



EBOOK

# Building Resilience Into Your Supply Chain:

Insights Into The German Supply Chain Due Diligence Act



## Foreword

In a rapidly evolving business landscape, it's becoming clear that businesses motivated by profit alone are not sustainable. Consumers, investors, and other key stakeholders expect businesses to be good corporate citizens. This has resulted in a host of global guidelines and legislation designed to protect human rights and the environment from the negative impact of global business operations. Many businesses have embarked on comprehensive Environment, Social, and Governance (ESG) programs to measure and improve their performance in these areas and to protect themselves from the reputational and financial cost of ethical failures. Most recently, we have seen the German Federal Parliament pass the Supply Chain Due Diligence Act which came into force on 1st January 2023. The Act requires in scope companies to comply with comprehensive supplier due diligence obligations across a range of human rights and environment-related risks.

This e-book provides some background and context to the Act along with practical suggestions for key steps to compliance. I hope you enjoy reading it.



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## 1. Introduction

Globalization has increased the complexity of supply chains beyond recognition with many businesses having thousands, and often tens of thousands, of direct and indirect suppliers. Major crises such as the global pandemic and the conflict in Ukraine have created supply chain shocks that have been felt around the world. Governments have responded to concerns about human rights and the environment with new and far-reaching legislation on supply chain due diligence including the German Supply Chain Due Diligence Act (SCDDA) which took effect on 1<sup>st</sup> January 2023.

In this e-book we share the results of a survey we conducted into supply chain resilience prior to the SCDDA taking effect, as well as insights and recommendations covering:

- Global action on supply chain due diligence
- The requirements of the SCDDA
- Five things to do right now



## 2. What is the problem?

Businesses have taken advantage of lower costs of labor and materials, falling trade barriers, and more efficient international transportation to reduce operating costs by producing products and components far from their own headquarters and from the markets in which the end products are intended to be consumed.

Financial savings to businesses and consumers have been significant, and many of us have come to expect easy access to fast fashion, cheap food, and innovative low-cost technology. However, globalization has also led to increasingly complex multi-tiered supply chains that bring with them reduced visibility and accountability and increased compliance and ethics risk. For example, a 2018 [CNBC article](#) found that the components for an iPhone are sourced from a staggering 43 countries over six continents.

In the first decades of the 21st century, there has been a steady stream of high-profile cases relating to human rights abuses and environmental harm deep in the supply chains of many of the world's most prominent companies.

### 2021

Seven major cocoa companies including Mars, Hershey and Nestle were accused of benefiting from cheap cocoa harvested by forced child labor in Cote D'Ivoire which produces 40% of the world's cocoa.

<https://www.freedomunited.org/news/nestle-mars-hershey-sued/>

### 2020

The S&P Market Intelligence report found that the cost of environmental damage linked to three of the biggest packaged food producers, Nestle, Mondelez, and Danone, has risen sharply since 2015 with “the vast bulk of this damage [arising] from the companies’ supply chains, not direct operations”.

<https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/cost-of-environmental-damage-linked-to-nestle-233-danone-and-mondelez-rises-sharply-56387844>

### 2013

The Rana Plaza building in Dhaka, Bangladesh, which housed five garment factories, collapsed killing 1,134 people. The factories supplied clothing to retailers including H&M, Walmart, and Primark.

<https://growensemble.com/rana-plaza/>

### 3. The reaction

In the past, many businesses may have been prepared to turn a blind eye to the activities of their suppliers and their impacts on human rights and the environment, but it is becoming increasingly apparent that consumers and investors care about the social and environmental impacts of businesses. Governments are responding accordingly with new and far-reaching legislation.

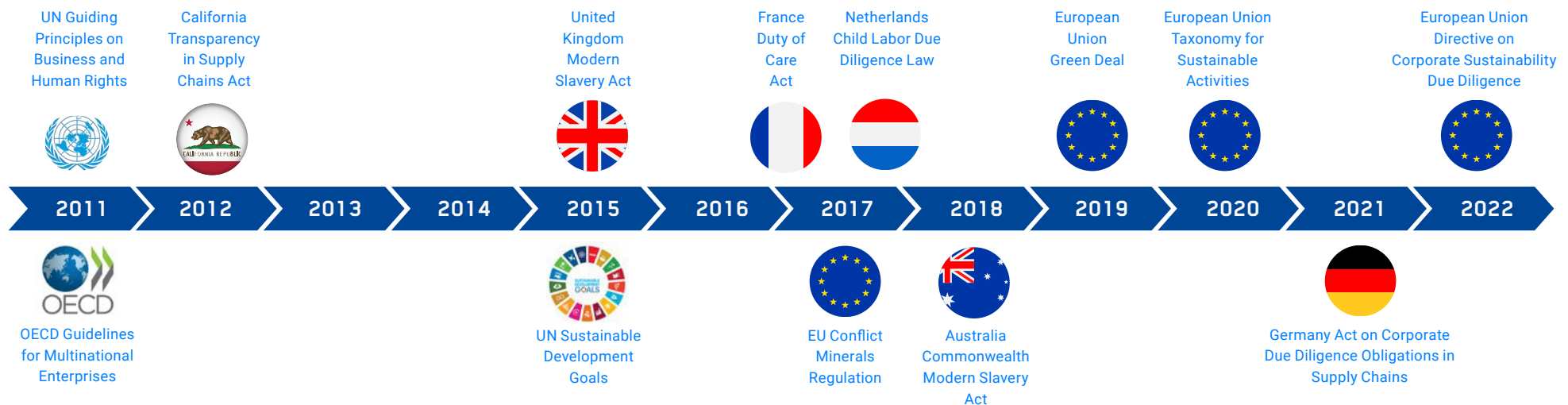
From a **consumer** perspective, 5WPR's 2020 [Consumer Culture report](#) found that 83% of millennials (who will make up 75% of the global workforce by 2025) say it's important to buy from companies that align with their beliefs. 76% want CEOs to speak out on issues they care about, and 65% have boycotted a company they have previously purchased from because of their stance on an issue.

