

Shift



CSDDD Explainer Series/

Identification and Prioritization:

How to focus sustainability due diligence where it matters most

About our CSDDD Explainer Series /

This series of explainers offers practical guidance for company practitioners on the key issues that arise under the EU Corporate Sustainability Due Diligence Directive (CSDDD). It is not a complete set of guidance, and it does not try to cover every issue or scenario. Instead, each explainer focuses on what matters most in practice: important areas of interpretation, helpful tips, and common pitfalls to avoid. The aim is to give company practitioners the insights that help them implement effective due diligence.

This is not only important for compliance with the CSDDD. The guidance can also help companies make sure they meet sustainability reporting requirements. While the CSDDD sets out what companies should do to identify and address their impacts on people and planet, the EU Corporate Sustainability Reporting Directive (CSRD) requires transparent reporting about this process. In short, due diligence and reporting are two sides of the same coin. Companies can save time and resources and enhance positive outcomes when they create a single coherent process to meet both sets of expectations.



About the Identification and Prioritization Explainer/

This explainer focuses on how company practitioners can **identify and prioritize** impacts in line with the requirements of the **CSDDD** as part of their sustainability due diligence process. Under the CSDDD, covered companies must identify actual and potential negative impacts on people and the environment connected to their own operations, their subsidiaries and many of their

critical business relationships. Where they cannot address these impacts all at the same time, they need to prioritize them based on specific criteria in order to know which issues to address first.

Articles 8 and 9 of the CSDDD explain the requirements for identifying and prioritizing impacts. They largely reflect the UN Guiding Principles on Business and Human Rights (UNGPs) – notably Guiding Principles 17, 18 and 24 – and similar provisions of the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and accompanying

Due Diligence Guidance. Together, the UNGPs and OECD Guidelines are commonly referred to as the ‘international due diligence standards’. The CSDDD and other EU legislation, including the CSRD, are explicitly grounded in these international standards, with which many companies are already familiar. This means that companies do not need to reinvent the wheel. Rather, they can build on what has been shown to be effective.

Getting identification and prioritization right creates the foundation for a successful due diligence process that is more likely to deliver better outcomes for people and the environment. A credible process also helps companies anticipate the financial risks that can come from being connected to unmanaged human rights and environmental impacts, such as legal disputes, protests, operational disruptions, investor concerns, reputational crises, and barriers to market access.

In this explainer, we will unpack:

- why identification and prioritization are key to due diligence
- what Articles 8 and 9 require, and what steps companies should take in practice
- how to identify impacts through broad scoping and focused in-depth assessments
- how to structure the process in four practical steps
- the most common mistakes companies make, and how to avoid them

Key terms*

Affected stakeholders are individuals or groups who experience or could potentially experience an adverse impact on their human rights and the legitimate representatives of those individuals or groups. They can include workers in the company's own workforce, workers in the upstream and downstream value chain, communities affected by the company's operations or through its value chain, and consumers and end-users of its products or services. The CSDDD definition of 'stakeholders' mirrors this. OECD guidance defines these stakeholders as 'impacted or potentially impacted stakeholders' to differentiate them from a broader group of stakeholders whose interests (but not necessarily rights) are or could be affected.

Chain of activities is a term specific to the CSDDD, which requires companies to identify and address adverse impacts involving business partners in their "chain of activities." This includes the company's entire upstream supply chain, such as companies involved in the sourcing and production activities that contribute to their products or services. It also includes certain downstream impacts connected to how the company's products are distributed, transported or stored. A company's "chain of activities" is more limited than its "value chain", which is the scope of the CSRD and international due diligence standards.

Due diligence is an ongoing process companies carry out to identify, prevent, mitigate and account for how it addresses adverse impacts on people and the environment in its operations and value chain.

Impacts are actual or potential adverse effects on people or the environment. Under the CSDDD, these are defined as the impacts identified in Annex I to the Directive and impacts that can be derived from the instruments listed there.

Likelihood is one of two factors for prioritizing potential adverse impacts, along with 'severity'. It refers to the probability that a potential impact will materialize into actual harm.

Scoping refers to the initial step for most companies in identifying adverse impacts. It involves identifying general areas in the company's operations and value chain where adverse impacts are most likely to occur and to be most severe before moving to further or in-depth assessment of actual and potential impacts.

