



## Sustainability Insight

# Unravelling regulatory complexity

Key policy and regulatory developments: September 2023

*Sustainability Insight* is a monthly newsletter to keep you up to date with key sustainability-related regulatory developments in the EU. The newsletter focuses on the EU Green Deal and EU institutions, but also includes selected international and national developments where they provide context for EU developments. The developments covered are intended to be used for broader general awareness and do not imply any form of advice from Deloitte.

The newsletter is produced by Deloitte's [EMEA Sustainability Regulation Hub](#), supported by [RegHub](#), Deloitte's market-leading digital compliance platform.

## Recent publications from the EMEA Sustainability Regulation Hub



Blog: [TNFD v1.0: The \(r\)evolution of nature-related risk management and reporting](#), 18 September 2023



Blog: [It's all in the planning: three key challenges to consider when designing a transition plan](#), 13 September 2023



Blog: [What is the European Corporate Sustainability Due Diligence Directive?](#), 12 September 2023



Briefing pack: [Strategic and operational implications of CSRD](#), 8 September 2023



Blog: [Reporting on Nature: from global goals to local legislation, nature reporting requirements are becoming increasingly integrated](#), 7 September 2023



Blog: [FCA's new "anti-greenwashing rule" - "clear, fair and not misleading" is complicated when it comes to sustainability-related claims](#), 7 September 2023



Blog: [Back to School briefing 2023](#), 5 September 2023

## Contents

### 1. Sustainability reporting



### 2. Sustainable finance



### 3. Real economy



## Sustainability reporting

**International**      **TNFD**      [The TNFD publishes its final framework, 18 September](#)

The Taskforce on Nature-related Financial Disclosures (TNFD) published its final disclosure recommendations for how organisations can assess, disclose, and manage nature-related risks and impacts. The TNFD framework builds on the work of the Task Force on Climate-related Financial Disclosures (TCFD) and is consistent with the approach of the International Sustainability Standards Board (ISSB) and the European Sustainability Reporting Standards (ESRS). The TNFD framework is structurally compliant with ESRS E4 (Biodiversity and Ecosystems). The TNFD's Locate, Assess and Prepare (LEAP) framework provides EU companies with tools to be able to include biodiversity within the materiality assessment.

For further detail, please read [here](#) our summary of the key components of the TNFD framework and how it aligns with global sustainability reporting standards.



## Sustainable finance

**International**      **NGFS**      [New conceptual framework for nature-related financial risk to guide action by central banks and supervisors, 7 September](#)

The Network for Greening the Financial System (NGFS) published the beta version of its conceptual framework for nature-related financial risks. It aims to provide central banks and supervisors, including those within the EU, with tools to identify and assess financial risks related to nature, to guide their policy and actions. The framework consists of three pillars: identification of sources of physical and transition risks; economic risk assessment; and risk assessment for, from and within the financial system.

The publication of the framework is the latest activity in NGFS's work to mainstream nature-related risk considerations across central banks and supervisors. By mid-2024, based on feedback received, there will be a decision as to whether the framework should be updated.



**International**      **NGFS**      [Network for Greening the Financial System \(NGFS\) reports on climate litigation risk and its microprudential supervision approach, 1 September](#)

The NGFS has published two complementary reports. The first outlines recent trends in climate-related litigation risks (CLR) across both the financial and non-financial sectors. The second has a specific focus on micro-prudential supervision of CLR for financial institutions (FIs).

Highlights from both reports include:

- Climate-related litigation continues to increase in volume and develop in nature and scope, with litigation against FIs increasing.
- CLR will likely become increasingly linked to the development of climate-related legislation, especially when it comes to greenwashing, disclosures and corporate due diligence. This includes the EU's Sustainable Finance Disclosure Regulation, the EU Taxonomy Regulation and the proposed Corporate Sustainability Due Diligence Directive.
- Although many regulatory frameworks incorporate climate risk more generally, they do not explicitly take CLR into consideration. Some European authorities, however, are now actively monitoring trends to better inform policy. This includes the European Supervisory Authorities' recent work on better understanding greenwashing among supervisors; [a progress report](#) on the topic was published in June 2023.

