to take measures to mitigate those impacts. In addition, companies are required to adjust and align their business plans and strategies with the transition to a sustainable economy and the limitation of global warming to 1.5 degrees Celsius, in accordance with the Paris Agreement.

The EC estimates that the scope of the proposed directive will cover approximately 13,000 EU companies and 4,000 third-country companies. These companies can be divided into the following three groups:

	Description
Group 1	Companies based in the EU with more than 500 employees on average and net worldwide turnover of more than EUR 150 million in the last financial year for which annual financial statements have been prepared.
Group 2	Companies based in the EU with more than 250 employees on average and a net worldwide turnover of more than EUR 40 million, of which at least 50% was generated in one of the following 'high risk' sectors: • Manufacture and wholesale of textiles, leather, clothing, footwear, and related products • Agriculture, forestry, fisheries, manufacture of food products, and wholesale trade of agricultural raw materials, live animals, wood, food, and beverages • Extraction, manufacture and wholesale trade of mineral resources, metal products, fuels, chemicals and others.
Group 3	Companies established outside the EU with a net turnover of more than EUR 150 million in the EU or with a minimum net turnover of EUR 40 million and a maximum of EUR 150 million in the EU, provided that at least 50% of its net worldwide turnover was generated in one of the 'high risk' sectors.

Micro-companies and SMEs are not directly affected by the proposed Directive. These companies could, however, be indirectly affected if they are part of the value chain of companies that fall within the scope of the Directive.

Obligations for companies and their directors

The proposed Directive lays down specific human rights and environmental due diligence obligations for companies within its scope:

	Obligations for companies
Policy	Implementation of due diligence policy that is updated annually. Due diligence integrated into all corporate policies.
Identification	Take appropriate measures to identify actual and potential adverse human rights and environmental impacts arising from own operations, from subsidiaries and from established business relationships if these are related to the value chains.
Prevention and minimisation	Take appropriate measures to prevent potential, end/minimise adverse human rights or environmental impacts.
Complaints procedure	Provide possibility to affected persons and organisations to submit complaints if they have legitimate concerns regarding actual or potential adverse human rights or environmental effects.
Monitoring	Carry out periodic assessments of above activities and measures (director's duty of care).
Public communication	Annual statement on due diligence matters published by 30 April each year, covering the previous calendar year and specifying information on the description of due diligence, potential and actual adverse impacts and actions taken on those.
Variable executive remuneration	The proposed directive requires companies to adopt a plan to ensure that business model and strategy are compatible within the transition to a sustainable economy and the limitation of global warming to 1.5° C in line with the Paris agreement. The proposed directive suggests that a company's variable remuneration strategy should be linked to its sustainability goals in certain situations.

Sanctions for violation of requirements (under negotiation)

The sanctions imposed to companies that infringe the requirements shall be proportionate to the level of a company's effort to comply with any remedial action required of them. These sanctions will be enforced by Member States and can take different forms:

- Financial sanctions based on the company's turnover
- Publication of the breach of the provisions of the CS3D
- The obligation to take an action, including the obligation to cease the conduct constituting the violation and to refrain from any repetition of that conduct
- Suspension of free circulation or export of goods
- Civil liability for damages where a company failed to comply with the obligations and an adverse effect has not been identified, prevented, mitigated or eliminated by appropriate measures
- Breaches of the duty of care by director's may result in sanctions under the laws of the Member States.

From European approval to national implementation

In June 2023, the EU Parliament agreed on a common position which paved the way for negotiations with member states. These inter-institutional negotiations – so-called 'trilogues' – will focus on a few critical points and should start in 2023. Among others, discussion points are whether:

- the financial sector shall be included into the CS3D
- all proposed sanctions shall be applied
- there shall be a link between due diligence obligations and directors' remuneration
- the scope of the directive shall be rather narrow or wide
- the full value chain shall be covered by the new rules or just parts of it.

