

State of Tax, Legal & People

Tax and ESG timeline

10 January 2023



Welcome

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- With the button '[Ask a question]' you can ask your questions directly
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- Webcast and presentation will be made available afterwards
- Evaluation form afterwards

Agenda

1. ESG regulatory landscape
2. E of ESG
3. S of ESG
4. Summary and key takeaways



01

ESG regulatory landscape



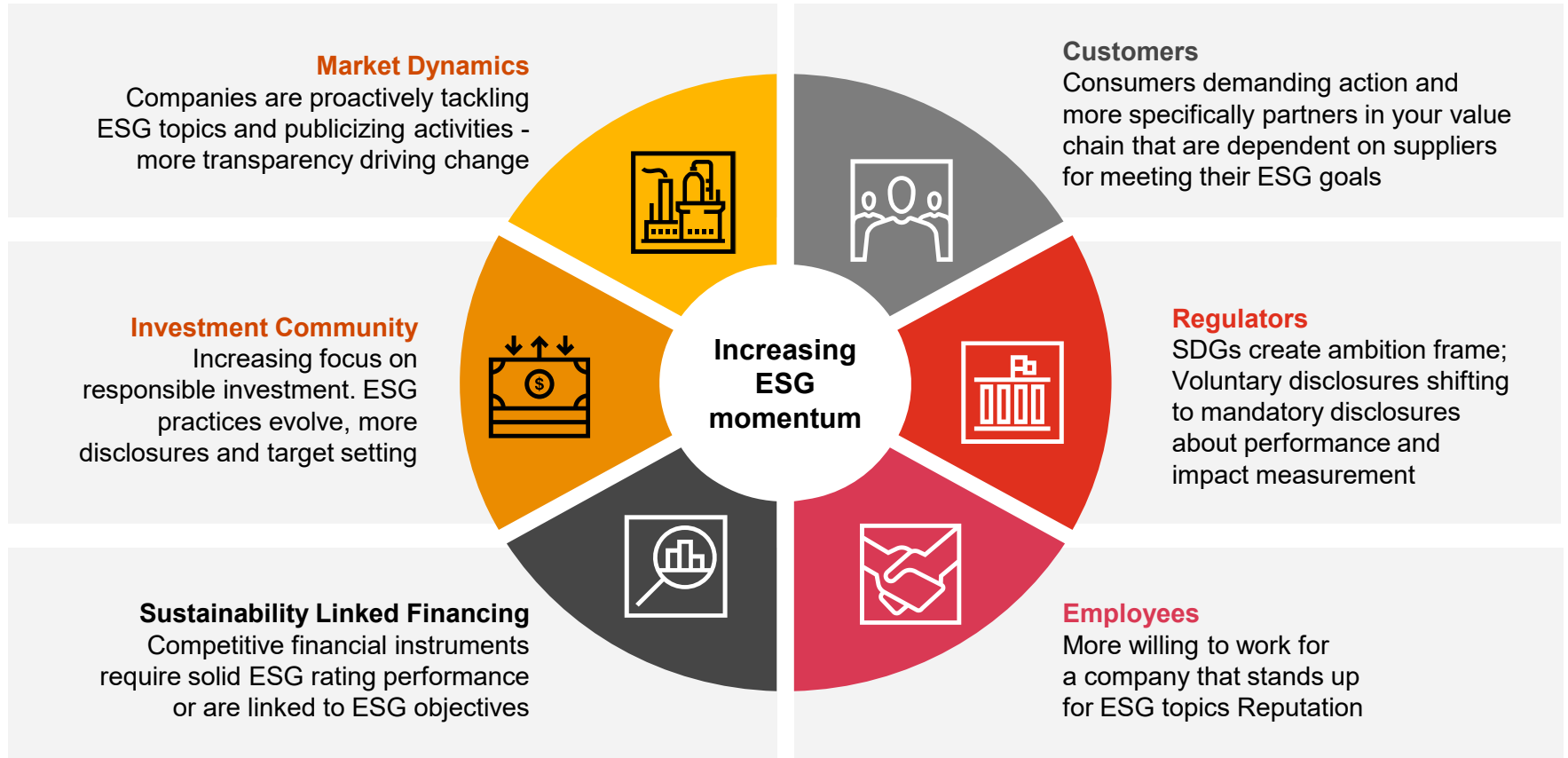
Poll

“Do you know what your company’s ESG strategy is”?

1. Yes, I know the targets in detail and what they mean for me
2. Yes, but I do not know the targets in detail
3. I know some elements, but do not have the complete picture
4. No, not yet



There are many drivers that increase the relevance of ESG



The EU Green Deal will further drive sustainability

- Aims to make Europe **the world's first 'climate neutral bloc' in 2050**, in line with the Paris Agreement.
- **All sectors are required to take action**, key roles to play for transportation and manufacturing.
- Its set of initiatives **mobilizing €100 billion within the next 6 years.**

2030



55%

At least 55% cuts in greenhouse gas emissions (from 1990 levels)



40%

At least 40% share for renewable energy



36-39%

At least 36-39% improvement in energy efficiency

2050

Green Deal

Action Plan of the EU Commission: sustainable growth strategy for the EU



"Zero"

Fully climate-neutral Europe by 2050 to limit global warming



Climate law

Climate neutrality as a legal obligation in the EU



Implementation of the EU Green Deal / Fit for 55

2

Proposal of a new European climate law

March, 2020

Proposal aims to

- Enshrine 2050 climate-neutrality in the EU law
- Establish process to set out and review trajectory paths until 2050
- Establish assessment and process for insufficient progress