The position of even the largest **institutional investors** is also shifting. Larry Fink, Chairman and CEO of Blackrock, one of the world's largest asset managers, writes an annual open letter to CEOs. In 2022's letter, Fink wrote: *"In today's globally interconnected world, a company must create value for and be valued by its full range of stakeholders in order to deliver long-term value for its shareholders. Stakeholder capitalism is not about politics. It is not a social or ideological agenda. It is not "woke". It is **capitalism**, driven by mutually beneficial relationships between you and the employees, customers, suppliers, and communities your company relies on to **prosper**."*

We are also seeing governments and Non-Governmental Organizations (NGOs) around the world producing guidelines and legislation to

foster better social and environmental practices in business. From the UN Guiding Principles on Business and Human Rights and the OECD's Guidelines for Multinational Enterprises published in 2011 through legislation in the UK, France, The Netherlands, and most recently Germany it is clear that businesses throughout Europe can expect to be held accountable for the actions of their suppliers. This will certainly be the case once the proposed European Directive on Corporate Sustainability Due Diligence comes into force. The European Commission adopted a proposal for the directive on 23rd February 2022. Once adopted, member states will have two years to transpose the Directive into national law.

#### Global Guidelines and Legislations on Human Rights and Environmental Practices



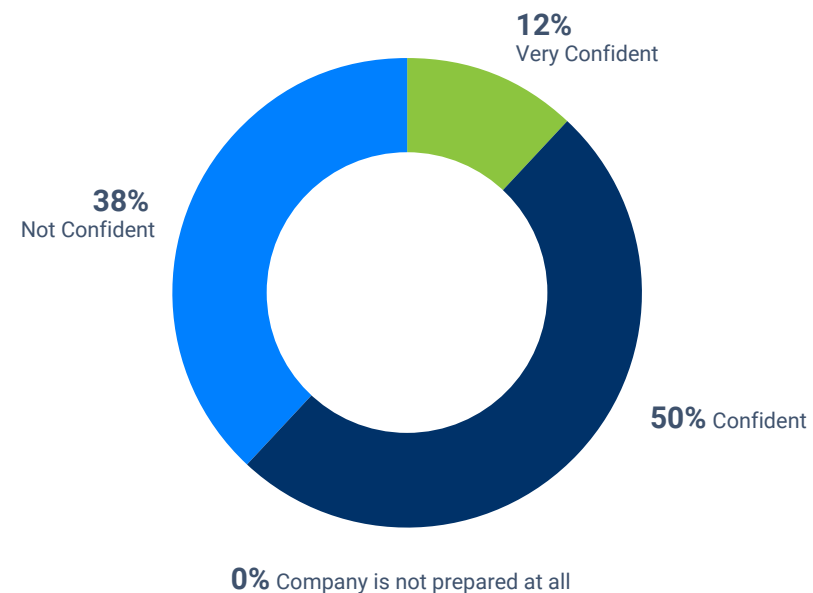




## 4. SCDDA: The basics

The German Supply Chain Due Diligence Act (SCDDA) seeks to minimize the detrimental impact of companies on the planet in terms of the environment and human rights by making them accountable for the actions of their suppliers. The Act requires companies to have in place comprehensive due diligence programs to ensure their suppliers are not violating human rights or causing environmental harm and, if violations are found or suspected, to put in place effective mitigation and remedial action.

How confident are you that your organization is prepared for The Supply Chain Due Diligence Act (SCDDA)?



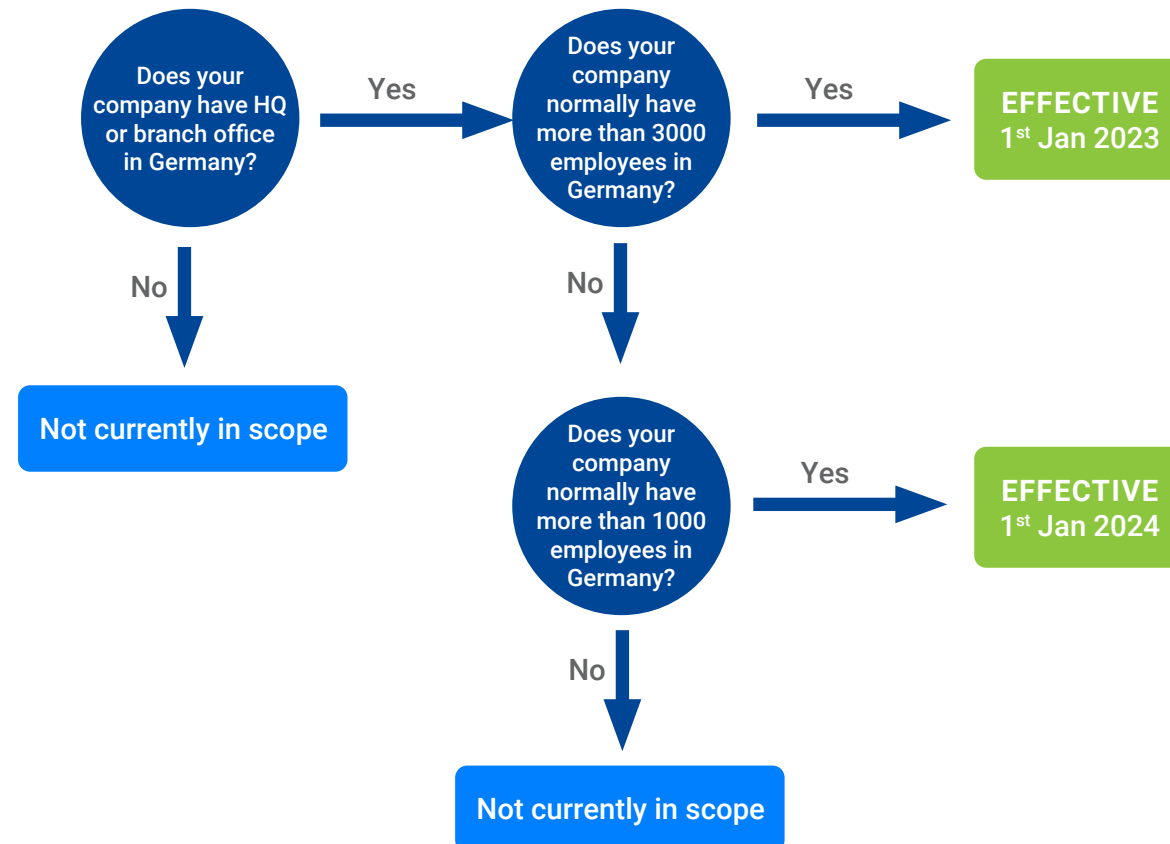
*When asked four months prior to the SCDDA coming into force, almost 40% of respondents to our survey said that they were not confident that their organization was prepared.*

