



Understanding transparency expectations under OECD RBC standards

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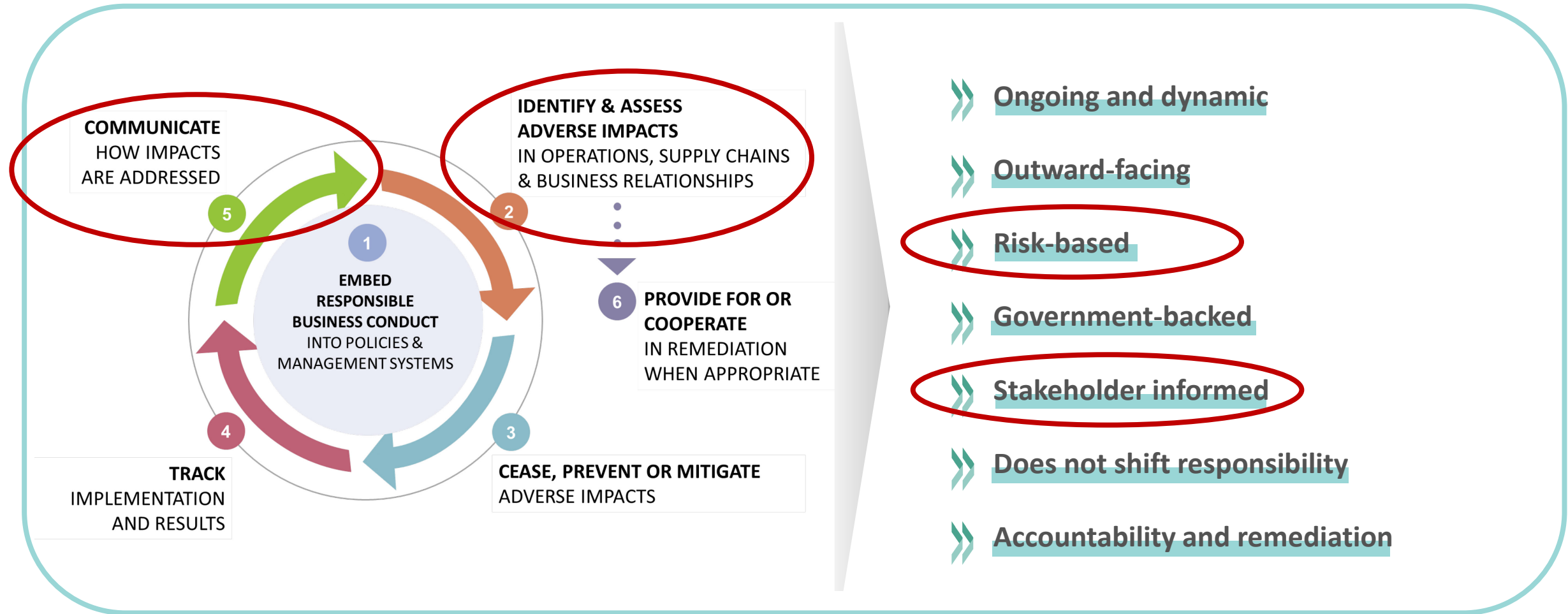
OECD Centre for Responsible Business Conduct

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What is the OECD Due Diligence Guidance for Responsible Business Conduct?

Due diligence is the process by which enterprises should **identify, prioritise, prevent, mitigate and account** for how they address adverse impacts **on** people and planet.





Communicate externally relevant information on:

- **Due diligence policies**
- **Processes**
- **Activities conducted to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities**

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**Communicate
how impacts
are addressed**



What does the RBC Guidance say? – Practical actions & Q&A

What to communicate

Publicly report e.g., through annual sustainability reports or other appropriate forms of disclosure. Include info on:

- RBC policies (Step 1)
- Information on measures taken to embed RBC into policies and management systems (Step 1)
- Areas of significant risks (Step 2)
- The significant impacts or risks identified, prioritised and assessed (Step 2)
- Prioritisation criteria (Step 2)
- Actions taken to prevent or mitigate risks including – where possible – estimated timelines, and benchmarks for improvement and their outcomes (Step 3)
- Measures to track implementation and results (Step 4)
- Remediation efforts (Step 6)

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What does the RBC Guidance say? – Step 2



2.1: Carry out a broad scoping exercise to identify all areas of the business, across its operations and relationships, including in its supply chains, where RBC risks are most likely to be present and most significant.

2.2: Starting with the significant areas of risk identified above, **carry out iterative and increasingly in-depth assessments** of prioritised operations, suppliers and other business relationships in order to identify and assess specific actual and potential adverse RBC impacts.