4

Circular economy action plan

March, 2020

Selected strategic fields of action for circular economy

- Sustainable product policy initiative (with a focus also on chemicals)
- Enhance toxic-free circularity through new regulation on secondary raw materials

6

Chemical strategy for sustainability

Q3-Q4, 2020

New strategy building on previous policy reviews of the EU chemicals legislation to among others

- Simplify and strengthen EU rules on chemicals (e.g. one substance – one assessment; Support the EU's strategic autonomy in the production of essential chemicals)

1

Sustainable Europe Investment Plan

January, 2020

Investment of ~1T€ into EGD targets until 2030

- EU budget ~500bn€
- InvestEU ~280bn€
- Just Transition mechanism ~100bn€
- ETS funds ~25bn€

3

European Industrial strategy

March, 2020

Selected strategic fields of action for climate neutrality

- Chemicals strategy for sustainability
- Strategy for smart sector integration
- Strategy on offshore wind
- Carbon border adjustment mechanism

5

2030 Climate Target Plan

Q3-Q4, 2020

Comprehensive plan to

- Increase the 2030 climate targets (possibly to a 50-55% GHG reduction) to prepare for 2050 EU climate neutrality
- Present overall architecture of new and required updates to policy measures in the field of energy and climate

7

Strategy for smart sector integration 2021

Set out vision on

- Electrification of fossil fuel dependent sectors
- Renewable and decarbonized hydrogen, gases and fuels
- A more circular and efficient energy system



The European Green Deal
December, 2019



The financial market and real economy have a key role to play in delivering on the policy objectives under the Green Deal

NOT EXHAUSTIVE

Main objectives of the EU Action Plan on Financing Sustainable Growth

Reorient capital flows towards sustainable investments

Integration of sustainability in risk management

Foster transparency and long-termism in financial and economic activity

Examples of legal instruments, all of which belong to a series of EU regulations under the EU Action Plan on Sustainable finance

Name	Sustainable Finance Disclosure Regulation	EU Taxonomy for sustainable activities	Non-Financial Reporting Directive / Corporate Sustainability Reporting Directive
Application date	<ul style="list-style-type: none">Level 1 (classification): 10 March 2021Level 2 (classification): 1 Jan 2023	<ul style="list-style-type: none">Climate-related objectives: 1 Jan 2022Other objectives: 1 Jan 2023	<ul style="list-style-type: none">NFRD applicable since 2017CSRD: 1 Jan 2024

Overview of sustainability reporting requirements and standards

NFRD = Non-Financial Reporting Directive (implemented in the Netherlands through *Besluit bekendmaking niet-financiële informatie* (BNFI))

CSDD = Corporate Sustainability Due Diligence Directive

CSRD = Corporate Sustainability Reporting Directive

GRI = Global Reporting Initiative

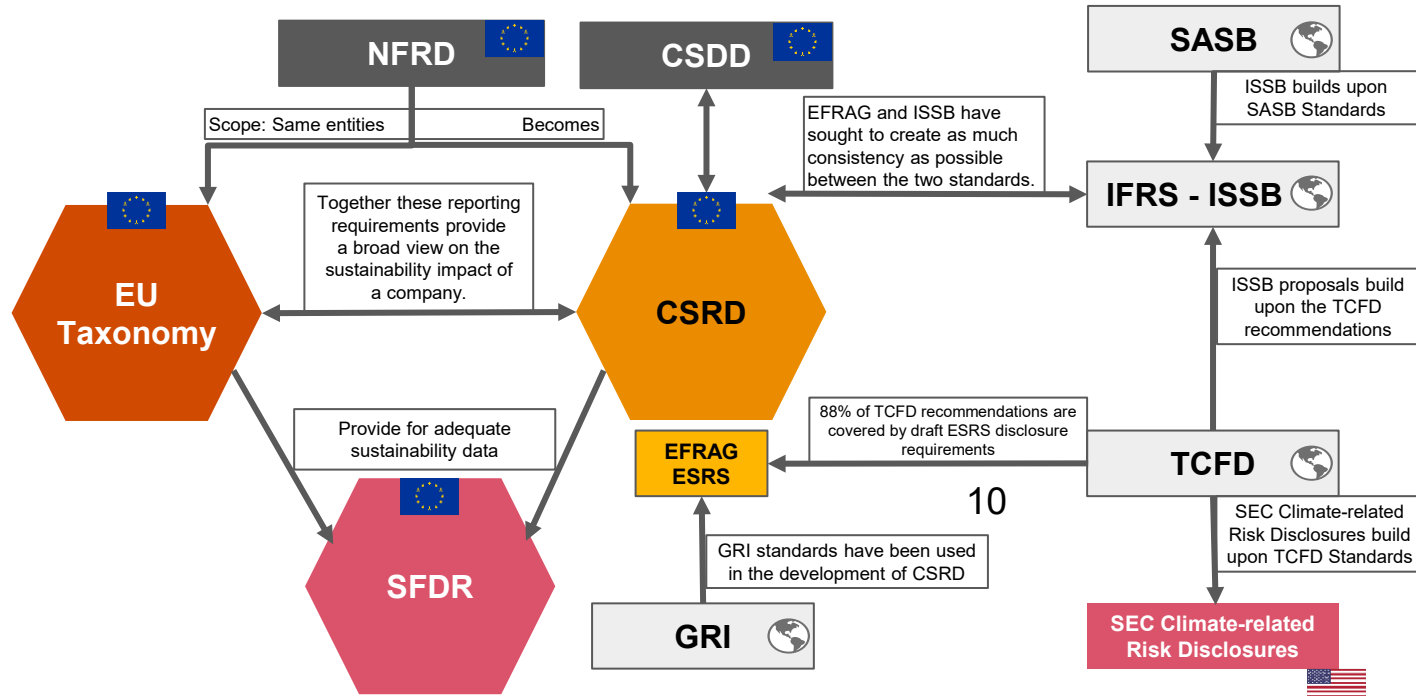
SEC = U.S. Securities and Exchange Commission

