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ESG REGULATION 2023:

WHAT THIS MEANS FOR PROCUREMENT & SUSTAINABLE PROCUREMENT

ESG regulation is growing: here's your guide to upcoming frameworks, disclosure rules, & penalties

CDP™ ACCREDITED PROVIDER 2023

OVERVIEW

2023 sees the introduction or expansion of ESG regulations in Europe and beyond, all designed to increase transparency and consistency around sustainability reporting and disclosure requirements. These attempts to bring further transparency, however, can be confusing, and it can be hard to keep up with upcoming requirements. Here we give you a brief overview of the new and upcoming regulations for 2023.

In recent decades, sustainability has risen in importance on the corporate agenda, with ESG measures now of strategic importance to large businesses. And with the news emerging that we are now more likely than not to exceed the 1.5C "safer" warming limit set out in the Paris agreement by just 2027, the need to take urgent action is crystal clear.

As the pressure rises, the ESG regulatory landscape is hotting up. Designed to standardise corporate efforts around sustainability improvements, increase transparency of reporting & disclosures, and ultimately hold large organisations accountable for their impact on our planet and its people, ESG regulations are accelerating in 2023.

But with acronyms like ESRS, EFRAG, SFDR, and even LkSG flying around, it’s very difficult to get a handle on what’s just happened, never mind what’s coming up.

To give you an overview of key ESG regulation events, we’ve compiled this 2023 timeline. It’s non-exhaustive, but contains key details for the most prominent regulatory events this year – when they come into force, where they apply, and what they mandate.

We are not affiliated with any ESG regulatory bodies, but as a sustainable procurement technology provider we speak to large organisations about these challenges every day. As such, we will update this article and the timeline as 2023 progresses and we get further clarity around upcoming regulations. To ensure you stay in the loop, sign up for ESG regulation updates and we’ll drop you an email with any updates, changes, or brand new information as we get it.

2023 ESG TIMELINE

JANUARY–MARCH Q1 2023

European Parliament's Sustainable Finance Disclosure Regulation (SFDR)

European Parliament's EU Taxonomy

German Parliament's Supply Chain Due Diligence Act (LkSG)

APRIL–JUNE Q2 2023

European Parliament's Corporate Sustainability Due Diligence Directive (CSDDD)

US Securities and Exchange Commission (SEC) Climate- Related Disclosures

European Financial Reporting Advisory Group (EFRAG)'s European Sustainability Reporting Standards (SRS)

JULY–SEPTEMBER Q3 2023

International Sustainability Standards Board (ISSB) Sustainability Disclosure Standards

OCTOBER–DECEMBER Q4 2023

UK Financial Conduct Authority's Sustainability Disclosure Requirements (SDR)

JANUARY–MARCH Q1 2023

SUSTAINABLE FINANCE DISCLOSURE REGULATION (SFDR)
EUROPEAN COMMISSION

KEY DATES:

- Introduced March 2021
- Became mandatory January 1st 2023

OVERVIEW:

A fundamental pillar of the EU Sustainable Finance Agenda, the SFDR defines the EU disclosure requirements for selling "sustainable" financial products.

Introduces three distinct categories of investments based on their sustainability:

- "article 6" products which integrate ESG risk considerations into the investment decision-making process;
- "article 8" products which promote ESG characteristics;
- "article 9" products which have a sustainable investment

Financial market participants are now obligated to disclose in a certain way, including data collection from companies in their portfolio, and using SFDR reporting methodology.

WHO IT AFFECTS & WHERE IT APPLIES:

EU-based Financial market participants and the companies in their portfolios.

KEY TAKEAWAY

Sustainability risk is being increasingly integrated into financial markets.

JANUARY–MARCH Q1 2023

EU TAXONOMY FOR SUSTAINABLE ACTIVITIES
EUROPEAN PARLIAMENT

KEY DATES:

Mandatory reporting of taxonomy-aligned economic activities implemented January 1st 2023

OVERVIEW:

Provides the EU classification for "sustainable" activities.

Aims to combat greenwashing and assist investors in evaluating assessments against key sustainability criteria:

- Climate change mitigations
- Climate change adaptation
- Water and marine resource use & sustainability
- Circular economy principles
- Pollution impact
- Biodiversity impact

Large organisations must now publicly disclose the degree to which their turnover is "taxonomy-aligned" – how far they fulfil this new classification of what is "sustainable:. Prior to 2023, companies were only mandated to disclose alignment against the climate change criteria.

SFDR disclosure requirements were amended to reflect the new taxonomy.

WHO IT AFFECTS & WHERE IT APPLIES:

Listed companies with more than 500 employees who offer products or services in the EU.