## 4.1 Who is in scope?

The Act came into force for the first tranche of in scope companies on 1st January 2023. Companies that are in scope are those headquartered in Germany with at least 3,000 employees (in Germany and abroad). However, the scope is much broader than German companies alone. Any company with a branch office in Germany with at least 3,000 employees in Germany is also in scope.

From 1st January 2024 the threshold number of employees to fall within scope of the Act will be reduced to 1,000.

In all cases, temporary agency workers with an assignment exceeding six months must be included in the calculation of the number of employees.








## 4.2 What risks are covered?

The SCDDA identifies a number of risks to human rights and the environment in the supply chain.

HUMAN RIGHTS RISKS		
	<b>1. Minimum age for work</b>	Child labor under the age at which compulsory schooling ends.
	<b>2. The worst forms of child labor</b>	<ul style="list-style-type: none"> <li>• Slavery, sale and trafficking, debt bondage, serfdom, forced labor, forced recruitment for use in armed conflicts</li> <li>• Prostitution, pornography</li> <li>• Production or trafficking of drugs</li> <li>• Work that harms health safety or morals</li> </ul>
	<b>3. Forced labor</b>	Work that is performed involuntarily and under the menace of any penalty.
	<b>4. Slavery</b>	Any form of slavery including serfdom, extreme economic, or sexual exploitation.
	<b>5. Health and safety at work</b>	<ul style="list-style-type: none"> <li>• Insufficient safety standards in the provision and maintenance of the workplace, work station, and work equipment</li> <li>• Absence of protective measures to avoid exposure to chemical, physical, or biological substances</li> <li>• Lack of measures to prevent mental or physical fatigue</li> <li>• Inadequate training</li> </ul>
	<b>6. Freedom of association</b>	Freedom to organize, form, and participate in groups, including labor unions, either formally, or informally.
	<b>7. Employment equality</b>	Equal treatment in employment, including equal pay, irrespective of ethnic origin, gender, disability, sexual orientation, age, sex, religion, political opinions etc.
	<b>8. Adequate living wage</b>	At least equal to minimum wage but also taking into account local cost of living.
	<b>9. Community rights</b>	<ul style="list-style-type: none"> <li>• Harmful soil change, water pollution, air pollution, noise emission, excessive water consumption</li> <li>• Unlawful eviction, taking of land, forests, and waters</li> </ul>
	<b>10. Hiring or use of security forces</b>	<p>Particularly where there is:</p> <ul style="list-style-type: none"> <li>• Violation of prohibition on torture</li> <li>• Damage to life or limb</li> <li>• Impairment of the right to organize / freedom of association</li> </ul>
	<b>11. Any act or omission in breach of duty to act</b>	Anything else that might impair a protected legal position in a serious manner where unlawfulness is obvious on reasonable assessment.

## ENVIRONMENTAL RISKS



 <p>1. Minamata Convention on Mercury</p>	<ul style="list-style-type: none"> <li>• Manufacture of mercury-added products</li> <li>• Use of mercury and mercury compounds in manufacturing processes</li> <li>• Treatment of mercury waste contrary to legal provisions</li> </ul>
 <p>2. Stockholm Convention on Persistent Organic Pollutants</p>	<ul style="list-style-type: none"> <li>• Production and use of prohibited chemicals</li> <li>• Handling, collection, storage, and disposal of waste in a way that is not environmentally sound</li> </ul>
 <p>3. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal</p>	<ul style="list-style-type: none"> <li>• Export of hazardous waste in contravention of the convention</li> <li>• Export of hazardous waste from countries listed, to countries <i>not</i> listed, in Annex VII of the convention</li> <li>• Import of hazardous waste from a non-party to the convention</li> </ul>

## 4.3 Due diligence obligations at a glance

The SCDDA requires companies to build comprehensive supplier due diligence programs that are proportionate in relation to:





- The nature and extent of their business activities
- Their ability to influence their suppliers
- The probability, severity and revisability of any violation
- Their causal contribution to the risk or violation