Severity of impacts is one of two factors for prioritizing both actual and potential adverse impacts, along with 'likelihood'. It is assessed based on an impact's scale (how serious the harm is or would be), scope (how widespread the harm is or would be), and irremediability (whether and how easily it can be put right). For human rights impacts, severity plays a particularly important role – see further under the Tips box in Step 4 below.

Value chain a company's value chain encompasses the activities that convert input into output by adding value. It includes entities with which it has a direct or indirect business relationship and which either (a) supply products or services that contribute to the company's own products or services or (b) receive products or services from the company.

* For the key terms that are not specific to the CSDDD we have drawn on the UNGPs and the UN's Interpretative Guide on the UNGPs (see footnote 3 below).

A. What the CSDDD requires on identification and prioritization /

Articles 8 and 9 of the CSDDD set out the legal requirements for the identification and prioritization of impacts. In this section we explain key concepts that companies need to understand to meet these requirements. In Part B we then translate these requirements into a practical four-step process.

Article 8 of the CSDDD states that:

2. ...companies shall take appropriate measures to do the following, taking into account relevant risk factors including facts, situations or circumstances at the level of the business partner, such as whether the business partner is not a company covered by this Directive or other comparable mandatory sustainability due diligence legal acts; at the level of geography and context, such as the level of law enforcement with respect to the type of adverse impact; and at the level of sectors, of business operations, and of products and services:

- a. carry out a scoping exercise, based solely on reasonably available information, to identify general areas across their own operations, those of their subsidiaries and, where related to their chains of activities, those of their business partners where adverse impacts are most likely to occur and to be most severe;
- b. based on the results of the scoping exercise referred to in point (a), carry out an in-depth assessment in the areas where adverse impacts were identified to be most likely to occur and most severe.

How far should your due diligence reach?

Under the Directive, companies are expected to identify impacts that arise from their own operations, the operations of their subsidiaries, and operations carried out by business partners in the company's "chain of activities".

The term 'own operations' is not explicitly defined in the CSDDD or the international standards. It is typically understood to include the full array of decisions and actions related to a company's own

facilities and activities, including human resources, procurement, research and development, design, sales and marketing, legal and other functions.

The Directive defines business partners in Article 3(f), and this definition is consistent with the international standards. Business partners means entities with which the company has a commercial relationship related to its operations, products or services, or entities which are not a direct partner but which perform operations related to the company's own operations, products or services (that is, indirect business relationships). Entities that provide goods or services directly to

a company's own operations (such as security or cleaning services) and joint venture partners would also come within the first part of this definition.

A company's chain of activities is defined in Article 3(g) as including a company's entire upstream supply chain, such as the harvesting, extraction, processing, manufacturing and other activities that contribute to its products and services. For a fashion retailer, for example, this would include companies that extract or harvest the raw materials that are used to make their products as well as factories where textiles and other clothing inputs are manufactured and those where the clothes they sell are made.

Downstream activities of business partners who distribute, transport or store products for the company are also included within the chain of activities under the CSDDD.

Some parts of a company's downstream value chain are not included in the scope of the CSDDD. For example, companies need to take reasonable steps in the design of their products and in their distribution practices to prevent predictable misuse. Beyond that, they are not expected to influence the behavior of the reseller or user of their products. For impacts occurring downstream, the CSDDD is largely focused on companies' own decisions and business strategies that may affect if and how such impacts occur – matters that are clearly within a company's control.

Even so, companies should be careful not to define the scope of their due diligence too narrowly both because the CSDDD's own scope may reach further than they expect, and because there are good reasons to look across the full value chain even where the CSDDD does not strictly require it. For example:

- Impacts can create financial risks for the company itself wherever they occur in its value chain — including in parts that fall outside the CSDDD's narrower “chain of activities”. Human rights and environmental harms that go unaddressed can translate into legal, operational, reputational or commercial risks for the company. So it is wise for a company to look at business relationships across its full value chain, not only the parts the

CSDDD strictly requires, so that it can see risks to its own business that a narrower view would miss.