TCFD = Task Force on Climate-related Financial Disclosures

ISSB = International Sustainability Standards Board

SASB = Sustainability Accounting Standards Board

SFDR = Sustainable Finance Disclosure Regulation



Corporate Sustainability Reporting Directive (CSRD) - scope and timing

Scope	Timing
Large public interest entities (PIEs) with >500 employees (already subject to the NFRD)	FY 2024 reporting 2025
Large EU entities: entities meeting two of the following three criteria: (i) more than EUR 20 million balance sheet total, (ii) more than EUR 40 million net turnover, (iii) more than 250 employees on average over the FY ⁽¹⁾	FY 2025 reporting 2026
Listed SMEs: including small and non- complex credit institutions and captive insurance, which can decide not to provide sustainability reporting until 2028 (but have to include a justification of its absence in the management report) ⁽²⁾	FY 2026 reporting 2027
Third-country undertakings: Non-EU companies with a net turnover of more than €150 million in the EU at consolidated level and respecting one of the following criteria: (a) At least one large subsidiary in the EU or a subsidiary listed on an EU-regulated exchange; (b) At least one branch generating revenue of €40 million or more in the preceding year ⁽³⁾	FY 2028 reporting 2029

1. This refers both to EU companies and EU subsidiaries of non-EU companies respecting the thresholds. An EU subsidiary will be exempted if the EU parent company includes the sustainability information of the subsidiary in its report.
2. Including small and non-complex credit institutions and captive insurance.
3. Lighter reporting requirements to be developed at a later stage.

CSRD - requirements and ESRS

CSRD - framework

- 1 Brief description of the business model and strategy, including resilience
- 2 Targets related to sustainability matters set by the company and progress made towards achieving those targets
- 3 Role of the administrative, management and supervisory bodies
- 4 Policies in relation to sustainability matters
- 5 Principal risks and dependencies and management of those risks
- 6 Indicators relevant to disclose information referred to in points 1 to 5, and the EU 'Green' Taxonomy disclosures
- 7 Intangibles: intellectual, human, social and relationship capital
- 8 Process carried out to identify the information included in the management report and taking account of short, medium and long-term horizons
- 9 Due diligence process and the principal adverse impacts on the company and its value chain

European Sustainability Reporting Standards (ESRS) - reporting requirements

- ESRS outlines **reporting obligations** to comply with the CSRD
- Contains standards for reporting on Environment, Social and Governance
- European Financial Reporting Advisory Group (EFRAG) sent on 24 November 2022 first set of ESRS as advice to European Commission, which targets all companies under the CSRD
 - The first set is scheduled to be adopted by the European Commission by 30 June 2023
- EFRAG is developing the second set of ESRS, which targets sector-specific companies under CSRD, and will send it expectedly by the end of this year as advice to European Commission
 - The second set is scheduled to be adopted by the European Commission by 30 June 2024
- ESRS are **directly effective** when CSRD is implemented. ESRS itself does not need to be separately implemented into national legislation.

How does CSRD impact an organisation?



SECTOR-AGNOSTIC STANDARDS EDs*		
CROSS-CUTTING STANDARDS		
ESRS 1 General principles	ESRS 2 General, strategy, governance & materiality assessment	
TOPICAL STANDARDS		
Environment	Social	Governance
ESRS E1 Climate change	ESRS S1 Own workforce	ESRS G1 Business conduct
ESRS E2 Pollution	ESRS S2 Workers in the value chain	
ESRS E3 Water & marine resources	ESRS S3 Affected communities	
ESRS E4 Biodiversity & ecosystems	ESRS S4 Consumers & end users	
ESRS E5 Resource use & circular economy		

- **Value chain:** Material actual or potential / negative and positive impacts, risks and opportunities connected with Company's value chain => link to Transfer Pricing, environmental taxes.
- **Time horizons:** sustainability impacts considered over short-, medium-, and long-term and contain both retrospective and forward looking information (incl. target setting)
- **Governance:** designing and implementing processes, systems, and controls over sustainability matters, and disclosing those processes. Corporate governance - board responsibility, incentives & reward
- **Cross-functional impact:** Many different departments will be involved (procurement, production, HR, IT, Finance, Legal, Tax, Marketing, Community Relations, etc.), requiring upskilling, new reporting processes, new deadlines, x-functional working groups etc.
- **External stakeholder impact:** Views, interests, and expectations of affected stakeholders and users need to be considered
- **Data:** new and existing data will need to be tracked and reported for different purposes. E.g. GHG emissions for management reporting / reward, CSRD reporting and for tax purposes (compliance, incentives).