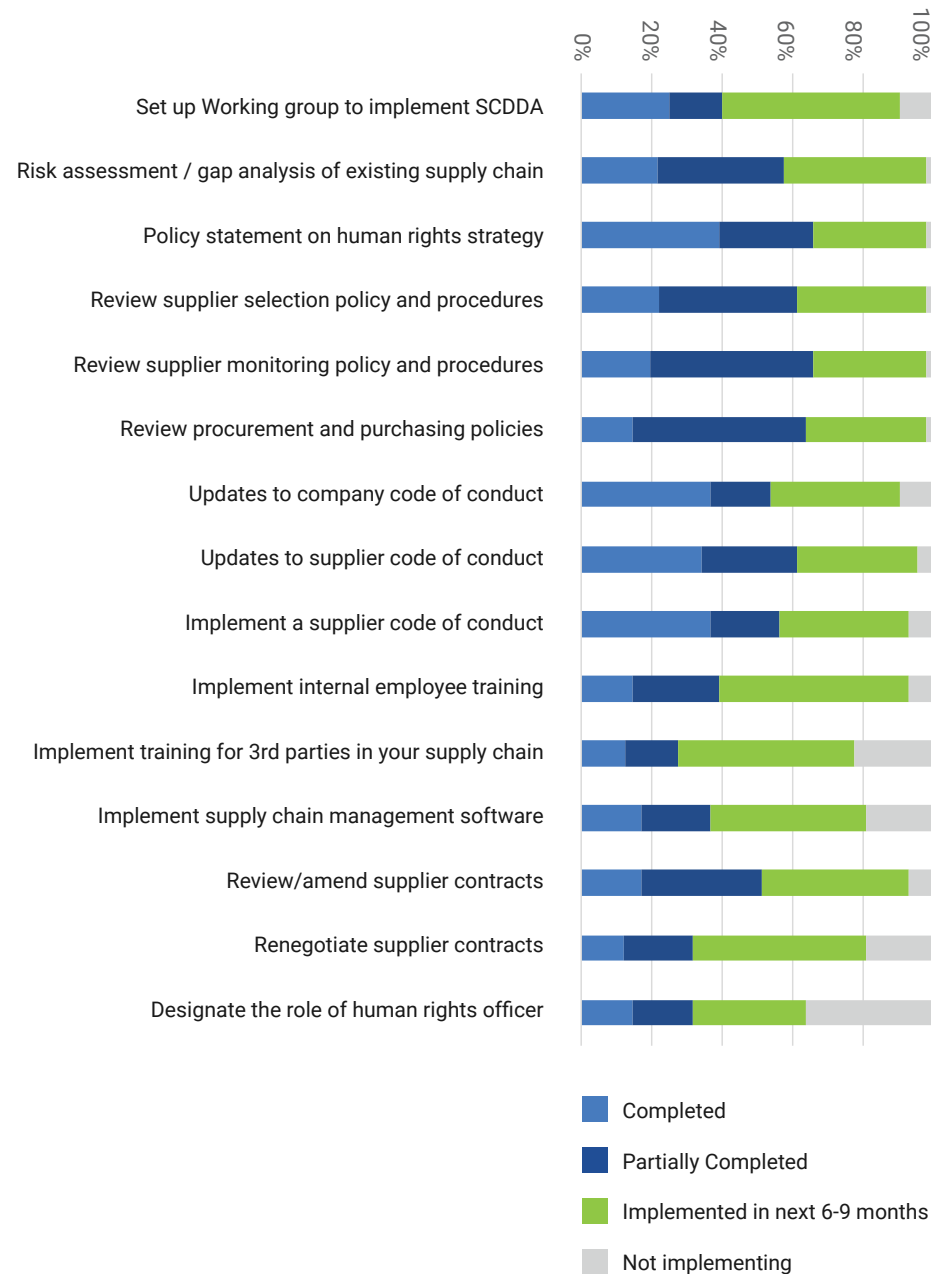
### PROGRAMS SHOULD INCLUDE:

 <b>1. Risk management system</b>	<ul style="list-style-type: none"> <li>• Embed in business processes</li> <li>• Identify and minimize human rights and environment-related risk</li> <li>• Consider the interests of employees, suppliers' employees, and others who may be impacted by the economic activities of the company and its suppliers</li> </ul>
 <b>2. Responsible person</b>	<ul style="list-style-type: none"> <li>• Designate a person responsible for monitoring risk management e.g. a human rights officer</li> </ul>
 <b>3. Risk analysis</b>	<ul style="list-style-type: none"> <li>• Identify, weight and prioritize risks appropriately</li> <li>• Communicate results to relevant decision makers</li> <li>• Conduct annually and ad hoc as required</li> </ul>
 <b>4. Policy statement</b>	<ul style="list-style-type: none"> <li>• Describe how due diligence obligations are fulfilled</li> <li>• Identify priority human rights and environment-related risks</li> <li>• Define expectations placed on employees and suppliers</li> </ul>
 <b>5. Preventative measures</b>	<ul style="list-style-type: none"> <li>• In your own business: <ul style="list-style-type: none"> <li>◦ Embed strategy in business processes</li> <li>◦ Implement procurement strategies and purchasing practices to prevent or minimize risk</li> <li>◦ Deliver training in relevant business areas</li> <li>◦ Implement risk-based control measures</li> </ul> </li> <li>• Vis-à-vis direct suppliers <ul style="list-style-type: none"> <li>◦ Consider human rights and environment-related expectation at selection</li> <li>◦ Require contractual assurances of compliance with requirements</li> <li>◦ Implement training</li> <li>◦ Implement contractual control mechanisms to verify compliance</li> </ul> </li> <li>• Review measures annually and ad hoc as required for your own business and vis-a-vis direct suppliers</li> </ul>



## PROGRAMS SHOULD INCLUDE:

 <b>6. Remedial action</b>	<p>Where a violation is imminent or has occurred in your own business or at a direct supplier remedial action must be taken immediately to prevent, end, or minimize the extent of the violation.</p>
 <b>7. Complaints procedure</b>	<ul style="list-style-type: none"> <li>• Implement an internal complaints procedure that enables reporting of risks and violations of human rights and the environment as a result of the economic actions of your own business or your suppliers.</li> <li>• Details of the complaints procedure must be publicly available</li> <li>• Review annually and ad hoc as required</li> </ul>
 <b>8. Indirect suppliers</b>	<ul style="list-style-type: none"> <li>• The complaints procedure must enable reporting of risks and violations arising as a result of the economic actions of indirect suppliers.</li> <li>• If you have actual indications of possible violations at an indirect supplier you must:               <ul style="list-style-type: none"> <li>o Conduct a risk analysis</li> <li>o Take preventative measures</li> <li>o Update your policy statement accordingly</li> </ul> </li> </ul>
 <b>9. Documentation and reporting</b>	<ul style="list-style-type: none"> <li>• Continuously document the fulfillment of due diligence obligations</li> <li>• Publish a publicly available annual report</li> </ul>