- The main sustainability reporting frameworks also expect companies to look across the full value chain. The European Sustainability Reporting Standards (ESRS) — which apply to every company covered by the CSDDD — require companies to identify and report material impacts and risks across their full value chain. The standards of the International Sustainability Standards Board (ISSB) have the same scope. They require disclosure of how sustainability-related risks could affect the company's own financial prospects, recognizing that these risks often arise from impacts on people and the environment. Because both frameworks reach across the full value chain, a single identification and prioritization process that covers the same scope can serve a company's due diligence and its reporting at once.

Which human rights should your due diligence cover?

Companies are required under the CSDDD to identify ‘adverse human rights impacts’ connected to their own operations, the operations of their subsidiaries and of business partners in their chains of activities. More detail on the human rights in scope is found in the Annex, which lists specific rights as well as specific international human rights instruments that companies need to be aware of, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the ILO's core conventions.

The list does not include every possible human rights impact that could be relevant to companies. In its recitals, the CSDDD acknowledges that in practice companies may need to consider additional international standards where specific groups or contexts are involved. For example where impacts affect women, Indigenous Peoples, persons with disabilities, migrant workers, or other groups that may be at higher risk, such as people impacted by conflict. This matters in practice because significant impacts are often interconnected — one impact is frequently the root cause of another, and a company that

examines each impact in isolation can miss what is actually driving the harm. For example, restrictions on freedom of association are often a root cause of inadequate wages: when workers cannot organize or bargain collectively, they have little leverage to push for fair pay. A company that treats low wages as a standalone problem may therefore miss the underlying cause.

Similarly, if a company looks at “land use” only in a narrow sense — how much land is used, or its environmental footprint — it can overlook that, for Indigenous Peoples, land is bound up with collective rights over their territories and resources including the right to Free, Prior and Informed Consent. Identifying the impact only as “land use” would understate both its nature and its severity where Indigenous Peoples are involved.

What should prioritization be based on?

Article 8 says companies must carry out a ‘scoping’ exercise to identify ‘general areas’ where adverse impacts are most likely to occur and to be most severe, as well as ‘in-depth assessment’ of the areas identified. Article 9 explains the significance

of this process for enabling companies to prioritize adverse impacts for action if it is not possible to address all of them at once. It specifies that they should be prioritized on the basis of their severity and likelihood.

The UNGPs and the OECD Guidelines take the same risk-based approach to identification of impacts, and use the same criteria for prioritization. This approach means that companies do not have to examine every tier of their value chain or every part of their operations in order to address every issue. Instead, they can put their resources into finding and addressing the most significant human rights and environmental impacts. It is no coincidence that these are often the impacts most likely to create risk for the business.

Under Article 9, once a company has addressed these impacts as the Directive requires, it should turn its attention to others that are less severe and less likely. This does not mean that impacts that are not prioritized first are set aside indefinitely. As the company addresses the most severe and most likely impacts, it should turn to others in due course. In practice, less severe issues may be managed or at least monitored in parallel through existing business practices.

Article 9 of the CSDDD requires that:

- a. ...where it is not feasible to prevent, mitigate, bring to an end or minimise all identified adverse impacts at the same time and to their full extent, companies prioritise adverse impacts identified pursuant to Article 8 in order to fulfil the obligations laid down in Article 10 or 11.
- b. The prioritisation referred to in paragraph 1 shall be based on the severity and likelihood of the adverse impacts.
- c. Once the most severe and most likely adverse impacts are addressed in accordance with Article 10 or 11 within a reasonable time, the company shall address less severe and less likely adverse impacts.
- d. Where prioritisation decisions are made in accordance with this Article, the mere fact of not having addressed a less significant adverse impact shall not expose the company to penalties pursuant to Article 27.

A robust prioritization effort does not mean the assessment is, or ever will be, perfect. For most companies — especially those new to due diligence — it takes time to build up a broad understanding of impacts across their operations and value chain. Even so, the process should keep to the criteria the CSDDD sets out: severity and likelihood.

Sometimes, scoping indicates that adverse impacts are equally likely, or equally severe, across several areas. In that situation, the CSDDD provides that a company may start its in-depth assessments with those areas involving its direct business partners, though it does not have to do so. For example, a company buying a commodity might find that its direct suppliers and the firms extracting the raw materials further upstream are equally likely to be involved with the use of forced labor. Because direct suppliers are usually easier to reach, the company may choose to assess them first and then turn to the upstream partners.

This flexibility has a limit: it does not let a company put off looking at certain risk areas indefinitely. Moreover, if impacts are equally likely but look more severe with indirect business partners, there is usually a strong case to assess those first.

