

## REGULATORY INTELLIGENCE

**COUNTRY UPDATE-Finland: ESG reporting**

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European environmental, social and governance (ESG) financial regulation is entering its next stage. Having been frontrunners in developing climate change reporting, the EU and individual countries are introducing rules covering more sustainability and social equality concerns.

They are also reviewing comparatively recent ESG regimes and technical standards, while regulatory and court decisions have clarified how ESG rules are interpreted and enforced.

After an outline of EU legislative developments, this article provides an overview of ESG law in Finland by [Anniina Järvinen](#), [Anna-Maria Tamminen](#), [Riikka Kuha](#), and [Senni Kinnaslampi](#) of [Hannes Snellman Attorneys Ltd.](#)

**Principal EU ESG reporting legislation**

All three main pillars of the EU's Sustainability Action Plan will be in effect from early 2024. They are:

- The [Sustainable Finance Disclosure Regulation](#) 2019/2088 (SFDR). This imposes disclosure requirements on financial market participants. SFDR came into effect for "level 1" disclosures in March 2021 and for more onerous "level 2" disclosures from January 2023.
- The [Corporate Sustainability Reporting Directive](#) 2022/2464 (CSRD). This greatly increases both the number of companies that must report on ESG factors and the amount of information they must provide, compared to the Non-Financial Reporting Directive 2014/95 (NFRD) which it replaces. European Sustainability Reporting Standards (ESRS) for use with CSRD were adopted in July 2023.

CSRD came into force in January 2023 but applies to organisations in stages, starting with large public interest entities, including banks and insurers. They must make CSRD reports in 2025 for financial years starting on or after 1st January 2024.

- The [Taxonomy Regulation](#) 2020/852. This standardises definitions and processes for determining whether an economic activity is sustainable, including setting six environmental objectives, for use in disclosures and reports under SFDR and CSRD.

The Taxonomy Regulation has applied to SFDR disclosures regarding two "climate" environmental objectives since January 2022. Reporting against the remaining four objectives starts in January 2024.

Other relevant EU developments include:

- The [Green Bonds Regulation](#) 2023/2631 takes effect in December 2024. This sets standard requirements for issuers that wish to use the designation "European Green Bond" or "EuGB" for their environmentally sustainable bonds.
- The proposed [Corporate Sustainability Due Diligence Directive](#) COM(2022) 71 (CS3D). Trilogue negotiations are expected to produce the final text of this in early 2024. Once CS3D is in force, relevant companies will have to identify their activities' actual or potential adverse environmental and human rights impacts, including harm and risks in their supply chain.

**ESG in Finland****1. What is the national competent authority for overseeing EU and national financial regulation concerning ESG?**

Reporting under the SFDR and the Taxonomy Regulation by financial market participants is overseen by the Finnish Financial Supervisory Authority (the "FIN-FSA") which is the main supervisor of the operation of financial markets in Finland.



The CSRD has been implemented in Finland mainly in the Accounting Act (in Finnish: kirjanpitolaki 1336/1997, the "Accounting Act"), the Auditing Act (in Finnish: tilintarkastuslaki 1141/2015, the "Auditing Act"), the Companies Act (in Finnish: osakeyhtiölaki 624/2006, the "Companies Act"), and the Securities Market Act (in Finnish: arvopaperimarkkinlaki, 746/2012, the "Securities Market Act"). The FIN-FSA oversees that entities under its supervision comply with the Accounting Act and the Securities Markets Act.

Furthermore, the Accounting Board may issue instructions and statements on the application of the Accounting Act. The Finnish Patent and Registration Office supervises compliance with the filing requirement under the Accounting Act.

**2. Does any national law require firms to make any investments in ESG-friendly activities, or restrict investment in ESG-unfriendly activities, such as producing fossil fuels?**

No, there is no such national law in Finland.

**3. Does any national law regulate whether an activity or investment can be labelled or promoted as being sustainable/ environmentally friendly?**

Apart from the SFDR and the Taxonomy Regulation that regulate the matter on the EU level, there is no national law specifically regulating whether an activity or investment can be classified or promoted as sustainable/environmentally friendly.

However, in accordance with the Securities Market Act, companies must ensure that they do not engage in false advertising or issue false and misleading statements. According to the regulatory guidance of the FIN-FSA, all statements and comparisons used in marketing of financial services and products must be verifiable. When presenting comparisons, all information sources, facts and assumptions must be presented in a balanced and equal manner and it should be ensured that no information that is material to the comparison is omitted.

The Finnish Consumer Protection Act (in Finnish: kuluttajansuojalaki 38/1978) sets out general conduct of business rules applicable to consumer business, such as a prohibition on providing false or misleading information in marketing and during a client relationship. Many sector-specific financial laws, such as the Finnish Investment Services Act, include similar prohibitions. According to the FIN-FSA, marketing of financial services to retail clients should not misleadingly refer to terms which have an established meaning or, if a term is not established, the marketing material should explain the intended meaning of the used term.