### What steps have you taken or do you plan to take to comply with the SCDDA?

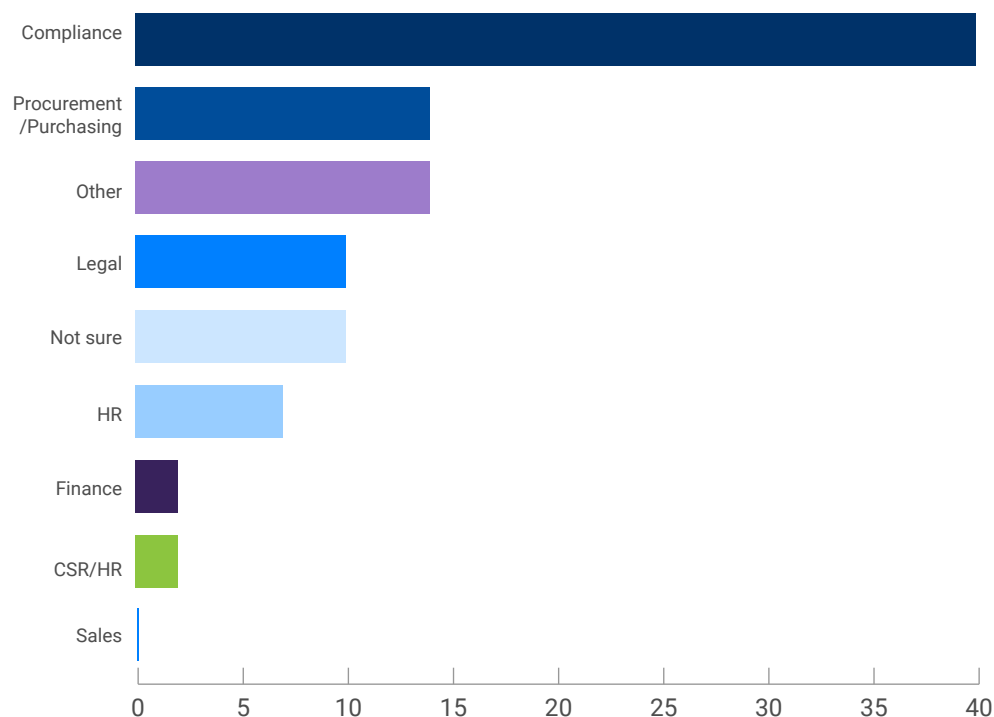
*Only a minority of respondents to our survey have completed key steps towards SCDDA compliance.*

## 5. Are you ready?

### Five things to do right now

The SCDDA came into force on 1st January 2023, and compliance with this new legislation will be a significant undertaking for many businesses. We have outlined below a few practical steps to take right now that will help you leverage your existing tools and resources to meet the new requirements.

Which area of the business is responsible for implementing your SCDDA compliance program?



*The majority of respondents to our survey (40%) said that the Compliance team is taking the lead on SCDDA - collaboration with other teams, however, is likely to be key to a successful SCDDA compliance program.*

### 1. DON'T REINVENT THE WHEEL

It's likely that there is already a good deal of third-party due diligence going on within your organization including:

- Your information security and IT teams checking IT vendors for information security risk
- Your privacy teams checking service providers and data processors in relation to the secure handling of personal data
- Your anti-bribery team checking third parties for bribery and corruption risk
- Your finance team performing basic financial due diligence on third parties
- Your trade controls compliance team checking for restricted parties
- Your CSR and/or ESG teams checking the environmental performance of suppliers

Consider the extent to which synergies could be derived from these activities, particularly if they are currently happening in silos and across disparate technologies.