Prioritization needs to be understood and treated as a bridge to action. Once the company has identified its most significant impacts, the next question is what it will do to “prevent, mitigate, end, minimize, or, where relevant, remediate them” — and this is where decisions about sequencing, ownership, resourcing, and timelines need to start taking shape. Without that bridge to action, identification and prioritization risk becoming the production of a list for its own sake, rather than the engine of due diligence.



B. What this means in practice /

A practical way to implement the CSDDD is to break down identification and prioritization into four steps: organizational setup, scoping, in-depth assessment, and prioritization. That structure mirrors the requirements of Articles 8 and 9 and

makes the process simple to follow. It also creates a solid foundation from which companies can then take action on adverse impacts — a critical concern of both the CSDDD and international due diligence standards.



Step 1: Organizational setup

Get the right internal support and systems in place

To make the process of identifying and prioritizing impacts efficient and effective, it will help companies to have the following internal support and systems in place:

- clear support from leadership for an integrated approach to meeting both due diligence and reporting requirements, together with the assessment of related business risks;
- clear ownership of the process, with adequate time and funding allocated, and a means for relevant colleagues to have input into the process;
- in-house due diligence expertise and an appropriate balance with, and use of, external service providers and technological solutions;
- a process for revisiting judgments periodically and improving the inputs to strengthen the process over time;
- a structured approach to engaging stakeholder groups that are likely to be vulnerable to impacts.

Relevant teams that should be involved in the identification process will typically include sustainability, procurement, operations, legal, HR, and business units or regional teams. Internal audit can play an important role in making sure there is a strong link between sustainability due diligence and reporting. They will benefit from developing expertise on how human rights and environmental issues are relevant to internal audit processes.¹

Companies should also put processes in place to communicate with affected stakeholders to inform its identification of impacts — its own employees, workers in its value chain, affected communities, and consumers and end-users. The company should look at where it already has ways to engage these groups or their legitimate representatives, where it still needs to build those connections, and who can best help it do so. Setting up meaningful ways to engage stakeholders, and channels for them to give feedback, should be part of this planning. Stakeholder engagement is covered in more detail in a separate explainer in this series.

¹ The UN Guiding Principles Assurance Guidance, developed by Shift and Forvis Mazars, and the aide-memoire for internal auditors provide a practical framework for assessing the effectiveness of companies' human rights due diligence governance, controls and reporting processes, available at <https://www.ungpreporting.org/assurance/>.

Pitfalls

Avoid overreliance on technological solutions and ‘hard data’

Companies will often need to work with estimates, proxies, or assumptions where they lack primary “hard data”. This does not undermine the credibility of the identification exercise. In many circumstances, hard data will simply be unavailable. The absence of information should not automatically be taken to mean that no impacts exist. Information may be unavailable, for example due to restrictions on civic space that prevent civil society organizations and journalists from bringing issues to light. Companies should also be cautious about technological tools that promise comprehensive “data-driven” solutions. In practice, identification efforts rarely rely on a single source of information.

Tips

Involve the teams that will drive action

The identification and prioritization of impacts is the basis for taking action. This means it is important that teams involved in identifying impacts liaise closely with the teams that would oversee action to address them. Companies that get this right are more likely to avoid overlooking serious impacts. They can also draw a straight throughline to their external reporting in line with the CSRD, without duplicating processes. If colleagues have had no part in identifying and prioritizing impacts, they are less likely to share ownership of the conclusions, and agreeing what action should be taken becomes harder as a result.



Step 2: Scoping

Find the broad areas where serious impacts are most likely


Companies are expected to conduct a scoping exercise to identify general areas where the most severe impacts are likely to occur across their operations and “chains of activities”. For example, a fashion retailer or electronic goods brand with suppliers in a country where labor laws are weak and wages are low could identify this as a general area of risk as part of their scoping exercise. A chemicals or heavy machinery company could identify transport of hazardous or heavy loads over long distances as a general area of risk. A technology or defense company might identify particular kinds of customers as high risk based on their track record of adhering to human rights and international humanitarian law when using such products. (While this last example might be out of scope for CSDDD it is in scope for CSRD and raises clear reputational and legal risks.) Companies will more closely assess these general areas in the next phase of the identification process.