The proposal is subject to the approval of the European Parliament and the European Council with the aim of adopting the directive by 2024. Once adopted, Member States will have two years to transpose the Directive into national law. Although transposing the Directive into national law will take some time, it is advisable that affected companies already start aligning their organisation's values, purpose and strategic objectives with the expected legal provisions. It is expected that the rules will not become applicable before 2025 the earliest.

8.2. SEC (US Securities and Exchange Commission) proposal and other developments in the United States

Financial and non-financial disclosure requirements related to risks and impact of climate change. Companies will also be required to disclose information about carbon emissions, which would be subject to a phased-in assurance requirement.	
Enactment:	• Not yet enacted

The SEC issued a proposal in March 2022 that would significantly enhance climate-related disclosures in annual filings and registration statements. While the final SEC rule is still pending, two bills that were approved by the California Legislative in September 2023 may have a large impact on the future climate reporting in the US. The proposal focuses specifically on:

- how climate risks are identified, assessed, managed, and disclosed;
- the financial impact of severe weather and other natural events as well as transition activities; and
- GHG emissions.

The proposed disclosures to be included in annual reports and registration statements are extensive. A final rule was initially expected in late 2022 but is now expected sometime in 2023, as is a proposal for enhanced human capital disclosures. The following topics are part of the proposed disclosure requirements:

Regulation S-K climate-related disclosures	
Climate-related impacts on strategy, business model and outlook	• Physical and transition risks reasonably likely to have a material impact over the short, medium and long terms and how they are part of business strategy, financial planning and capital allocation (e.g. need to reduce GHG emissions, impact of drought, rising temperatures, floods, wildfires, transition risks, etc.). SEC's proposal specifically defines the physical and transition risks within the scope of the disclosures (eliminates room for interpretation). • Zip code level disclosure of nature and location of assets, processes and operations subject to climate-related risks. • Climate-related risk disclosures would be included in a new section of the annual report or registration statement entitled 'Climate-Related Disclosure' with a requirement to update for material changes on a quarterly basis.

Regulation S-K climate-related disclosures	
GHG emissions reporting	• Scope 1 and Scope 2 – disaggregated by type of GHG (seven specified GHGs) and in aggregate, accompanied by an emissions intensity measure. Proposal requires disclosure of emissions excluding the impact of any purchased or generated offsets – any offsets used in a company's emissions reduction strategy would be disclosed separately. • Scope 3 – if material or included in the registrant's GHG emissions reduction target or goal, accompanied by a Scope 3 emissions intensity measure (exception: smaller reporting companies). Assessing materiality may require companies to calculate their Scope 3 emissions. Calculating Scope 3 emissions is complex and may be reliant on information from suppliers or that requires estimation based on available data and certain assumptions about a company's value chain. • GHG reduction targets or goals and transition plan, if any.
Governance and oversight of climate-related risks	• Board of Director's oversight of climate-related risks. • Whether any member of the Board of Directors has expertise in climate-related risks, and if so, the nature of the expertise. • Management's processes for identifying, assessing and managing climate-related risks.
Regulation S-X financial statement footnote disclosures	
Financial impact metrics	• Quantitative disclosure of the impacts of severe weather events and other natural conditions as well as transition activities on individual financial statement line items if the impact is greater than a bright-line 1% threshold (comparability over time and among different registrants).
Expenditure metrics	• Quantitative disclosure of amounts capitalised and expensed related to severe weather events and other natural conditions as well as transition activities, if the impact is greater than 1% of total capitalised costs or total expenditures expensed, respectively
Impact on estimates and assumptions	• Qualitative description of the impact of climate-related events and transition activities on estimates and assumptions.
Other information	• Contextual information about how each specified metric was derived, including a description of significant inputs and assumptions. • Description of the impact of physical risks and transition risks on the financial statement metrics.

The SEC proposal would require organisational boundaries to be aligned with the (consolidated) financial statements for emissions metrics.