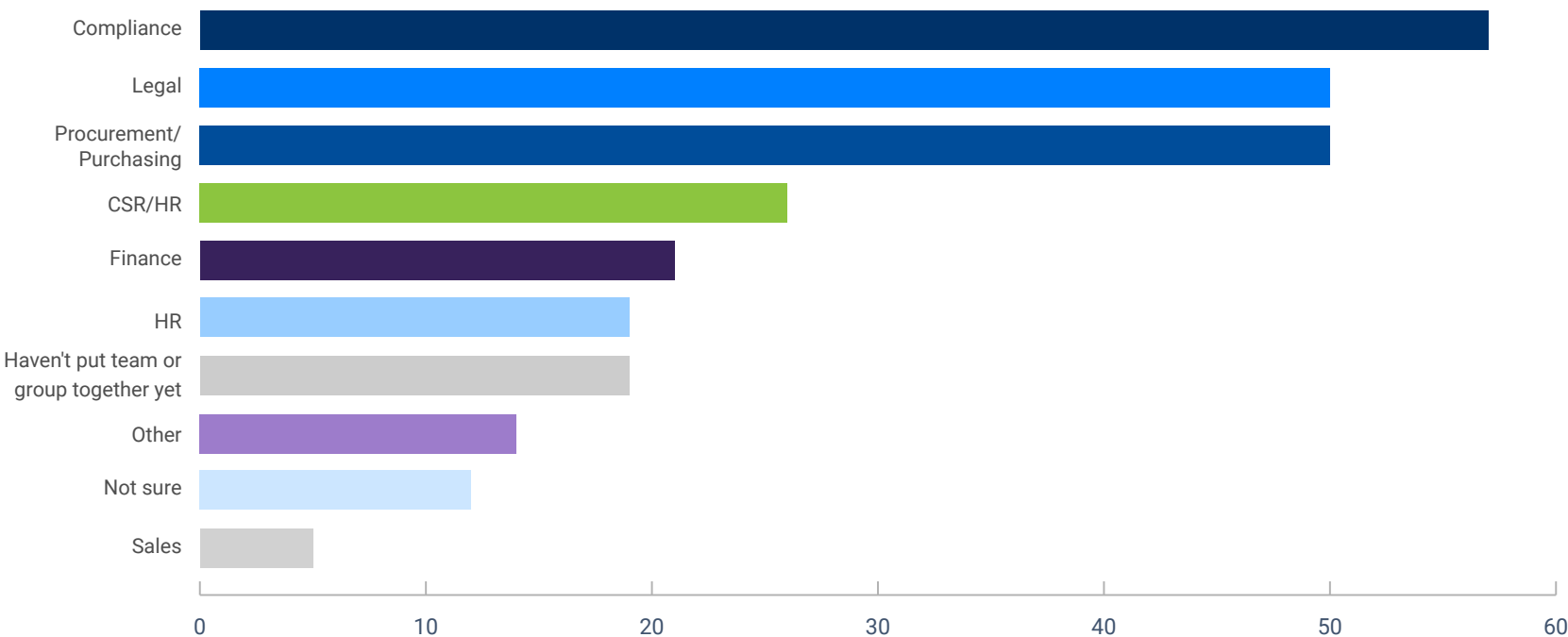




2. BUILD INTERNAL COALITIONS

Supplier due diligence touches many parts of your business. Key players include your HR department, your procurement and purchasing teams, your ESG team and, last but not least, your senior leadership team and board of directors. Collaboration across these functions will lead to an effective and holistic due diligence program and an informed and engaged leadership.

Which teams are included in the working group, in your company's preparation for compliance with SCDDA?



While compliance may be taking the lead on SCDDA compliance, respondents to our survey are enlisting the support of other parts of the business – particularly procurement, legal and CSR.



## WORKING TOGETHER FOR SCDDA COMPLIANCE

### Briefing your Board

Ultimately, the board is responsible for oversight of compliance with mandatory due diligence requirements. Make sure your board:

- ✓ Understands what the company's supply chain looks like and where the highest risk of human rights and environment related violations might lie
- ✓ Seeks regular (at least annual) reports from the human rights officer
- ✓ Sees the results of risk analyses
- ✓ Ensures that supply chain due diligence compliance is integrated into broader ESG initiatives
- ✓ Ensures that risk and impact information is integrated into corporate strategy

### Points for Procurement

Traditionally the focus of procurement and purchasing strategies has been on securing best value, quality products, and services while managing cost to the business. Procurement must now also take into account human rights and environmental risks. Work with your procurement team to ensure:

- ✓ Procedures are in place for existing as well as new suppliers
- ✓ Consistent supplier risk rating drives workflow
- ✓ Supplier assessment questionnaires are tailored according to risk level; preferred responses should be identified for efficient processing
- ✓ Specialist external providers are used for enhanced due diligence
- ✓ Processes are automated where possible using proprietary databases and tools
- ✓ Continuous monitoring services are used to identify material changes between periodic reviews

### Helping HR

As business operations are outsourced, HR is often involved in sourcing labor through agencies and sub-contractors. Work with the HR team to:

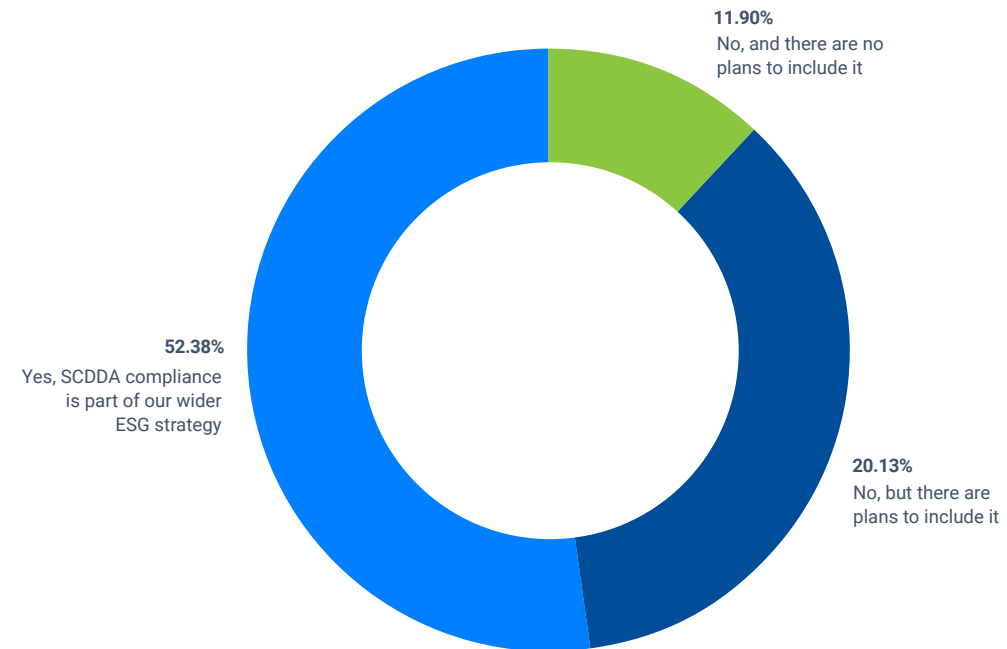
- ✓ Ensure responsible recruitment policy that includes outsourced, agency, and contract labor
- ✓ Conduct risk assessments to identify parts of your business where vulnerable contract or agency workers might be present
- ✓ Only use specified, reputable employment agencies to source labor with appropriate contractual terms in place
- ✓ Ensure visibility of the sourcing methods and channels used by labor providers
- ✓ Ensure labor providers' fees are sufficient to cover wages and overheads with a sustainable net margin
- ✓ Verify that all relevant pre-employment checks are completed in line with company policy and legislation
- ✓ Engage with suppliers on HR best practices
- ✓ Work with trade union and employee representatives to identify potential issues
- ✓ Provide training to employees to help them identify and report potential human rights abuses in the workplace
- ✓ Conduct worker welfare checks
- ✓ Ensure speak up channels are in place, easy to access and use by workers anywhere in your supply chain

### Engaging ESG

Effective supply chain due diligence is an important and concrete way in which companies can show a positive ESG performance. Ensure the ESG team:

- ✓ Understands the scope of the SCDDA; in particular the emphasis on human rights as well as environmental risks
- ✓ Includes SCDDA compliance in the broader ESG initiative for the organization

Is SCDDA compliance part of a wider ESG strategy at your organization?