Scoping is based on two elements: ‘reasonably available information’ and ‘relevant risk factors’.

Reasonably available information can come from many sources, for example:

- the company’s own channels, such as knowledge of operational staff who are involved in technical decisions or working on the ground where impacts happen, as well as the complaints procedure and notification mechanism it must set up under Article 14 of the CSDDD;
- independent reports, industry and multi-stakeholder initiatives, and digital tools;
- social audit data on sites in the company’s value chain, self-assessments from suppliers, and information on past human rights harms;
- reports and assessments focused on a particular sector or region, produced by international organizations, governments, industry bodies, civil society organizations, academics or other experts.

Relevant risk factors cover the company’s operating context, what it does, who it works with, and who could be affected by its operations, products or services. The table below turns these into four questions, with examples of what to look for under each.

Question to ask	What to look for	Examples of general areas
 Where are operations located?	<p>Places where human rights risks are higher because of weak governance, conflict, social conditions, or environmental pressures</p>	<ul style="list-style-type: none"> • Facilities in countries with weak law enforcement or high corruption • Operations in conflict-affected areas (before, during, or after conflict) • Sites in areas facing climate-related displacement or water scarcity
 What activities are carried out?	<p>Products, services, or processes that are riskier for people by their very nature</p>	<ul style="list-style-type: none"> • Hazardous or high-risk production processes (e.g. chemical handling, heavy machinery) • Agricultural or raw material activities often linked to child or forced labor
 What partners are involved?	<p>Types of partners or entities — connected to own operations, upstream or downstream — that bring their own distinct risks</p>	<ul style="list-style-type: none"> • Labor brokers or recruitment agencies supplying migrant workers • Subcontractors in manufacturing or logistics tiers • Joint venture partners at operating sites
 Who could be affected?	<p>Groups of people who may be more at risk because of their status or situation</p>	<ul style="list-style-type: none"> • Workers in precarious or informal jobs • Indigenous Peoples or local communities near operational sites

Pitfalls

Avoid the use of automatic exposure thresholds

A common mistake is to focus scoping on the products a company buys in the largest quantities, rather than on those most likely to be linked to severe impacts.

Companies often rely on ‘exposure indicators’ — measures of how much business is involved, such as spend, volume or supplier numbers. These indicators might show where impacts are more likely or could affect more people — but they should not be used on their own to judge how severe an impact is. Suppliers of a small-scale, low-cost input to a product could be linked to forced labor and struggle to address it, while suppliers of a core input, purchased at scale, may have only minor impacts and also have the resources available to tackle them.

Companies should therefore consider exposure alongside other risk factors and make sure no potentially severe impacts are screened out simply because they are harder to see or to measure.

Tips

Understanding ‘likelihood’

The concept of ‘likelihood’ has different implications in the scoping and in-depth assessment processes.

During the scoping process companies need to identify ‘general areas where adverse impacts are most likely to occur and to be most severe’. These impacts should have a connection to the company. For example, it isn’t relevant that a certain impact is likely to be associated with a certain commodity when it is sourced from a certain location, if the company doesn’t source that commodity from that high-risk location. At the heart of the scoping question is *the degree of likelihood that certain kinds of impacts **will be connected** to the company’s operations, products or services.*

This is distinct from the in-depth assessment where companies focus on impacts identified within those ‘general areas’ in order to then decide which ones to address first. These decisions should be based on an evaluation of the severity and likelihood of potential impacts (as described in Step 4). However, at this stage companies should assess *the degree of likelihood that a potential impact **will materialize** into actual harm in the short, medium or long term.*

Keeping these distinctions in mind helps avoid excluding impacts prematurely and causing confusion about what the company is assessing at each stage.



Step 3: Identification through in-depth assessments

Look closely at scoped areas to identify the specific impacts

Once companies have decided which areas they plan to focus on, the next step is to conduct in-depth assessments to identify actual and potential impacts. The assessment should give companies a more accurate picture of the nature, extent, causes, severity, and likelihood of adverse impacts.

At this stage, companies should avoid the use of broad labels such as ‘forced labor’, ‘privacy’, or ‘just transition’. Action-oriented approaches identify the specific impacts that are occurring, where they are occurring and why.