In terms of marketing of funds, the FIN-FSA has taken the position that only funds that comply with article 8 or 9 of the SFDR may use sustainability-related terms, such as ESG or sustainable, in the name of a fund.

**4. Which legislation transposed the CSRD into national law and does it add any extra obligations to those required by CSRD?**

The CSRD has been implemented in Finland mainly in the Accounting Act, the Auditing Act, the Companies Act, and the Securities Markets Act. In Finland the sustainability reporting requirement based on the CSRD has been extended to cover also large cooperatives or such cooperatives whose financial instrument is listed on a regulated market, as well as large pension institutions.

**5. Does any national law impose duties concerning environmental, human rights or other ESG harm or risk in a firm's supply chain?**

Currently, there is no general national law regarding firms' duties in respect of due diligence regarding ESG harms and risks<sup>1</sup>. However, the Finnish legislation includes several obligations in relation to the protection of human rights and the environment that are binding on companies operating in Finland. Such obligations can also require obtaining decisions or permits from competent authorities for securing compliance with the legislation. Examples of special legislation affecting ESG factors in firms' supply chains include, inter alia, the Finnish Act on Contractor's Obligations (1233/2006) providing obligations on enterprises concluding contracts on temporary agency work or subcontracted labour to ensure that the statutory terms of employment are observed, and the Finnish Waste Act (646/2011) providing that waste may generally only be assigned to an operator who has the right to receive such waste, e.g., on the basis of registration in the waste management register or on the basis of an environmental permit.

**6. Does any national law cover workplace diversity, for example, the representation of women or ethnic minorities at board or senior management level?**

The EU Directive on improving the gender balance among directors of listed companies 2022/2381 (the "Quota Directive") is planned to be implemented in the national legislation, including the Companies Act and the Cooperatives Act (in Finnish: osuuskuntalaki 421/2013, the "Cooperatives Act"), by December 28, 2024. According to a draft government bill regarding the implementation, large listed companies and cooperatives shall have an objective that members of the underrepresented sex hold at least 40% of the board of directors positions by June 30, 2026.

Pursuant to the Securities Market Act, listed companies must prepare an annual corporate governance statement. The corporate governance statement must include, among other things, a description of the principles concerning the diversity of the board of directors (including factors such as age, gender, and occupational and educational background). Pursuant to the implementation of the Quota Directive, listed companies shall provide information about the gender representation of their boards, and where an entity has not achieved the objective of gender representation, the reported information shall include the reasons for not achieving the objectives and a comprehensive description of the measures which the listed company has already taken or intends to take in order to achieve them. The Finnish Corporate Governance Code (the "CG Code") will also be amended due to implementation of the Quota Directive



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and the draft CG Code contemplates the extension of the equal gender representation objective to cover all companies listed on the regulated market. The draft also contemplates that the companies should report on the gender balance in the executive management and in the entity that prepares proposals for board composition.

The Finnish Act on the Equality Between Women and Men (in Finnish: laki naisten ja miesten välisestä tasa-arvosta, 609/1986, the "Equality Act"), prohibits gender-based discrimination and promotes equality between women and men, thereby improving the status of women, particularly in working life. The Equality Act also includes a quota provision according to which both genders should be represented by at least 40% in public entities and bodies. Compliance with the Equality Act is overseen by the Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal.

#### **7. Does any national law cover gender or other diversity pay gaps?**

Under the Equality Act, an employer that has a minimum of 30 employees must at least every two years prepare a gender equality plan. The plan must include an assessment of the gender equality situation in the workplace and a pay survey on the whole personnel regarding differences in pay. If there is no justification for the pay differences, the employer must take appropriate measures to rectify the situation.

#### **8. On enforcement and legal rulings, have there been any important:**

- **Breach actions concerning firms' obligations under national ESG laws and if yes, which law was broken and what was the penalty?**
- **Court decisions concerning firms' obligations under national ESG laws and if yes, which law did it concern and what did the court decide?**

On June 7, 2023, the Supreme Administrative Court of Finland issued its ruling in Finland's first domestic climate litigation case. The case was initiated by two environmental NGOs as a complaint against the Finnish government on the basis of the lack of measures regarding Finland's carbon sinks in the Annual Climate Report submitted by the government. The NGOs alleged that the lack of additional measures concerning the land use sector's change into a net carbon emitter constituted a breach of the government's obligations under the Climate Act 423/2022, entered into force in July 2022, which provides that the government shall monitor the implementation of climate policy plans and, if necessary, decide on additional measures required to achieve the targets.

While the Supreme Administrative Court ultimately found — in a 3-2 split verdict — that in these circumstances there had been no appealable decision and thus it could not rule on the substance of the complaint, the ruling nevertheless clarifies that should government passivity in combatting climate change continue, the Supreme Administrative Court could be able to rule on the substance of a similar future complaint.

<sup>1</sup> Investigations for enacting such national law were started as part of the Government Programme of the former Prime Minister Sanna Marin's government in 2019 but later discontinued upon the progressing of the proposal for EU's CS3D.

[Complaints Procedure](#)