Transition

The disclosure requirements are phased. This phased approach is intended to provide registrants with time to establish necessary systems, controls and procedures and it is based on registrant type. Comparative disclosures are required for all periods presented, which leads to a significant acceleration of the timeline (with provisions to exclude the information for historical periods if it is not reasonably available to the registrant without unreasonable effort and expenses).

Effective dates will quickly follow with the earliest CSRD reports required for 2024; a similar effective date is expected for the largest SEC filers.

The SEC proposal does not prescribe specific targets or dates, instead requiring disclosure of any targets set by the company. If adopted generally as proposed, we expect that all companies – even those with extensive voluntary disclosures – would need to expand their disclosures while also ensuring the information is investor grade. The proposed rules are not applied to all companies equally. In some cases, the SEC requires companies with more established climate-related programmes or processes to provide additional disclosures. Companies are likely not capturing information at this low threshold today and may need to enhance their existing reporting systems to accurately capture all the information that would be required.

Assurance requirements

The proposal includes footnote disclosure within the financial statements – which would be subject to the financial statement audit and management's internal control over financial reporting – as well as disclosures outside the financial statements, including a Scope 1 and Scope 2 GHG attestation requirement (use of the GHG Protocol is not required) for accelerated and large accelerated filers.

Providing investors with comparable confidence in both sustainability and financial information is a driver of the assurance requirements in the SEC proposal and it includes a phased assurance approach, beginning with limited assurance and increasing to reasonable assurance later.

SEC proposal in the context of other ESG regulation

An SEC registrant that has a subsidiary listed in the EU, and a subsidiary in a jurisdiction that requires ISSB reporting, may be subject to all three requirements, plus the new California bills, which are expected to be signed into law. With equivalency — that is, whether disclosures for one reporting framework can satisfy some or all of the requirements of another — not yet determined, companies captured in multiple reporting regimes have a vested interest in understanding which reporting applies.

California climate disclosure bills

The California State Senate (California Senate) Climate Accountability Package includes bills that would require

1. GHG emissions reporting in compliance with the Greenhouse Gas Protocol and
2. climate-related financial risk reporting in line with the recommendations of the TCFD.

If the bills are not vetoed by the California Governor before 14 October 2023, they will become law and over 10,000 US companies – including both public and private companies as well as subsidiaries of non-US headquartered companies that meet certain revenue thresholds and that are 'doing business' in California – would be subject to climate disclosure requirements in the near term, with reporting beginning in 2026 on 2025 information.

More detailed information is available in the following publications:

The SEC wants me to disclose *what*?

Navigating the ESG landscape – Comparison of the 'big three' disclosure proposals

9. Industry- and territory-specific considerations

9.1. Sustainable Finance at FINMA

FINMA places a strong emphasis on sustainable finance as a fundamental component of its mission. The organization's strategic goals for 2021-2024 reflect a commitment to promote the sustainable growth of Switzerland's financial sector.

With its role as a supervisory authority, FINMA actively engages with the challenges presented by sustainability in financial markets. The central focus lies in recognizing and mitigating financial risks associated with sustainability, with particular attention given to climate-related risks, which currently represent the most prominent concerns.

In fulfilling its mandate, FINMA holds supervised institutions accountable for the effective management of climate-related risks. Their approach is designed to be proportionate and consistent with other risk factors. In January 2023, FINMA released guidance to assist in navigating the complexities of climate risk management.

To strengthen transparency, FINMA has clarified disclosure requirements for significant financial institutions regarding climate-related risks, enhancing comparability across balance sheets. These requirements have been in effect since 1 July 2021, and institutions had to comply in 2022. End of 2022, FINMA analysed how the largest banks and insurance companies disclose their climate-related financial risk and set out key findings and recommendations.

Looking ahead, FINMA is poised to refine its expectations for managing climate-related financial risks, issuing more detailed guidance where necessary. This approach aims to provide clarity to institutions while ensuring a consistent and proportionate approach across different sectors. Relevant international developments will also be considered. As part of its future regulatory initiatives, FINMA is currently developing a circular addressing environmental risks in risk management, with a consultation expected by the end of 2023 and implementation scheduled for no earlier than 2025.