The NGFS recommends supervisors adopt a risk-based approach to prioritise supervisory activities in this area. It proposes a range of potential supervisory actions including enhancing supervisory expectations as well as incorporating CLR into prudential reviews.



**International**      **UNGC**      [New guidance on how bonds can finance the blue economy, 6 September](#)

The United Nations Global Compact (UNGC), alongside multilateral development banks and international organisations (including the World Bank and the Asian Development Bank), has developed a global practitioner's guide for how bonds can help finance the sustainable blue economy. The blue economy refers to economic activities that rely or affect the use of coastal and marine resources. The UNGC believes that the development of a sustainable blue economy is integral to tackling the triple planetary crisis of a rapidly changing climate, nature loss, and pollution. The voluntary guidance provides market participants, including those operating within Europe, with clear criteria, practices, and examples for "blue bond" lending and issuing. Blue bonds aim to emphasise the importance of the sustainable use.



**International**      **UNEP FI**      [UNEP FI publishes report on nature-positive insurance, 13 September](#)

The United Nations Environment Programme Finance Initiative (UNEP FI)'s Principles for Sustainable Insurance Initiative and Nature Teams published a report emphasising the role of the insurance industry in supporting the Kunming-Montreal Global Biodiversity Framework (GBF) goal of becoming nature-positive. Major areas of interest for insurers, including those operating in Europe, include understanding the implications of the GBF for the sector, evaluating and managing nature-related risks, identifying opportunities to foster positive nature outcomes, and the recommendations to support the global goal of becoming nature-positive by 2030.



**EU**      **EC**      [EC consults on sustainable finance disclosures, 14 September](#)

The European Commission (EC) launched a consultation on the Sustainable Finance Disclosures Regulation (SFDR) which is open until 15 December 2023. The aim of the consultation is for the EC to understand how the SFDR has been implemented by firms and which potential shortcomings financial market participants have seen so far. The EC intends to explore options on how to improve the SFDR, including through the introduction of a categorisation system for financial products, and increase its interoperability with other pieces of the European sustainable finance legislation.



**Real Economy**

**International**      **UNFCCC**      [New UN report concludes that more ambition needed to reach the goals of the Paris Agreement, 8 September](#)

The UN Framework Convention on Climate Change (UNFCCC) published its Global Stocktake report ahead of the upcoming UN climate change conference, COP28, this November. The report

summarises 17 key findings from technical deliberations on the implementation of the Paris Agreement during 2022 and 2023. The report concludes that while action is proceeding, much more needs to be done in all areas, including climate change mitigation and adaptation. The report urges countries to cut the use of coal power to the point of its near -elimination as an electricity source by 2050; scale up low- and zero-carbon sources of electricity; and unlock funding for low-carbon developments. Policymakers from the EU and across the world will discuss the details of the report at COP28 and adopt a decision or declaration that sets out how progress on meeting the goals of the Paris Agreement can be accelerated by governments and businesses.



**International UN** [New UN framework to protect the environment from harmful chemicals, 30 September](#)

The UN adopted the Global Framework on Chemicals and the Bonn Declaration. The framework includes 28 targets and guidelines across the lifecycle of chemicals to improve responsible management of chemicals and waste. Through the framework, governments have committed to setting up policies and regulations such that they reduce chemical pollution by 2030 and promote safer alternatives. The Bonn Declaration aims to prevent exposure to harmful chemicals and phase out the most harmful ones and to enhance the safe management of chemicals where necessary. It also encourages countries to support the transition to circular economies to foster the development of safe alternatives and substitutes for chemicals. This development is in line with the [EU's Sustainable Chemicals Strategy](#), which aims to better protect citizens and environment from harmful chemicals through actions including better labelling and banning harmful chemicals from consumer products. On 5 October, the Framework was [also welcomed by the International Labour Organisation](#) (ILO), which highlighted the danger caused by hazardous substances to workers' health.