Poll

I'm actively involved in our company's CSRD readiness assessment

1. True
2. False
3. Our company does not (yet) perform a CSRD readiness assessment
4. I'm not aware of any readiness assessment



Illustrative timeline

EU large multinational

Phase 1 – Assess - 4 to 6 months

Determine ESG reporting aspirations and requirements

- Determine your company's **purpose**, wider ESG strategy and **reporting aspirations** and their interconnectivity
- Identify regulatory and voluntary **sustainability reporting requirements** [incl. identifying which entities in the structure are in scope]

Identify and assess impacts, risks and opportunities

- Identify **ESG risks and opportunities**
- Perform an **ESG materiality assessment**
- Perform **benchmarking**
- Identify the most relevant **ESG rating agencies** and **accreditations**

Assess maturity of current ESG reporting

- Perform a **maturity assessment** over current ESG reporting, including people, process, technology and controls.

Define the ESG reporting strategy and roadmap

- Define your company's detailed **ESG reporting strategy**
- **Identify gaps** to create a roadmap

**“No regrets”
action to
take now!**

Phase 2 – Design - 12 to 18 months

Design Oversight

- Design the **governance** structure over ESG, including ESG reporting
- Align ESG KPIs to executive and **management incentives**
- **Integrate ESG risks** into the enterprise risk management framework

Design ESG reporting policies, processes and controls

- Design and document ESG reporting **ESG policies**, including roles and responsibilities
- Design and document ESG reporting processes and **internal controls**
- Design the **data-to-reporting process**, including **data collection systems**

Phase 3 – Implement and refine - 4-6 months

Implement

- Configure, prototype and scale-up solution
- **Test** the design of the systems, processes and controls
- Plan **training curriculum** to upskill and develop self-sufficiency
- Report **progress** against the company's wider ESG strategy and targets

Refine reporting

- Solicit **stakeholder feedback**
- Revisit ESG ambition and strategy
- Review the **regulatory landscape** and identify relevant updates

Corporate Sustainability Due Diligence Directive (EU) and Corporate responsible and sustainable international business (NL)



CSDD (EU)

- Published on 23 February 2022 by European Commission
- CSDD imposes a due diligence duty on large companies which must be reported under the CSRD
- Due diligence on **human rights** and the **environment**
- On 1 December 2022 the European Council adopted its General Approach on the CSDD (containing some **key deviations** with major impact on final text). Starting position on negotiations with the European Parliament after Parliament adopts its own position on CSDD (first quarter 2023)

CRSIB (NL)

- Anticipates to the CSDD
 - General duty of care: every company operating internationally
 - Due diligence: large companies
 - 6 steps (OECD DD guidelines and CSDD)
- National legislation in other EU countries as well
- Converts soft law and case law into hard law
- Timing
 - First draft: March 2021
 - Second draft: November 2022
 - Round table discussion: 18 January 2023
 - Written consultation: 26 January 2023
- Criticism from Dutch companies and representatives

ESG Timeline



Doing Work / On Demand / My apps / ESG Timeline / Dashboard

Back



Pages



Introduction

This overview concerns legislative proposals of the European Union on themes related to ESG. Several important (proposals for) directives and regulations are elaborated, explaining the summary, scope, intended start date and the status. The overview is as comprehensive as possible, but contains no delegated or implementing regulations.

Overview

[Go to EU legislative procedure](#)

Regulations	Date	Last updated
Corporate Sustainability Reporting Directive (CSRD)	2024	2022-12-22
Decree limiting CO2 emissions from work-related passenger mobility (NL)	2023	2022-07-03
Gender balance in corporate boards (EU)	2026	2023-01-05
Regulation on Deforestation-free Products		2022-12-22
Sustainable Finance Disclosure Regulation (SFDR)	2022	2022-07-03
EU Taxonomy Regulation	2022	2022-07-03
Corporate Sustainability Due Diligence Directive (CSDD)	2022	2022-07-03
Regulation on Batteries and Waste Batteries	2022	2022-07-03
Ecodesign for Sustainable Products Regulation (ESPR)	2022	2022-07-03
Revision Industrial Emissions Directive	2022	2022-07-03