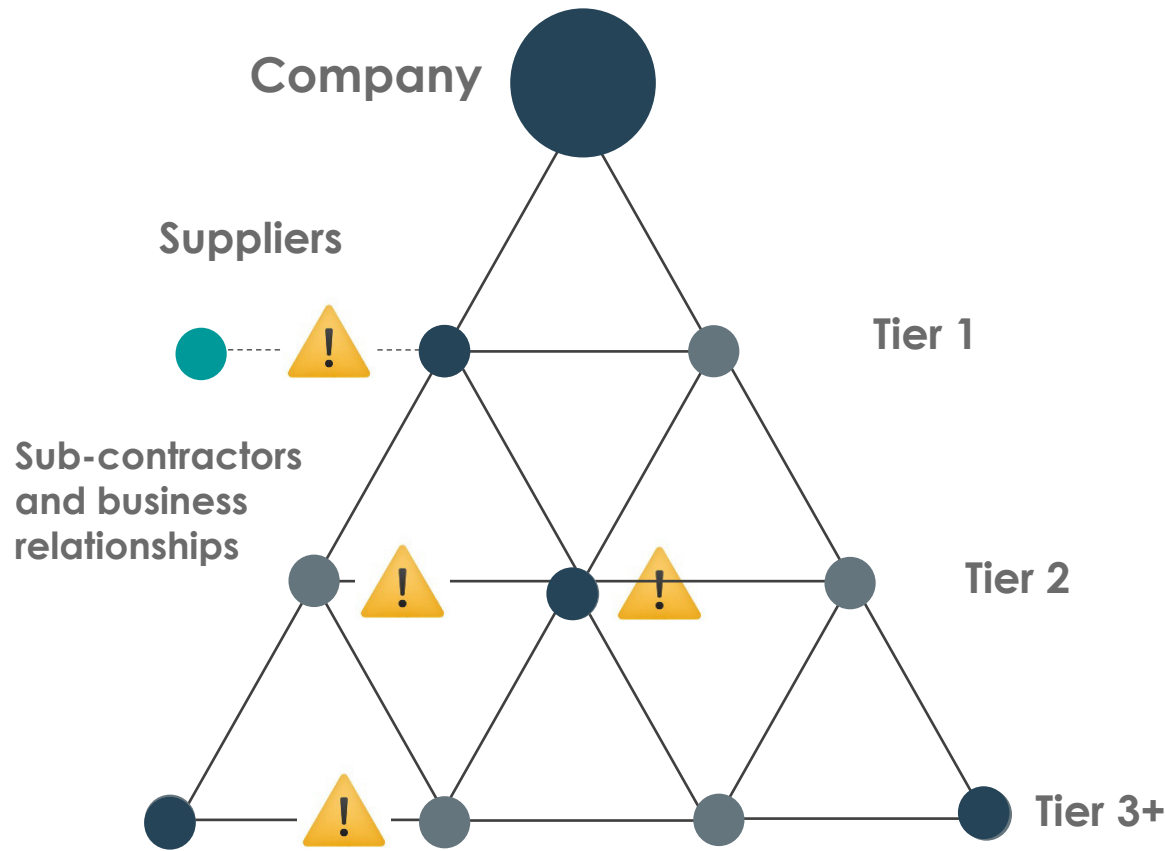
2.3: Assess the enterprise's involvement with the actual or potential adverse impacts identified in order to determine the appropriate responses.

2.4: ...prioritise the most significant RBC risks and impacts for action, based on severity and likelihood.



Step 2 – Simplified example

2 IDENTIFY & ASSESS ADVERSE IMPACTS



- **Initial scoping finds potential impacts:**
 - **Tier 1:** Unsafe working conditions (enterprise risks)
 - **Tier 2:** Use of hazardous chemicals & union busting (product & geographic risk)
 - **Tier 3+:** risk of forced labour, child labour (sector & geographic risk)
- **Stakeholder engagement can fill knowledge gaps and inform prioritisation**



What does the RBC Guidance say? – Practical actions & Q&A

What to communicate

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- RBC policies (Step 1)
- Information on measures taken to embed RBC into policies and management systems (Step 1)
- **Areas of significant risks (Step 2)**
- **The significant impacts or risks identified, prioritised and assessed (Step 2)**
- **Prioritisation criteria (Step 2)**
- Actions taken to prevent or mitigate risks including – where possible – estimated timelines, and benchmarks for improvement and their outcomes (Step 3)
- Measures to track implementation and results (Step 4)
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Communicate how impacts are addressed



What does the RBC Guidance say? – Practical actions & Q&A

How to communicate



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Communicate how impacts are addressed

Publish the information in a way that is easily accessible and appropriate

- In-person meetings
- Online dialogues
- Consultation with impacted or potentially impacted rightsholders
- Formal public reports
- Sharing of audit or assessment findings
- With business relationships or through MSIs

The best method of communication is context specific. Consider:

- How can the audience access information?
- What barriers in accessibility might exist for certain marginalised or vulnerable groups?
- What is the capacity of the audience (language, literacy, location, time, availability, technical competence)?