In-depth assessments take different forms depending on the issue being explored and the level of information a company already has about impacts. For example, if a company identifies during its scoping exercise that suppliers might not be paying workers a living wage, then an in-depth assessment might identify the specific sourcing locations or the suppliers’ factories where workers are underpaid by the largest amounts.

Companies can request certain information from suppliers to help with the in-depth assessment. The CSDDD requires that information requested from business partners should be necessary to the purposes of due diligence and all information requests should be targeted, reasonable and

proportionate. Generally, a company should not seek information from business partners that it can reasonably obtain by other means (such as by reviewing shared audit data that the company already has access to through an industry scheme). This helps to avoid generic questionnaires that produce a large volume of information and that burden suppliers, especially SMEs, without providing useful insights. Being cognizant of which information the company does need to solicit from its business partners, rather than taking a one-size-fits-all approach, also helps to maintain good relationships. This is a precursor to successful collaboration in addressing adverse impacts.

This step of identification should also explore the relationships between impacts. For example, companies might find that some impacts are a root cause of other harms. Low wages may be a cause of long working hours and associated with increased incidents of child or forced labor. Environmental harms may also impact communities’ health, livelihoods, and access to land or water. It is important to keep these connections in mind when companies turn to prioritizing impacts and to avoid separating out impacts that are intrinsically connected, where this may lead to distorted assessments of their severity and likelihood.



Pitfalls

Don't skip engagement with affected stakeholders

Article 13 of the CSDDD requires consultation with relevant stakeholders in the identification and prioritization process. Stakeholder perspectives are a key part of the evidence base companies should create during in-depth assessment. Engagement with affected stakeholder groups or their legitimate representatives (such as trade unions or Indigenous leaders) can reveal harms that internal systems miss, deepen the company's understanding of severity from the perspective of affected stakeholders, and challenge assumptions that would otherwise go untested.

It may take time to build up the appropriate relationships with stakeholder groups, and it may be difficult to reach some that are more remote in the value chain. Where this is the case, companies can consider alternatives to understand the likely perspective of these stakeholders. For workers who are organized, it is appropriate and efficient to engage with the trade unions that represent them. Communities may also have legitimate representatives.

Some organizations or experts may be able to act as proxies, bringing insights into the situations of certain stakeholder groups while the company works to build more direct avenues to engage them. Technological solutions may also help companies gain direct insights from remote or dispersed stakeholder groups. *Stakeholder engagement is addressed in more detail in a dedicated explainer in this series.*

Tips

When to treat an impact as 'actual'

'Potential impacts' are those that have not yet occurred but may do so. Companies should be wary of defining impacts as "potential" rather than "actual", even in cases where they have not yet gathered concrete evidence that a harm has taken place.

If there are credible indications that harms are likely to be occurring — for example because peers have identified them in shared value chains, or research shows they are endemic in a particular geography, commodity or value chain — then it is wise to assume they are 'actual impacts' for the purposes of the in-depth assessment, unless there is sound evidence to the contrary.



Step 4: Prioritization

Decide which impacts to address first

In this stage companies must decide on which impacts they need to take action to address first. This is relevant if the company does not have capacity to address all the impacts it has identified at the same time. It doesn't reduce the ultimate scope of the company's responsibility to address adverse impacts but helps it decide — and justify — where it will focus greatest attention and resources.

Companies should prioritize based on a comparably in-depth understanding of each of the general areas of risk identified during the 'scoping' exercise. This will strengthen decisions about which issues to address first and the justification for these decisions. In practice, where information about certain impacts will take significantly longer to obtain, this should not prevent a company from acting on other prioritized impacts where it has, or can readily access, sufficient information.

Companies must prioritize impacts based on their severity and likelihood. Where companies rely on

other factors, they will not be able to invoke the protection in Article 9 of the CSDDD for impacts that have not been prioritized, which states that “the mere fact of not having addressed a less significant adverse impact shall not expose the company to penalties.”

The focus on severity and likelihood also gives the company a stronger basis for understanding where it is most exposed to other business risks. When companies try to identify sustainability-related financial risks without first understanding their impacts, they tend to reinforce existing blind spots. For example, a company assessing climate-related financial risk may focus on the physical risks to their own facilities and the transition risks to their product portfolio, while overlooking the risk of community opposition and project delays where its operations affect local water access or Indigenous Peoples' land rights. Starting from an understanding of severe and likely impacts helps the company identify these additional business risks.