9.2. Developments relevant for entities operating in the financial services industry (incl. funds)

In the following table, we list a selection of key regulatory changes that are imminent which will likely have implications for your organisation:

FINMA Circular 2016/01 banks **FINMA Circular 2016/02 insurers**	• FINMA amended the two circulars underlying its expectations that financial institutions are to manage climate risks effectively and include obligations regarding transparency. • The expectations cover information on both entity and product level and are broad in scope. Including elements such as strategy, governance, resources, risk integration, appropriate controls and transparency on ESG factors considered. • It is expected that FINMA will intensify its supervision regarding greenwashing.
FINMA Guidance 05/2021	• FINMA outlines its expectations and current approach concerning the management of sustainability-related

	collective investment schemes, both at the fund and institutional levels. • FINMA issues a caution to financial service providers offering sustainability-related financial products, highlighting the potential risks of greenwashing during the advisory process and at the point of sale.
FINMA Guidance 01/2023	• In its guidance, FINMA highlights significant developments in the field of climate-related financial risk management. FINMA underscores its ongoing anticipation that supervised institutions establish a robust climate risk management framework rooted in established best practices. • FINMA commits to evolving its expectations concerning climate risk management, drawing from its supervisory insights and in alignment with pertinent global trends.
FINMA Guidance 03/2022	• In 2021, FINMA introduced specific disclosure requirements regarding climate-related financial risks into its existing Circulars 2016/1 'Disclosure – banks' and 2016/2 'Disclosure – insurers.' These requirements led to the inclusion of climate-related financial risk disclosures in the annual reports for the 2021 financial year. FINMA subsequently conducted an analysis of these disclosures. • This guidance document presents the key insights gleaned from these disclosures and shares them with all supervised banks and insurance companies. Importantly, these findings may also prove beneficial to institutions that voluntarily report on their climate risks or are in the process of preparing to do so.
AMAS Self-regulation	• AMAS developed self-regulation on transparency and disclosure for sustainability-related collective assets, which is applicable from 30 September 2023 and is binding for its members. • The principle-based approach, institutions responsible for creating and overseeing sustainable financial offerings will now be held accountable for mandatory organizational structures, reporting requirements, and disclosure obligations.
ASIP ESG Report	• ASIP (Swiss Pension Fund Association) published an ESG reporting standard, concluding that the consideration of ESG criteria in the investment process is to be understood as part of a pension fund's fiduciary duty. • The report includes several recommendations, including transparency around the measurement of progress towards set goals, providing a holistic picture of the sustainability performance of portfolios, and the usage of ESG data. The recommendations include qualitative and quantitative elements. • The recommendations in the report are not binding.
Climate and Innovation Act (Net-zero)	• On 18 June 2023, the Climate and Innovation Act was approved by the people of Switzerland. The bill stipulates that Switzerland must become climate-neutral by 2050. In doing so, the consumption of fossil fuels is not to be banned but reduced as far as possible. The

	following articles are of particular interest to financial institutions: • Article 5: Roadmaps for companies and sectors. Companies shall develop transition roadmaps to reach the net zero emission target by 2050. • Article 9: Targets for climate-friendly orientation of financial flows. The Swiss financial center should make an effective contribution to low-emission and resilient development.
Other PwC publications	Please find here a: • Synopsis of the most important regulatory developments

9.3. Principality of Liechtenstein

For companies in the Principality of Liechtenstein, European regulatory frameworks apply (such as SFDR, CSRD, EU Taxonomy). These European directives are still in the process of being incorporated into the EEA Agreement. The consultation is currently being performed to ensure timely implementation (‘adoption’) of the directives into national law. Transitional provisions provide temporary relief for the sustainability reporting of certain subsidiaries.

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