**EU EU** [Energy Efficiency Directive published in EU Official Journal, 20 September](#)

The EU published the revised Energy Efficiency Directive in its Official Journal. The revised Directive sets out measures to accelerate energy efficiency, notably by adopting the principle of "priority to energy efficiency" in energy and non-energy policies, i.e., prioritising cost-effective energy efficiency measures in planning and policy decisions to make energy use more efficient while achieving set objectives. The text comprises some of the following changes compared to the last version:

- Introducing a legally binding EU target to reduce the EU's final energy consumption (i.e., total energy consumed directly by end-users across various sectors) by 11.7% by 2030 (compared with 2020). All Member States must set their indicative national contribution based on objective criteria reflecting national circumstances.
- Increasing average annual energy savings (i.e., reduction in energy consumption achieved by implementing efficiency measures) to 1.49% for the period 2024-2030.
- Setting an annual energy consumption reduction target of 1.9% for the public sector as a whole.
- Introducing an energy consumption-based approach for companies to have an energy management system or carry out energy audits.

The Directive will enter into force on 20 October 2023 and Member States will have two years to transpose it into national law.



**EU EU** [AFIR published in the EU Official Journal, 22 September](#)

The EU published the Alternative Fuel Infrastructure Regulation (AFIR) in its Official Journal. The Regulation allows the deployment of recharging and refuelling stations across Europe and sets the following targets:

- Starting in 2025, fast recharging stations (150 kW) for cars and vans are to be set up every 60 km along the trans-European transport network (TEN-T), while for heavy-duty vehicles, stations (350 kW) are required every 60 km on the core network and every 100 km on the comprehensive network by 2025, aiming for complete coverage by 2030.
- From 2030, hydrogen stations will be set up in urban nodes and every 200 km along the TEN-T core network, with user-friendly payment methods for electric and hydrogen vehicle charging, eliminating subscriptions.
- TEN-T ports with a minimum of 50 calls by large passenger vessels or 100 calls by container vessels are required to offer shore-side electricity by 2030. TEN-T airports must replace the consumption of liquid fuels by stationary aircraft with electricity at all gates from 2025 and at all remote stands from 2030. From 2030, the electricity supplied must come from the electricity grid or is generated on site as renewable energy.

- Charging and refuelling point operators must provide consumers with comprehensive electronic information on the availability, waiting times and prices of different stations.

The Regulation enters into force on 22 October 2023 and will apply from 13 April 2024.



**EU**                      **EU**                      [FuelEU Maritime Initiative published in the EU Official Journal, 22 September](#)

The EU published a Regulation on the use of renewable and low-carbon fuels in maritime transport in its Official Journal. The Regulation aims to decarbonise the maritime sector and contains these provisions, among others:

- A progressive reduction in the GHG intensity of fuels used by the shipping sector over time, from 2% in 2025 to 80% by 2050.
- A specific incentive scheme to encourage the adoption of renewable fuels of non-biological origin with high decarbonisation potential.
- The requirement for passenger ships and containers to use shore-side power for all their electricity needs when docked in major EU ports from 2030.

The Regulation enters into force on 22 October 2023 and will be applicable from 1 January 2025. However, as of 31 August 2024, companies must submit their monitoring plans detailing the measurement, type, and emission factor of energy used on board by ships for reporting purposes (articles 8 and 9).



**EU**                      **EC**                      [Commission adopts measures to restrict intentionally added microplastics, 25 September](#)

The EC adopted measures that restrict microplastics intentionally added to products under the EU chemical legislation - Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). Adopted measures include the prohibition of sale of microplastics, and of products to which microplastics have been added on purpose where they release those microplastics when used. The scope of the legislation excludes products that contain microplastics but do not release them. Some examples of common products that are in scope of the restriction include:

- granular infill material used on artificial sport surfaces;
- cosmetic products where microplastics may be used for purposes such as exfoliation (microbeads) or obtaining a specific texture, fragrance or colour;
- detergents, fabric softeners, glitter, medicines, and medical devices.

As next steps, certain measures will enter into force on 14 November 2023. These include the sale of loose glitter made of plastic and cosmetics containing microbeads for exfoliation. For other products in scope, the rules will apply over a period of four to 12 years dependent on the complexity of the product, the need for reformulation and the availability of suitable alternatives.



**EU**                      **EP, Council**                      **EP and Council approves final text of the revised RED, 12 September and 9 October**

The [European Parliament](#) (EP) and the [Council](#) have now formally approved the revised Renewable Energy Directive (RED). The revised Directive increases the share of renewables in the EU's final energy consumption to 42.5% by 2030. To help achieve this goal, it sets out a comprehensive framework for the deployment of renewable energy across all sectors. For example, it speeds up procedures to grant permits for new renewable energy power plants or to adapt existing ones.