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Filters

Employees

- >100 employees
- >250 employees
- all companies

Listed/not listed

- listed company in member state

Start date

- 2023
- 2024
- 2026

Status Regulation

- final
- proposal

Regulation

- directive
- Dutch law
- regulation

ESG

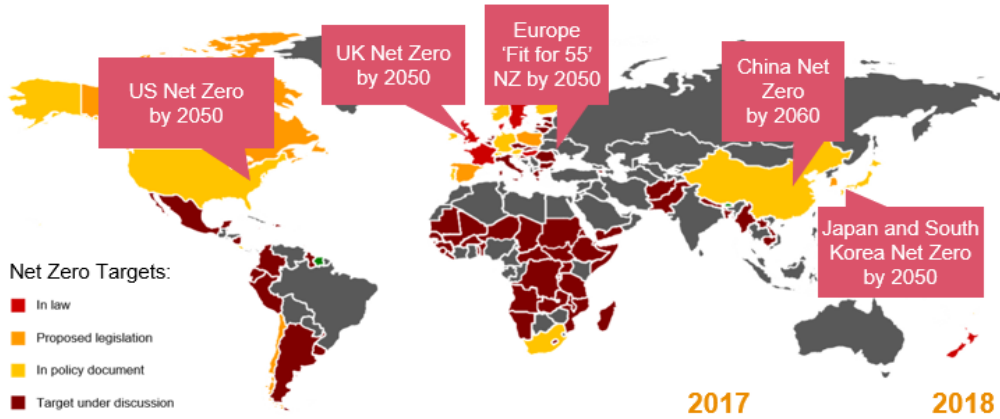
- E
- S

02

E of ESG



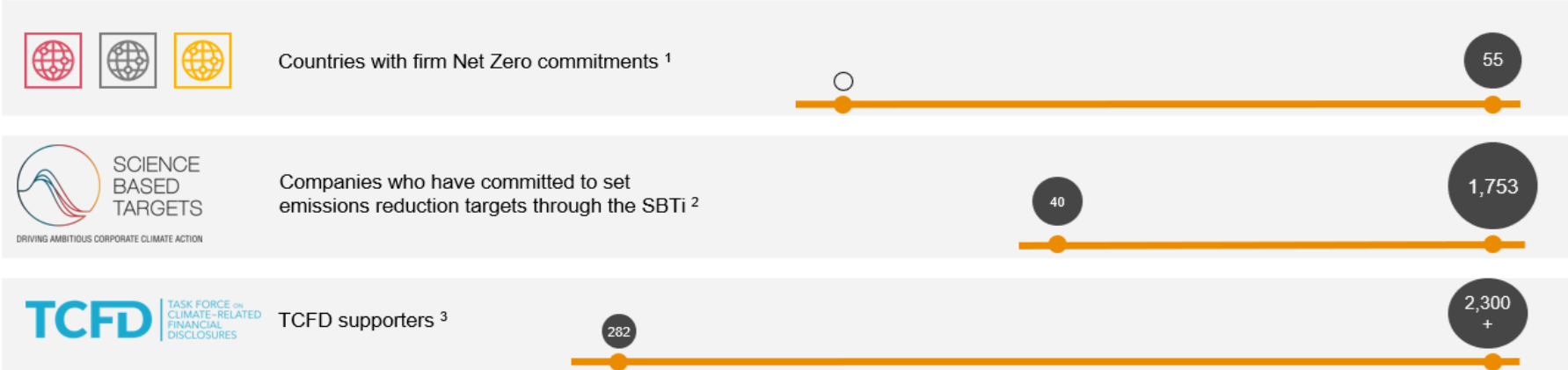
Global: “Net Zero”



55 countries have Net Zero targets and a further 101 countries have a Net Zero target under discussion.




Net Zero commitments have skyrocketed over the past few years (months!) and we expect to see this trend continuing

2019 2020 2021



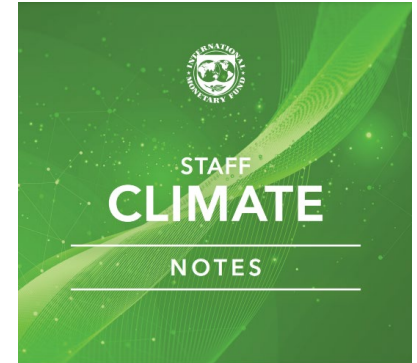
Source: 1. [Net Zero Tracker](#), 2. [SBTi website](#) 3. [TCFD website](#)

E of ESG - tax and legal developments

Environmental 					Social 				Governance 	
Climate change	Pollution	Water and marine resources	Biodiversity and ecosystems	Resource use and circular economy	Own workforce	Workers in the value chain	Affected communities	Consumers and end-users	Governance, risk mgmt and internal control	Business conduct
Climate change mitigation and adaptation	Pollution control and prevention	Water management	Biodiversity-friendly consumption and production	Resource inflows and outflows	Training and skills development	Working conditions	Economic, social and cultural rights	Privacy and access to information	Governance structure, composition and policy	Business conduct culture
GHG emissions	Pollution of air, water and soil	Water and marine resources	Biodiversity offsets	Waste	Health and safety management	Access to equal opportunities	Communities' civil and political rights	Personal safety and security	Nomination, diversity and remuneration of boards	Corruption and bribery
Energy usage	Harmful substances		Biodiversity and ecosystem management	Circularity	Work-life balance and freedom of association	Human Rights	Indigenous communities' rights	Social inclusion and access	Risk management	Anti-competitive behavior
Financing climate-related risks					Fair remuneration and social security				Internal control	Beneficial ownership
Carbon Taxes / EU ETS / CBAM	Plastic / waste taxes	Water taxes	Deforestation rules	Plastic / waste taxes	Human rights	Reward / employment conditions				Political engagement and lobbying activities
Tax incentives / subsidies / market regulation					Inclusion and diversity	Wage taxes & incentives				

COP27 - still limited global alignment carbon pricing

- One of the key topics is setting out rules for a carbon market between countries (article 6 Paris Agreement)
- ICC report on carbon pricing launched at COP27
- IMF: USD 75/ton CO2 price required by 2030
- International Carbon Price Floor?
- Limited results on harmonising toward a global framework on carbon pricing
- COP15?



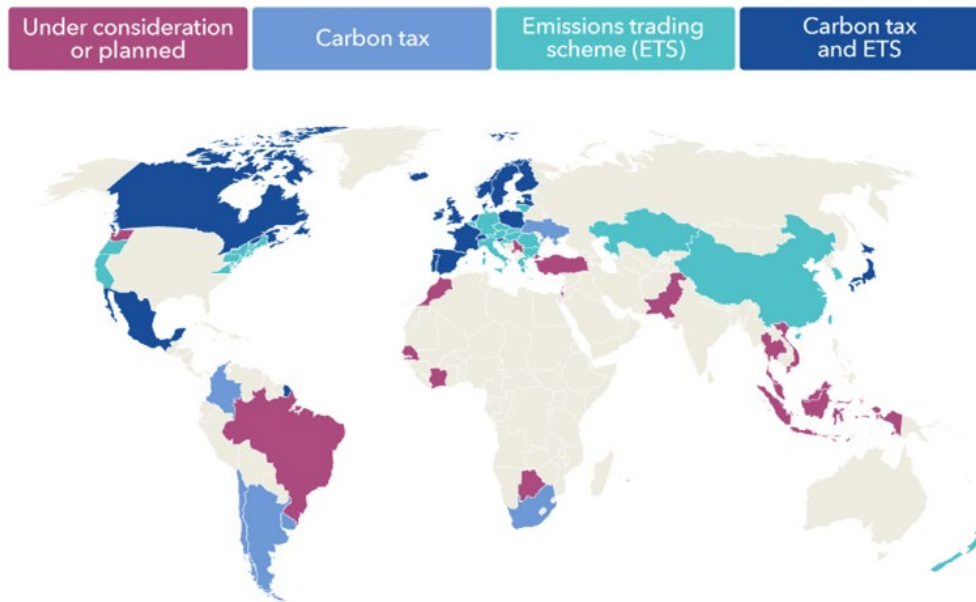
Proposal for an
International Carbon Price Floor
among Large Emitters