*The vast majority of respondents plan to or have already made SCDDA compliance part of their broader ESG strategy.*



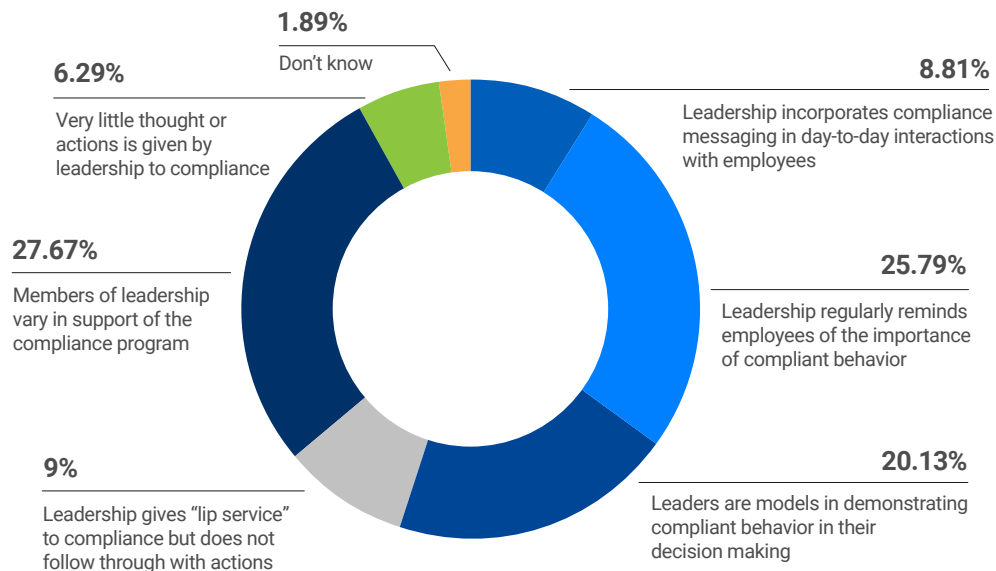
### 3. UNDERSTAND THE RISKS

Consider your business operations in light of the SCDDA requirements to understand where human rights or environment-related risks may lie. The table below shows some of the risk factors to consider.

Sector	Raw Materials	Vulnerable Groups	Social/Economic Factors	Political Indicators
Clothing Retail	Cocoa	Migrant workers	Recruitment fees and labor agents	Conflict
Food & Agriculture	Conflict minerals	Minority groups, including refugees	Cash-in-hand payments	Failure of rule of law
Hospitality	Palm Oil	Homeworkers	No union presence	Mass displacement
Consumer Electronics	Cotton	Contract, agency, outsourced HR functions and temporary workers	No access to grievance mechanisms	Endemic discrimination
Logistics	Silica-based products		Accommodation tied to employment	
Cleaning & Care Services	Per-and polyfluoroalkyl substances		Poor Working conditions	
			Irregular work	

#### How confident are you that your organization will be able to meet due diligence obligations for indirect suppliers?

Almost 60% of respondents said they were not confident in meeting due diligence requirements for indirect suppliers.



In order to effectively manage risk, you also need to understand who your suppliers are, where they are, and what role they play in your value chain. Remember that indirect suppliers are also in scope for the SCDDA and consider if, and how, you might be able to look beyond your direct suppliers deeper into your supply chain.

This sort of mapping not only helps you identify risk, it may also help you to simplify and rationalize your supply chain. You should then be in a position to risk rate remaining suppliers and to implement systems for effectively on-boarding new suppliers according to their risk rating.

## Basic Due diligence workflow

### SCDDA compliance – Existing suppliers<sup>1</sup>

#### Supply chain mapping

- Who are our suppliers?
- Which business unit owns the relationship?
- Where are they located?
- What products or services do they provide?
- Aim to map the supply chain beyond direct suppliers

### SCDDA compliance – New suppliers

#### Business case

- Work with business units to establish a business case for new suppliers
- Capture basic supplier information using standardized documentation

**Risk assess suppliers:** Consider the human rights and environmental risks outlined above with regard to factors such as industry sector, location, raw materials, products, and services

**Conduct due diligence:** Conduct level of due diligence commensurate with supplier risk score with basic or no due diligence for low risk and enhanced due diligence for high risk suppliers

**Remediate:** Based on due diligence outcomes, determine if remedial action is required, implement and follow up accordingly

#### Contract reviews

- Are contracts in place?
- Are necessary contractual clauses included?
- Is Supplier Code of Conduct Agreed?

#### Onboard

- Contracting – include on-site audit rights where possible
- Agreement to comply with Supplier Code of Conduct

**Review:** Review suppliers on a regular basis with frequency determined by risk ranking post remediation



#### 4. ENSURE YOUR COMPLAINTS PROCEDURE IS FIT FOR PURPOSE

Many companies now have a reporting hotline for reporting concerns about wrongdoing in the workplace. If you are planning to use your existing reporting channel for SCDDA compliance purposes, it's important to ensure it meets the requirements of the Act. Specifically, the complaints procedure for SCDDA needs to be publicly available and accessible to any potential parties involved. (Note: some whistle-blowing hotlines are internal solutions available only to employees of the company.) In addition, it must enable reporting in relation to the actions of suppliers.