Practical limitations

Communication should be carried out with **due regard for commercial confidentiality and other competitive or security concerns**

- > **Domestic law** may sometimes prevent certain disclosures, or outline areas of protected commercial information.
- > **Contracts between the enterprise and its business relationships** may prevent certain information from being disclosed (e.g. the identity of clients).
- > **Commercial confidentiality considerations** may prevent certain disclosures (e.g. price information, supplier relationships)
- > **Where there are potential risks to stakeholders or staff** (including arising from the disclosure of personal information) full disclosure may not be an option.



Approaches to communicate to the extent possible while respecting confidentiality concerns

- > **Limit access** to sensitive information
- > **Anonymise** the source of the information
- > **Aggregate** information
- > **Delay** reporting until risks on individuals subside
- > Provide assurance through other methods such as **inviting independent 3rd party reviews or limited disclosure to MSIs**
- > **Provide explanation or justification for not sharing**



Plays a **positive and critical role** throughout the due diligence process

Mutually beneficial



Builds trust in the credibility of the due diligence process



Provides clarity around expectations



Allows for informed decision making



Allows for greater flexibility

Practical examples

- > Invite independent reviewers to review your due diligence process and reports and publish their reviews publicly
- > Join MSIs to support on-going communication



Identifying and assessing adverse impacts – Article 8

Step 2 of the OECD framework

Article 8 is broadly consistent with Step 2, with risk-based requirements to map across operations, subsidiaries and business relationships and prioritise specific risk areas and *higher risk* operations, subsidiaries and business partners for in-depth assessment.

- > **Proportionality:** “appropriate measures”
- > **Scope:** impacts arising from own operations, those of subsidiaries and, where related to their “chains of activities”, those of their business partners
- > **Risk-based mapping + risk factors:** map and identify “general risk areas” where adverse impacts are most severe and likely, taking into account “risk factors”
- > **Risk assessments of higher risk operations, subsidiaries and suppliers:** based on the mapping and focused on severity and likelihood



Step 2 of the OECD RBC Guidance include guidance on “risk factors” and on tailoring risk assessments to the nature and extent of a specific human rights or environmental impact. See also sector due diligence guidance. OECD standards also address the role of traceability or chain of custody information, and the relevance of control points or “choke points” in due diligence.

Corresponding Articles in the CS3D

Art 5: Conduct ‘risk-based’ due diligence

Art. 7: Integrate due diligence into policies and risk management systems

Art. 8 : Identifying and assessing actual and potential adverse impacts

Art. 9: Prioritization

Art. 10: Prevent and mitigate potential adverse impacts

Art. 11: Bring to an end actual adverse impacts

Art. 15: Monitoring

Art. 16: Communicating

Art. 12: Remediation

Art. 13: Meaningful stakeholder engagement

Art. 14: Notification mechanism and complaints



Article 16 of CS3D

Requires companies to publish an annual statement on their due diligence, mirroring Step 5 of the OECD framework.

- Publish on the covered company's website
- In an official EU language
- Within a reasonable period of time but no later than 12 months (annually)
- Exemption for companies that are already subject to CSRD.
- By 21 March 2027: Commission to adopt delegated acts laying down the content and criteria for due diligence reporting, taking into account the EU's sustainability reporting standards.

Corresponding Articles in the CSDDD

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Linkages to CS3D – Article 13 – Meaningful stakeholder engagement

Article 13 requires companies to take “appropriate measures” to carry out “effective” stakeholder engagement. While broadly aligned with OECD RBC standards, the Directive adds specificity in some areas.

- Provide relevant and comprehensive information to stakeholders.
- Mandatory consultation in prescribed contexts e.g. identifying, assessing, prioritising + when developing corrective action plans and indicators + deciding to terminate/suspend + remediation
- Where consultation is not reasonably possible, mandatory consultation with “experts”
- Role for industry + multi-stakeholder initiatives
- Special attention to vulnerable stakeholders, including indigenous peoples + free, prior and informed consent (FPIC) (Recital 33)



OECD standards use the concept of “relevance” to limit expectations on stakeholder engagement and use the terms “impacted stakeholders” and “potentially impacted stakeholders”, with guidance on what “meaningful” stakeholder engagement entails.

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Q&A