Ian Parry, Simon Black, and James Roaf

IMF STAFF CLIMATE NOTES 2021/001

Increased country level carbon pricing developments

- Countries are increasingly introducing carbon pricing to achieve “net zero” status
- Patchwork of different systems and prices
- EU ETS price increased to over EUR 90 per ton CO₂ emitted in 2022 (but remains volatile)
- CBAM - level playing field?



Source: WBG, IMF staff calculations, and national sources. Note: The boundaries and other information shown on any maps do not imply on the part of the IMF any judgment on the legal status of any territory or any endorsement or acceptance of such boundaries.

Poll

Which department(s) are best positioned to manage a company's carbon taxes?

1. Tax
2. Finance
3. Supply chain and procurement
4. All of the above



Fit for 55 - a wide range of legislative proposals

Review Initiatives



Carbon pricing and impose taxes on imported products will increase CO₂ costs and hence promote **clean energy**

Emissions Trading System (ETS)

Energy Tax Directive (ETD)

Carbon Border Adjustment Mechanism (CBAM)



Increased ambitions for renewable energy and environmental friendly solutions will positively contribute towards **net zero**

Renewable Energy Directive (RED)

Energy Efficiency Directive (EED)

Energy Performance of Buildings Directive (EPBD)

Effort Sharing Regulation (ESR)



Sector specific regulations and H₂ infrastructure are becoming key elements

CO₂ emission performance standards for cars and vans

Alternative Fuels Infrastructure

ReFuelEU - Aviation - Maritime

Sustainable Carbon cycles

Regulation on methane emissions reduction

Regulation on the internal markets for renewable and natural gases and for hydrogen

European Green Deal

Source: <https://cor.europa.eu/de/news/Pages/ENVE-COMMISSION-Fit-for-55-package.aspx>

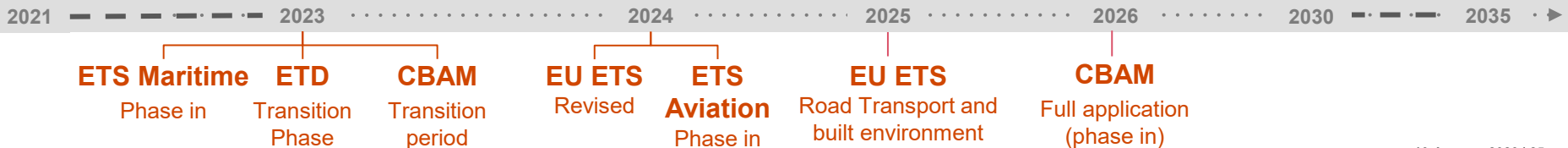
Fit For 55 implementation

Legal framework

- EU Regulation vs EU Directive
 - EU Regulation – binding legislative act, is immediately applicable and does not overrule national law
 - EU Directive – legislative act setting objectives that EU countries must reach and translate into their legislation within a defined timeframe
- Approval process (EU Parliament, Commission and Council)
 - Taxation based measures require unanimity
 - Environmental measures require ‘qualified majority’

EU Regulation	EU Directive
<ul style="list-style-type: none"> • EU ETS • CBAM • (...) 	<ul style="list-style-type: none"> • Energy Taxation Directive • Renewable Energy Directive • Energy Efficiency Directive • (...)

Taxation measure	Environmental measure
<ul style="list-style-type: none"> • Energy taxation directive 	<ul style="list-style-type: none"> • EU ETS • CBAM • Renewable Energy directive • Energy Efficiency Directive • (...)



Practical examples impact Fit For 55



The key takeaways E of ESG

- Carbon pricing / ESG measures increasing globally
- Carbon footprint insights critical, also in broader supply chain
- Energy crisis is further fuelling decarbonisation trend
- Green taxes and incentives key part of decarbonisation business case
- Opportunity for tax practitioners to play key role in making sustainability pledges real
- Start now with collecting data and assessing required steps

03

S of ESG



Why S is relevant

SECTOR-AGNOSTIC STANDARDS				SECTOR-SPECIFIC STANDARDS <i>(coming later)</i>
Cross cutting standards	Topical standards			
	Environment	Social	Governance	SME-PROPORTIONATE STANDARDS <i>(coming later)</i>
ESRS 1 General requirements	ESRS E1 Climate change	ESRS S1 Own workforce	ESRS G1 Business conduct	
	ESRS E2 Pollution	ESRS S2 Workers in the value chain		
ESRS 2 General disclosures	ESRS E3 Water & marine resources	ESRS S3 Affected communities		
	ESRS E4 Biodiversity & ecosystems	ESRS S4 Consumers and end-users		
	ESRS E5 Resource use and circular economy			

