

Are you complying with the EU Sustainability-related Disclosures Regulation?

An overview of the requirements for
human rights due diligence

*Briefing
paper*

An illustration of a person with a yellow backpack, wearing a purple jacket and dark pants, standing on a dark, rocky outcrop. The person is looking out over a vast, stylized landscape with rolling hills and a light blue sky with soft, white clouds. The overall style is modern and graphic.

Why this is relevant

The legal landscape for financial market participants (FMPs) regarding sustainability and human rights has drastically changed and more regulation is on its way, both at the EU and AT national levels. This briefing paper is meant to give a short overview on what requirements **Regulation** (EU) 2019/2088 on sustainability-related disclosures in the financial services sector lays down in the context of human rights and how we see and support compliance with the regulation.

*We
support
you*



Human rights are an integral part of sustainability

The aim of Regulation 2019/2088 is to present “harmonized rules for financial market participants and financial advisers on transparency with regard to the integration of sustainability risks and the consideration of adverse sustainability impacts in their processes and the provision of sustainability-related information with respect to financial products”. These rules will apply from March 2021.

While most of the focus of policy makers and the industry has been on environmental and especially climate-related considerations, social and governance aspects, and specifically human rights are also included:

Art 2 (17) ‘sustainable investment’ means (...) an economic activity that contributes to a social objective, in particular an investment that contributes to tackling inequality or that fosters social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities (...)

Art 2 (21) ‘sustainability risk’ means an environmental, social or governance event or condition that, if it occurs, could cause an actual or a potential material negative impact on the value of the investment

Art 2 (24) ‘sustainability factors’ mean environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

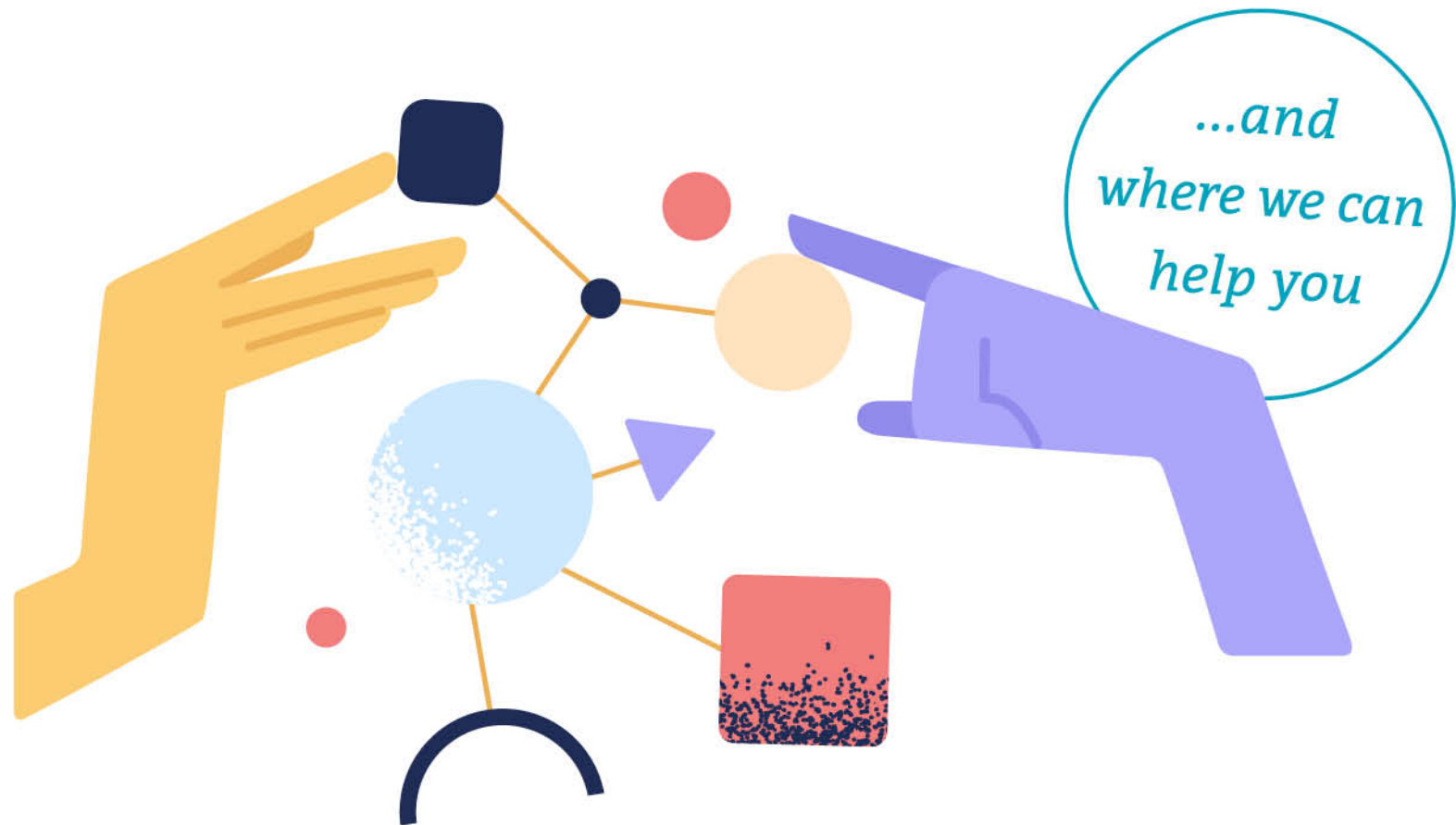
The ESAs are currently consulting on draft technical implementation standards but what is already clear from the regulation itself is that:

- Policies on the integration of human rights related risks in the investment (or advice) decision-making process will need to be published (see article 3)
- Principal adverse impacts of investment decisions on human rights will need to be considered and due diligence policies will need to be disclosed (see article 4)