As with any reporting hotline, best practice would be to:

- Have multiple reporting channels available (e.g. web and phone)
- Support multiple languages to encourage and facilitate reporting
- Consider security of the initial reports and any subsequent investigations to assure appropriate levels of confidentiality
- Implement a strict non-retaliation policy

## 5. BUILD ENGAGEMENT AND AWARENESS

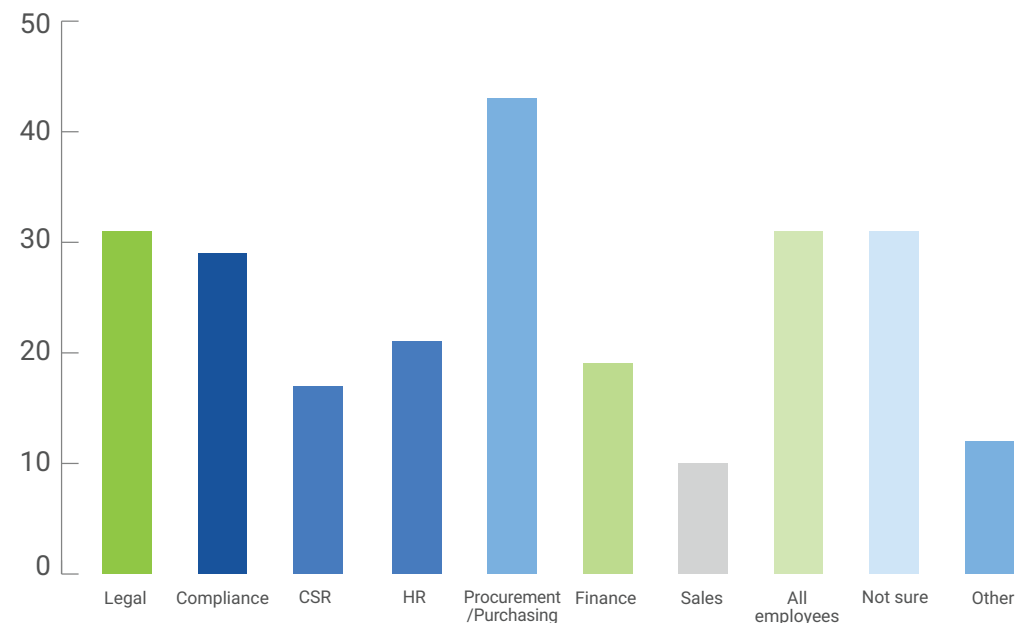
The SCDDA makes explicit reference to communications and training around supplier due diligence. For example, as part of the overall risk management system, senior management is required, at least annually, to seek information about the work of the human rights officer or other individuals with responsibility for SCDDA compliance. In addition, the results of the periodic risk analyses must be reported internally to relevant decision makers such as the board of directors or the purchasing department.

Consider developing an SCDDA dashboard that gives senior management and other key stakeholders a holistic view of your SCDDA compliance program in a visual and easy to digest format that allows them to focus on key strategic metrics and issues.

SCDDA training for the relevant business areas is also listed as a key preventative measure as is initial and ongoing training for direct suppliers. In the context of supplier due diligence, a one-size-fits-all approach is unlikely to be effective.

- Consider the jobs and **risk profile** of your learners and tailor the learning experience accordingly
- To build engagement, think about explaining **why** supplier due diligence is important as well as **what** the rules say. Explaining why creates motivation and is more likely to inspire action
- Focus on the **behaviors** that you need learners to exhibit – your goal is to generate compliance in practice
- Go for **quality** over quantity; short but memorable learning experiences are often more effective in driving behavioral change
- Consider a **blended learning** approach using a variety of tools and media to maintain engagement
- Be prepared to repeat key messages over time to fully embed them
- Give supplier training the same focus as internal employee training – the knowledge and behaviors of your suppliers are key to SCDDA compliance. Today's tools and technologies make it much easier to deliver and track training for individuals outside of your organization.

Which business functions in your organization will receive training as a result of the SCDDA?



*Procurement teams are most likely to receive training about SCDDA (with just over 40% of respondents planning to train their procurement departments). The SCDDA is clear that training should be given to all relevant parts of the business and to direct suppliers.*



## 6. How can we help?

Third party relationships are a cornerstone of many companies' business operations which, if managed well, can deliver competitive advantage in challenging market conditions.

A robust supply chain due diligence program is central to managing the financial and reputational risks associated with increasingly complex global supply chains and can provide a concrete foundation for your organization's ESG initiatives.

SAI360's advisory services team can provide support with the design and implementation of your SCDDA compliance program. Beginning with a review of your current third party risk management policies and practices we can help to identify gaps and deliver actionable insights for compliance with the SCDDA.

Our services include:

- Program assessment
- Risk assessments
- Policy creation
- Code and supplier code creation

SAI360's third-party risk management software provides executives and Boards with the assurance that third-party vendor risk is being adequately identified, assessed, managed, and monitored.

Our new SCDDA training and awareness solutions address the needs of key stakeholder groups both within your organization and in your supply chain. Available in 25 languages, our engaging learning tools help embed knowledge and best practices in order to minimize the risk to your organization. Our training solutions include:

- Code and supplier code training
- Supply chain due diligence
- ESG Training
- Modern Slavery/Human Rights
- Self-service suppliers and indirect supplier training platform
- Workshops toolkits and webinars

To learn more about how to build out a robust supply chain due diligence program, reach out to connect with our team:

[Speak with a Training & Ethics Learning Expert – SAI360](#)



#### ABOUT SAI360

SAI360 is the leading ESG cloud provider connecting GRC, EHS, Sustainability and Learning. Our SAI360 platform streamlines workflow and drives outcomes through flexible, scalable, and configurable modules. Our integrated approach sets us apart, helping organizations thrive, create trust, understand their impact, and achieve resilience for over 25 years. SAI360 is headquartered in Chicago, with operations and customers across the globe. Discover more at [sai360.com](https://sai360.com).