Regulatory push




A number of S related reporting and regulatory requirements have been announced, implemented or are expected. Topics relate to own workforce, workers in the value chain but also affected communities and end-consumers. Amongst others:

- CSRD
- CSDD
- (Proposed) Equal Pay Directive (EU) and (proposed) Equal Pay Act (NL)
- (Proposed) Responsible and Sustainable International Business Act (NL)

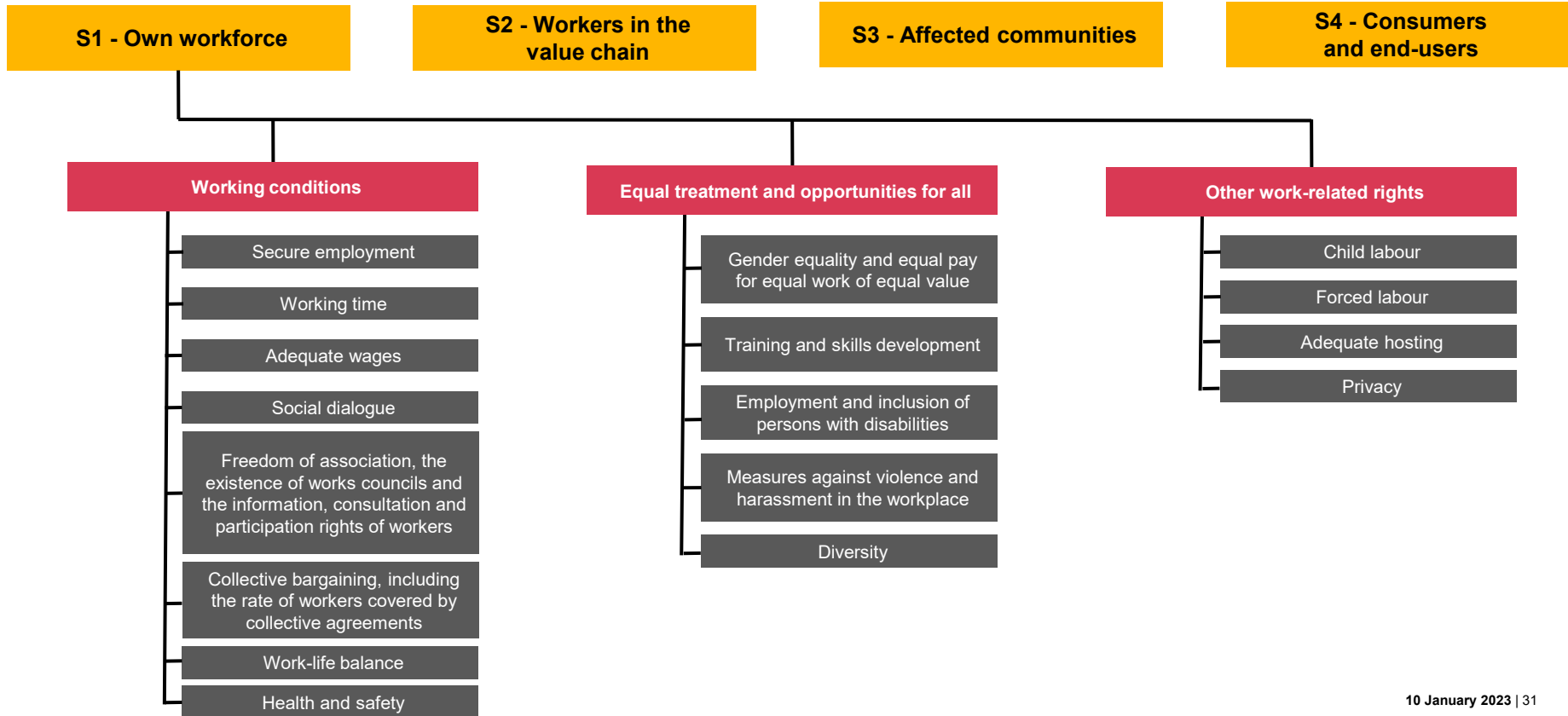
"S" and the United Nations Sustainable Development Goals (SDG)



The three pillars of ESG and the main related tax, legal and people topics

Environmental 					Social 				Governance 	
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Tax incentives & subsidies					Inclusion and diversity	Wage taxes & incentives				

ESRS: Social standards



ESRS - S1 own workforce: examples

Examples disclosure requirements

Inclusion & diversity

- The gender distribution in number and percentage at top management level amongst its employees (DR S1-9 – Diversity indicators)
- The distribution of employees by age group: under 30 years old, 30-50 years old; over 50 years old. (DR S1-9 – Diversity indicators)

Other work-related rights

- The total number of incidents of discrimination, including harassment, reported in the reporting period (DR S1-17 – Incidents, complaints and severe human rights impacts and incidents)

Equal pay

- The male-female pay gap, defined as the difference between average gross hourly earnings of male paid employees and of female paid employees (DRS1-16 – Compensation indicators)
 - Dutch equal pay legislation is pending
 - Important for companies to have insights in inclusion and diversity, including equal treatment within own workforce