The final text of the revised RED was determined in negotiations during trilogues in March 2023, but experienced delays in its formal approval after several pro-nuclear Member States blocked the approval in May to achieve guarantees on producing low-carbon hydrogen made from nuclear power. A compromise was then reached in June that takes into consideration the role other sources of fossil-free energy can have in achieving the 42.5% renewable energy target.

The revised RED will be shortly published in the EU Official Journal and enter into force 20 days later. Member States will then have 18 months to transpose the Directive into national law. The new rules are therefore expected to apply from 2025.



**EU**                      **EP, Council**                      **EP and Council approve final text of ReFuelEU Aviation Initiative, 13 September and 9 October**

The [EP](#) and [Council](#) formally approved the ReFuelEU Initiative. This Initiative sets out provisions to increase the production and use of sustainable aviation fuels; it requires EU airports and fuel suppliers to ensure that, from 2025, at least 2% of aviation fuels will be green. The share will increase every five years to 6% in 2030, 20% in 2035, 34% in 2040, 42% in 2045 and 70% in 2050. From 2025, an EU label will display flight environmental performance, allowing passengers to

compare carbon footprint and efficiency. The text will now shortly be published in the EU Official Journal and enter into force 20 days later. The rules will then start to apply from 1 January 2024.



**EU**                      **EP, Council**                      [Council and EP reach provisional agreement to empower consumers for the green transition, 19 September](#)

The EP and the Council reached a provisional agreement on the Directive for Empowering Consumers for the Green Transition. The Directive seeks to improve consumer rights and enable consumers to make better informed purchasing decisions so they can contribute to more sustainable consumption. The European co-legislators have agreed that companies should abstain from:

- Making generic environmental or durability claims without a recognised “excellent environmental performance”.
- Using sustainability labels that are not based on approved certification schemes or created by national public authorities.
- Claiming that a product is carbon neutral or positive if solely based on carbon offsetting schemes.
- Prompting consumers to replace consumables earlier than necessary, and claiming goods are durable or repairable when they are not.

The text is now expected to be formally agreed by the Council in November 2023 before then being adopted in law in early 2024. Member States will then have two years to transpose the Directive into national laws. The new rules are therefore expected to apply from 2026.



**EU**                      **EP**                      [EP adopts position on reducing groundwater and surface waters pollution and improving EU water quality standards, 12 September](#)

The EP adopted its position on the Directive for Protection of groundwater against pollution and environmental quality standards in the field of water policy. The Directive was proposed to revise the list of surface water and groundwater pollutants that must be monitored and controlled to protect freshwater sources in the EU. In its position, the EP agreed several key changes to the initial legislative proposal, including:

- EU watch lists to be regularly updated so they remain aligned with new scientific evidence and new chemicals. Pollutants, such as microplastics and antimicrobial resistant microorganisms, to be added to these lists once sustainable monitoring methods are identified.
- Specific subset of “forever chemicals”, otherwise known as per- and polyfluoroalkyl substances (PFAS), to be included in groundwater and surface water pollutant lists.
- Stricter standards for pharmaceuticals and several pesticides, such as glyphosate and atrazine.
- Producers selling products containing polluting chemical substances should help finance monitoring costs in addition to Member States.

The Council must now adopt its position on the Directive so that it can start trilogue negotiations with the EP and EC on the final text of the Directive.



**EU**                      **EP**                      [EP decides initial position on the reform of the EU's electricity market, 14 September](#)

The EP adopted its position on the reform of the EU electricity market design. The EC proposed the reform in March 2023 to increase consumer protection against volatile electricity prices. In its position, the EP agreed several key changes to the initial proposal of the legislation, including:

- Consumers will be provided with the right to fixed-price contracts, dynamic price contracts, and more information on the options they sign up to.
- Electricity suppliers will be banned from being able to change the terms of an electricity contract unilaterally and prohibited from cutting the electricity supply of vulnerable consumers.
- To adjust the criteria for declaring an electricity price crisis.

Trilogues will start once the Council has adopted its position on the text.