KEY TAKEAWAY

Regulators recognise that many ESG claims are little more than greenwashing, and are keen to much more clearly delineate what "sustainable" means.

JANUARY–MARCH Q1 2023

GERMAN SUPPLY CHAIN DUE DILIGENCE ACT (LkSG)
GERMAN PARLIAMENT

KEY DATES:

- Came into effect 1st January 2023
- Will be broadened to include smaller organisations in 2024.

OVERVIEW:

Designed to expose environmental and social abuses in global supply chains by requiring due diligence mechanisms from any organisation who sells goods or products in the German market.

Requires large companies to respect ESG standards across their supply chain by monitoring their own operations, the operations of their worldwide direct suppliers, and remedying any violations – both inside and outside of Germany.

Involves some risks & sanctions. Companies that do not comply risk fines up to 2% of annual turnover and exclusion from public contracts.

WHO IT AFFECTS & WHERE IT APPLIES:

All German companies with more than 3000 employees or all German-registered branches of foreign companies with over 3000 employees.

From 2024 this will be widened to organisations with more than 1000 employees.

KEY TAKEAWAY

The S in ESG is getting increased attention after years of primary focus on climate.

Pressure is mounting on organisations to recognise and mitigate negative impacts in their upstream supply chain.

CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE (CSDDD)

EUROPEAN PARLIAMENT

KEY DATES:

- Greenlit on June 1st 2023 in a 366-225 vote
- Likely to come into force in 2025, with companies likely required to implement it from around 2027-2030 depending upon size of company, turnover, and nature of business.

OVERVIEW:

Designed to ensure that companies operating in the EU are held accountable for their ESG performance.

Will explicitly require enterprise organisations to communicate and adopt a strategic plan for keeping warming at or below 1.5 degrees, per the Paris Agreement.

Will include penalties for non-compliance including fines based on worldwide turnover, impacts to director bonuses, and exclusion from public tenders.

Sets out six steps that companies must take in order to be compliant:

- Integrate due diligence process into company policy
- Monitor the effectiveness of due diligence process
- Identify actual ESG impacts and potential risks
- Prevent, minimise, or cease activities with potential negative ESG impacts
- Establish a complaints procedure
- Communicate their findings

For large companies with more than 1000 employees, whether organisations meet the directive's targets could have impacts on directors' variable remuneration. At time of writing, it appears member states will be allowed to fine non-compliant companies at least 5% of their net worldwide turnover and exclude them from public tenders for up to three years.

WHO IT AFFECTS & WHERE IT APPLIES:

The CSDDD is expected to affect four key groups:

- EU companies with >500 employees and more than €150m global turnover in preceding financial year
- EU companies with >250 employees and more than €40m turnover of which more than half comes from a "high risk" sector (textiles, agriculture, fisheries, food, minerals, etc.)
- Non-EU companies with an EU-generated turnover of more than €150m
- Non-EU companies with an EU-generated turnover of more than €40m, of which more than half is generated in a "high risk" sector, as above.

After some initial debate over whether financial services would fall into scope, it was confirmed during the vote that the CSDDD will indeed in large part apply to this sector.

KEY TAKEAWAY

Bodies in the EU are keen to implement broader-ranging directives that target not just EU-headquartered companies, but also any large company who operates within the union.

CLIMATE-RELATED DISCLOSURES
US SECURITIES & EXCHANGE COMMISSION (SEC)

KEY DATES:

- Expected to be finalised in Q2 of 2023.
- Expected to apply from late 2023 or early 2024.

OVERVIEW:

Designed to enhance and standardise climate-related disclosures.

Expected to require listed companies to disclose:

- "Risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition;"

- Information about its direct GHG emissions (scope 1), indirect emissions from purchased energy (scope 2), and certain types of GHG emissions from up and downstream activities in the value chain (scope 3).

WHO IT AFFECTS & WHERE IT APPLIES:

Will affect all US publicly traded companies.

KEY TAKEAWAY

Scope 3 rising up the agenda in US markets – the demands of scope 3 reporting for all categories of "filers" except for small businesses are likely to demand engagement with the entire value chain.

EUROPEAN SUSTAINABILITY REPORTING STANDARDS (SRS)
EUROPEAN FINANCIAL REPORTING ADVISORY GROUP (EFRAG)

KEY DATES:

- The Corporate Sustainability Reporting Directive (CSRD) came into force on January 5th 2023, but its European Sustainability Reporting Standards (ESRS) will be finalised on June 30th 2023.
- Affected companies will have to apply the new rules in the 2024 financial year for reports published in 2024.

OVERVIEW:

The SRS have been designed to expand and refine existing EU ESG reporting regulations – particularly the existing Non-Financial Reporting Directive (NFRD).