Equal pay

- The Dutch proposal on equal pay aims to end the gender pay gap
 - It introduces obligations for employers (with more than 50 employees) to show that the company offers equal pay for equal work
 - Equal pay certification (for companies with more than 250 employees)
 - It is unsure when it will come into force
- European Pay Transparency Directive aims to increase pay transparency to provide information about the pay gap
 - It introduces obligations for employers (with more than 100 employees) to a.o. provide information on the pay gap by category of workers doing the same work or work of equal value
 - The Council and the European Parliament reached a provisional agreement on new EU rules on pay transparency on 16 December 2022. Still to be adopted by European Council and European Parliament
- Based on current legislation on equal treatment, companies are already obliged to offer equal pay for equal work
- Companies can assess their compliance with equal treatment based on the following lenses:

Equal pay

Review whether there is equal pay:

- based on equal work
- based on gender
- based on age
- based on part-time and fulltime
- based on cultural background
- between business units

Equal opportunity

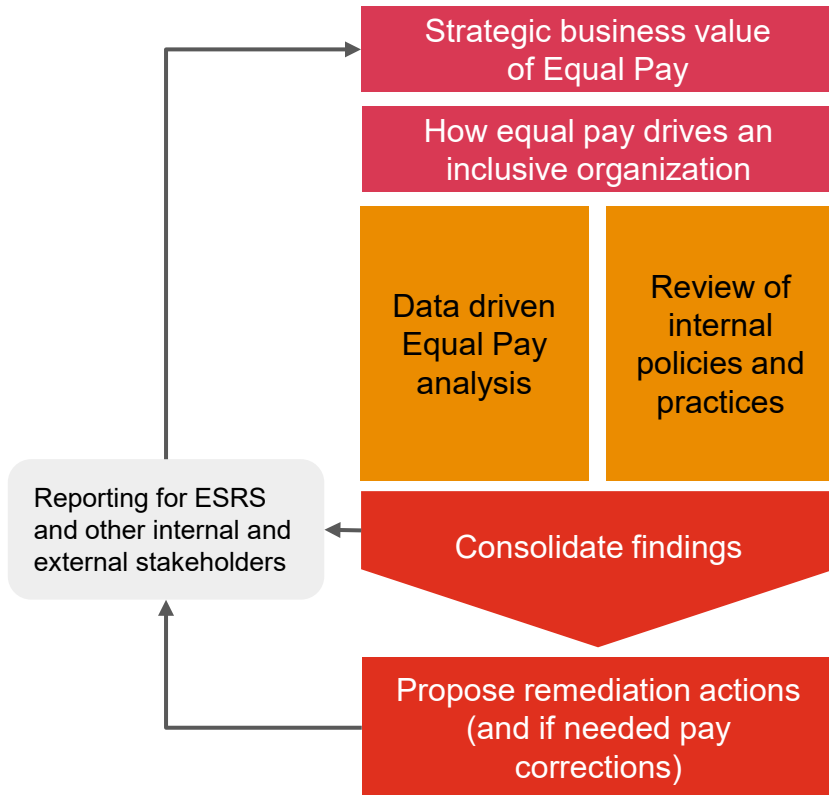
Review whether there are equal opportunities, based on:

- annual performance reviews
- promotions
- variable remuneration
- L&D opportunities
- Diversity ratio

Pay ratios

- Review and assess pay ratio between CEO and median employee income, based on fixed and temporary contracts
- Assess pay ratios between highest median and lowest earners per business units
- Pay ratio benchmarking comparable companies/industry

The process of equal pay and how it connects to business and people value



Step-by-step plan equal pay

1. Define the strategy
2. Review the data (quantitative)
3. Analyse (qualitative)
4. Report
5. Use findings

Insights in inclusion and diversity within own workforce

The 7 pillars of inclusion and diversity (I&D)



Poll

“Does your company already have an I&D policy in place?”

1. Yes, in the broadest sense
2. Yes, but limited
3. No



Corporate responsible and sustainable international business (NL)

- Sets rules to prevent violations of human rights, labour rights and the environment when engaging in international business
- There is an adverse effect on human rights, labour rights and the environment *in any case* in the following situations: restriction of freedom of association or collective bargaining, engaging in activities using discrimination, forced labour, child labour, unsafe working conditions, slavery, exploitation, climate change and environmental damage
- Obligations:
 1. Every company in the Netherlands engaged in international business which knows or may suspect that its activity may have adverse effects in a country outside the Netherlands: a general duty of care to take all measures that can reasonably be required to avoid adverse effects on human rights, labour rights or the environment in a country outside the Netherlands
 2. “Large companies” operating internationally: exercise due diligence in the production chains to identify potential adverse effects of its activities and its business relations on human rights, labour rights and the environment in a country outside the Netherlands
- Sanctions: a.o. claims for damages, fines and publication by the authorities

The key takeaways S of ESG

- Important to consider upcoming legislation, involving:
 - Human rights and environmental due diligence
 - Equal pay
 - I&D
- Start now setting up processes in your organisation to comply with (upcoming) legislation
- Verify if your organisation has processes and systems in place to identify and collect data (compliant with GDPR)




04

Summary and

Key takeaways



The three pillars of ESG and the main related tax, legal and people topics

Environmental 					Social 				Governance 	
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Tax incentives & subsidies					Inclusion and diversity	Wage taxes & incentives				

Three key actions to take away



Understand impact ESG regulation



Connect internally and identify data sources



Start in time and prepare a roadmap



State of Tax webcasts - relevant deep dives

- EU Green Deal and Energy taxes (English) - Thursday 16 February 2023
- Supply Chain - Challenges and opportunities (English) - Tuesday 21 March 2023
- Sustainable employment conditions and equal pay (Dutch) - Tuesday 23 May 2023

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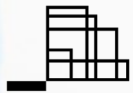
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Thank you!



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