A robust human rights due diligence will allow your organisation to:

- Publicly commit to respecting human rights and reflect such commitment in operational policies and procedures necessary to embed it throughout the business
- Identify and assess human rights risks in your activities and along your value chain
- Integrate human rights in core business decisions
- Comply with EU and national regulation and ensure alignment with the UNGPs and the OECD Guidelines for Multinational Enterprises
- Increase disclosure and improve external reporting

This is how we approach compliance from a human rights perspective



1. Setting up your human rights due diligence

We help businesses set up their human rights due diligence strategy. For that, we will:

- Assess your current policies, processes and governance structures
- Identify gaps against the UNGPs and additional international recognised standards (e.g. OECD Guidelines for Multinational Enterprises, OECD Guidelines for Institutional Investors, Equator Principles (EPs), Principles for Responsible Investment (PRI), Principles for Responsible Banking (PRB))
- Establish priorities, define strategic objectives and build a roadmap



2. Setting up the process to conduct due diligence on target investments

We support financial institutions in building a structured framework to conduct due diligence of investee companies and clients. We adopt a pragmatic approach and look for solutions to make use of existing tools, e.g.:

- Inherent risk indicators
- Public benchmarks on human rights due diligence (e.g. CHRB)
- ESG rating reports
- Allegations database

With this process in place, FMPs can identify where the highest risks lie, prioritize efforts and take appropriate action through engagement and investment decisions. Where ESG screening processes are already in place, we assess whether gaps exist and provide solutions to properly incorporate human rights aspects.

We conduct human rights due diligence through a risk-based approach, where higher risks are thoroughly investigated in line with best international practices.



3. Engaging with investees

We support companies in defining their engagement strategy with clients and/or investee companies. With our solution, FMPs are able to properly prioritize efforts and adopt meaningful engagement practices.

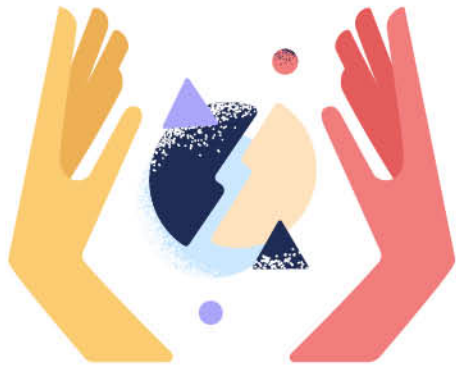
We conduct engagements with clients and investee companies on behalf of our clients, ensuring that human rights topics are addressed in a meaningful manner, given our technical expertise on the topic.



4. Setting up a human rights governance structure

A robust and successful human rights due diligence requires an adequate human rights management system embedded in all key processes of the organisation. Setting up clear responsibilities and adequate resources to drive human rights due diligence is key to success. We support businesses with:

- Cross-sectional responsibilities and governance structures
- Internal reporting structures
- Management-development: we create structures and support relevant employees & the board so businesses can manage autonomously in the future



5. Supporting financial institutions to report on human rights

Businesses in the financial sector are increasingly required, due to legislation and the demands from their clients and civil society, to be transparent about and accountable for their efforts on human rights. In this context, reporting becomes essential. We support financial institutions to report in a meaningful manner about their approach and challenges in the context of human rights.



6. Providing training on human rights and financial services

For any entity to truly succeed you need empowered people. That is why we work closely with our clients to create customized trainings and workshops on human rights due diligence related topics relevant for their organisation. Our services include tailor-made employee workshops, customized online trainings and tailor-made webinars (e.g. on reporting, policies, risk analysis, UNGPs etc.)

Hello! We are experts on human rights and finance

We are an international management consultancy combining long-standing experience in establishing human rights due diligence processes for corporate clients and a deep understanding of the financial markets.

Our clients include major listed and family owned companies as well as international organisations from different sectors and countries.

We're bringing our experience from the corporate sector together with our deep understanding of the financial sector to help FMPs understand and set up meaningful human rights due diligence. We are an established team of experts for the financial sector bringing together legal, business and public policy experts.

STRATEGIC DIRECTION We support companies and organizations in defining strategic objectives and establishing priorities.

STRUCTURED OPERATIONAL SUPPORT

We provide support through a step-by-step approach as organizations integrate respect for human rights into their daily operations. By providing a structure for the process of human rights due diligence, we help organizations navigate through the process and ensure it is in line with international standards.

TAILORED APPROACH We look at facts comprehensively, tackling complex issues while customizing our approach to clients' needs, and provide tailored and practical recommendations for action.

CHALLENGERS We bring in the most recent developments on business and human rights, supporting businesses to look beyond the obvious and enhance critical thinking.

Our team focused on services to the financial sector includes:

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Markus Löning is the founder and managing director of *Löning – Human Rights & Responsible Business*, advising the leadership of corporates and international organizations on business & human rights, public policy and strategic communication. Previously he was the German government's Human Rights Commissioner and a member of the federal parliament.



Cecilia Barral Diego (LLM) is a consultant and human rights law expert focused on setting up due diligence processes for companies. She is also vice-chair of *Finance and Human Rights*, a knowledge hub that brings together strong expertise on business & human rights and the financial sector.



Raquel Althoff (B.Eng, MBA) is a senior consultant with 10+ years of experience in supporting global companies in implementing human rights due diligence, including engagement with investors and ESG experts.

*We work
with the external
support of*



Charles Muller (LLM) has been working in financial sector regulation for 32 years. He was a partner with KPMG and the deputy CEO of the Association of the Luxembourg Fund Industry (ALFI) amongst others. He is admitted to the Luxembourg Bar.

Löning

*Human Rights &
Responsible Business*

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