At time of writing, EFRAG has handed over 12 draft reporting standards that cover environmental, social, and governance standards.

WHO IT AFFECTS & WHERE IT APPLIES:

Will affect all listed companies on EU-regulated markets – around 50,000 organisations.

Companies will have to comply with the CSRD if they meet at least two of three criteria below, or if they are a non-EU company with a turnover above €150miillion in the EU:

- €40 million net turnover
- €20 million in assets
- 250+ employees

KEY TAKEAWAY

Scrutiny of the full range of ESG impacts of large organisations is increasing in Europe.

SUSTAINABILITY DISCLOSURE STANDARDS
INTERNATIONAL SUSTAINABILITY STANDARDS BOARD (ISSB)

KEY DATES:

The ISSB, an offshoot of the International Financial Reporting Standards (IFRS) is finalising its "global baseline of sustainability disclosures."

It is expected to issue its first two disclosure standards towards the end of Q2 2023.

OVERVIEW:

The first two standards to be introduced are the IFRS S1 and the IFRS S2:

IFRS S1 General requirements for disclosure of sustainability-related financial information

- Sets out disclosure of sustainability-related risks & opportunities
- Sets out general reporting requirements
- Requires financial statements and sustainability disclosures to be published at the same time

IFRS S2 Climate-related disclosures

- Sets out disclosure of climate-related risks and opportunities
- Requires disclosure of about physical risks, transition risk, and climate-related opportunities
- Sets out disclosure for transition planning, climate resilience, and all three scopes of emissions

WHO IT AFFECTS & WHERE IT APPLIES:

Non-mandatory, but could apply internationally; currently backed by the G7, the G20, and Central Bank governors from over 40 jurisdictions.

KEY TAKEAWAY

Sustainability and finance are becoming increasingly intertwines as desire mounts to implement international disclosure rules.

OCTOBER–DECEMBER Q4 2023

SUSTAINABILITY DISCLOSURE REQUIREMENTS (SDR)
UK FINANCIAL CONDUCT AUTHORITY (FCA)

KEY DATES:

- Feedback on consultation closed in January 2023
- Will be finalised some time in Q3

OVERVIEW:

Likely to introduce sustainable investment labels, new product labelling and consumer-level disclosures, an anti-greenwashing rule, and marketing limitations regarding sustainability claims

Proposed new product labels are: ‘sustainable focus;’ ‘sustainable improvers;’ and ‘sustainable impact.’

WHO IT AFFECTS & WHERE IT APPLIES:

All FCA-regulated UK-headquartered companies.

KEY TAKEAWAY

UK regulators are keen to increase accuracy & transparency around ESG for consumers and financial market participants

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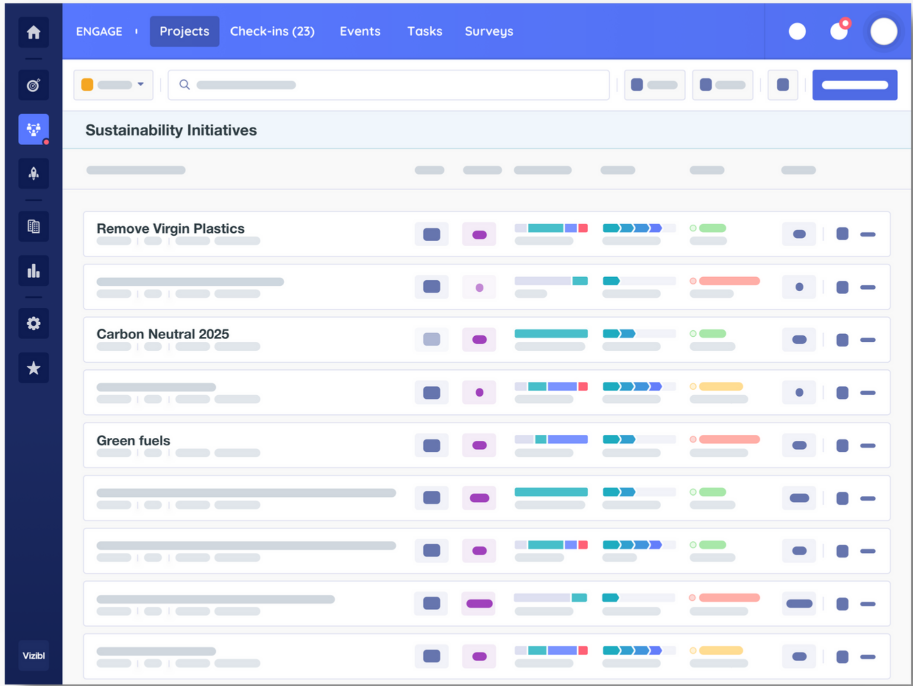

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