**EU**                      **EP**                      [EP adopts initial position on Critical Raw Materials Act, 14 September](#)

The EP adopted its position on the Critical Raw Materials Act (CRMA). The CRMA was proposed by the EC in March 2023. The CRMA aims to increase the EU's domestic supply of critical raw



materials and enhance the EU's global competitiveness. In its position, the EP agreed several key changes to the initial proposal of the legislation, including:

- Expanding the list of Strategic Raw Materials by including aluminium (the list of raw materials that are at high risk of supply chain disruption in the EU and are not energy or agricultural inputs) and broadening the criteria for granting the designation of a Strategic Project.
- Increasing the EU's goal for domestic refining and processing capacity of critical raw materials from 40% to 50%.
- Ensuring that at least 45% of each critical raw material in the EU's waste can be collected, sorted, and processed.
- Requiring the Critical Raw Materials List to be updated at least every two years.

The EP will now enter trilogue negotiations with the Council and the EC. It is expected that the final text will be agreed by the end of the year.



## EU Council [Council adopts position on Euro 7 regulation, 25 September](#)

The Council adopted its position on the proposed regulation for Euro 7 vehicle emissions. The regulation was proposed by the EC in November 2022 to combine the emission objectives for light- and heavy-duty motor vehicles into a single legal act. The legislation aims to set more adequate rules for vehicle emissions and to lower air pollutants from road transport. In its position, the Council suggested a number of changes to the EC's proposed text, including lowering emission limits for buses, coaches and heavy commercial vehicles, among other things. The Council will negotiate the proposed regulation in trilogues to determine a final text once the EP adopts its negotiating position.



## EU EC [EC publishes Decision establishing the EU Ecolabel criteria for absorbent hygiene products and for reusable menstrual cups, 14 September](#)

The EC reinforced the EU's Ecolabel criteria for absorbent hygiene products – tampons, pads, diapers – and proposed new criteria for reusable menstrual cups. Some of the requirements set out by the EC are the following:

- Establishment of thresholds (4 to 8 percent) for the quantity of waste generated in the manufacturing and packaging processes of products that can be disposed of in landfills or incinerated without energy recovery. These criteria pertain to product assembly sites.
- Packaging should also offer explicit guidance on product usage and proper disposal.
- Inclusion of labour standards. Producers must secure third-party verification, backed by on-site audit(s), confirming the adherence to labour and human rights principles outlined in international texts at the final assembly site of the product.

The decision applies from 23 September 2023 until 31 December 2029. A transitional period of 12 months is foreseen for producers whose products have been awarded the EU Ecolabel for absorbent hygiene products based on the former criteria.



## Contacts

### Simon Brennan

Head, EMEA Sustainability Hub

[simbrennan@deloitte.co.uk](mailto:simbrennan@deloitte.co.uk)

### About the EMEA Sustainability Regulation Hub

The EMEA Sustainability Hub is a source of critical regulatory strategy insight and advice, designed to help business leaders understand and assess how sustainability regulation will drive the evolution of business strategies and operating models. As sustainability regulatory requirements and standards expand, it is essential to adopt a strategic approach to navigate the complexity, and to engage with regulators proactively. We develop early insights across industries on emerging EU sustainability regulations, policies, industry standards and codes of conduct to help you assess how best to transform strategies and operating models.

<https://www2.deloitte.com/uk/en/pages/financial-services/topics/emea-sustainability-regulation-hub.html>.

### About RegHub

RegHub helps firms to optimise the management of regulatory adherence. RegHub is designed by risk and compliance professionals and helps firms establish traceability and transparency, transform how they report and achieve cost efficiencies by digitising the lifecycle into a single platform. <https://www2.deloitte.com/uk/en/pages/risk/solutions/reghub.html>.

This publication has been written in general terms and we recommend that you obtain professional advice before acting or refraining from action on any of the contents of this publication. Deloitte LLP accepts no liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 1 New Street Square, London, EC4A 3HQ, United Kingdom.

Deloitte LLP is the United Kingdom affiliate of Deloitte NSE LLP, a member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"). DTTL and each of its member firms are legally separate and independent entities. DTTL and Deloitte NSE LLP do not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more about our global network of member firms.

© 2023 Deloitte LLP. All rights reserved.