Pitfalls

Don't let the wrong factors drive prioritization

Companies might be tempted to let factors other than severity and likelihood creep into prioritization decisions — for example, not prioritizing an impact they have limited control over, or because it sits far from the company's own operations. Under the CSDDD, severity is defined by three factors only: scale (how serious the harm is or would be), scope (how widespread it is or would be), and remediability (whether and how easily it can be put right). The CSDDD recitals make clear that the following factors are not relevant to prioritization decisions:

- the proximity of impacts to the company's operations;
- the level of control the company has over the impact;
- the nature of the company's involvement in the impact;
- the degree to which the impact is also a legal (or other) risk to the business.

These factors can shape how a company responds in the next step of due diligence — taking action — but not whether an issue gets prioritized in the first place. The European Sustainability Reporting Standards, which companies in scope of the CSRD need to implement, use the same factors of severity and likelihood to identify material negative impacts for reporting purposes. This makes it easier for companies to run a single process for due diligence and reporting.

Tips

Paying attention to severity when prioritizing human rights impacts

The CSDDD covers both human rights and environmental impacts, and places equal emphasis on severity and likelihood. Shift recommends using severity as the key criterion for prioritizing human rights risks, in line with the UNGPs and the UN's official guidance on the UNGPs. That guidance states that a high severity, low likelihood human rights impact should typically still be prioritized – low likelihood alone is not a sufficient reason to discount high severity human rights impacts because they can cause such significant harm.²

For example, official reviews of major catastrophes – including the Fukushima nuclear disaster and the BP Gulf of Mexico oil spill – found that the companies involved had failed to put adequate prevention and remedy plans in place because the events were considered too unlikely, despite their potentially catastrophic consequences for people, the environment, and the business itself. Prioritizing high severity impacts even if they appear very unlikely would have pushed these companies to plan better for the worst case scenario, regardless of probability.

Of course this does not mean that high likelihood impacts should be discounted in a company's prioritization process. Nor does it mean that companies should focus all their subsequent efforts on high severity, low likelihood impacts. The UNGPs recognize that the effect of delayed action on the remediability of an impact should influence decisions at the next step of due diligence, when the company is deciding what actions, resources and overall effort to direct towards each of its prioritized impacts. For example, if there is widespread evidence of violations of workers' rights to collective bargaining, where workers have lost their jobs and delayed action may make reinstatement difficult or impossible, then there is a strong argument for companies to prioritize resources to tackle this.

Prioritizing human rights impacts on this basis is fully compatible with the CSDDD. It is also how the ESRS expects companies to prioritize their material human rights impacts for the purpose of reporting under the CSRD.

² Office of the High Commissioner for Human Rights, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, HR/PUB/12/02 (2012), p. 83, available at <https://www.ohchr.org/en/publications/special-issue-publications/corporate-responsibility-respect-human-rights-interpretive>.

Conclusion

Identification and prioritization set the direction for everything that follows in due diligence. Done well, they point a company's time and resources at the impacts that matter most, providing a credible, defensible basis for the choices it makes and a foundation that also serves its reporting under the CSRD. Done poorly, a company's efforts will be dispersed across whatever is easiest to see, count or measure, and the most severe harms are the ones most likely to slip through.

The point is not to produce a list of issues, but to focus action where it matters most. A process that keeps severity at its centre rather than proximity, control, or how easily an impact can be addressed tends to surface the harms that affect people the

most. These are frequently the same impacts that later expose the business to legal, operational and reputational risk. Acting on what matters most to people and protecting the business are not competing aims; far more often, they point the same way.

The real test comes after the analysis: does the company's identification and prioritization efforts merely satisfy what needs to be done to comply with Articles 8 and 9 of the CSDDD, or will it enable it to take actions that effectively address impacts on people? As will be discussed in the explainers on appropriate measures and monitoring, effectiveness is at the heart of CSDDD compliance.





About **Shift**

Shift is a non-profit, mission-driven organization working globally to embed respect for human rights into business. We leverage the UN Guiding Principles on Business and Human Rights to shape the standards, incentives and practices that are needed for a fairer economic system in which everyone, not just the few, can thrive.

Visit shiftproject.org and follow us at [@shiftproject](https://twitter.com/shiftproject).

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