



14-15 February 2023  
OECD Ministerial Meeting

# Responsible Business Conduct

**IN THE GLOBAL  
ECONOMY**

09:30 **Arrivals and welcome**

10:00 **Opening of the Ministerial Meeting (Room CC1)**

**Plenary Session 1** **How can RBC promote a resilient, sustainable, and inclusive global economy that benefits all (Room CC1)**

10:30

In a changing geopolitical context, and in view of fundamental shifts in the economy and corporate conduct linked to responses to global challenges, the importance of responsible business conduct (RBC) as a baseline for open, inclusive and sustainable rules-based trade is expected to continue to grow. Wider implementation of RBC standards in the market will be essential to align private sector action with policy goals, among others, on climate change, digital transformation, the SDGs, COVID-19 recovery, quality infrastructure investment and response to the consequences of Russia's war of aggression against Ukraine. The session discusses effective and scaled implementation of practical RBC instruments in global supply chains and sets the scene for thematic discussions that follow.

12:00 **Family photo**

12:15 **Lunch break (Château, Room Roger Ockrent)**

**Breakout sessions**

14:00

**Room CC4**

**Reinforcing global supply chains through RBC**

This breakout session discusses the importance of alignment around international standards on RBC to ensure clear expectations for business and effective implementation. It focuses on the current challenges in building resilient, sustainable and inclusive supply chains including labour standards and the challenge of addressing forced labour. It considers the benefits of encouraging coherence in capacity building, training, and technical support.

**Room CC6**

**RBC and climate change – Defining the role of business in supporting global climate objectives and pursuing a just transition**

This breakout session discusses instrumentalising RBC standards and tools to promote responsible transitions to net-zero and exploring business responsibility regarding mitigation and adaptation. It considers the role of business in supporting a just transition, promoting consideration of human rights, labour rights, and stakeholder partnerships.

15:30 **Coffee break**

**Breakout sessions**

16:00

**Room CC4**

**Supporting sustainable finance through mainstreaming RBC standards**

This breakout session discusses the role of RBC standards in supporting ESG risk management and sustainability objectives in institutional investment and finance. It highlights promoting RBC standards in development and infrastructure finance and applying RBC standards to support and track uptake of climate-related due diligence in the financial sector. The session also focuses on integrating RBC into metrics, ratings and disclosures to drive meaningful sustainable finance.

**Room CC6**

**Opportunities of responsible digitalisation**

This breakout session focuses on responsible development and use of data and tech. It discusses open and rights-respecting digital economies and the benefits for all from responsible global supply chains through use of tech. The session also highlights the opportunities to increase transparency and accountability of companies' alignment with RBC standards.

17:30 **Cocktail (Salon du Parc)**

19:00 **Dinner for Ministers and Heads of Delegation (Château, Room C)**

**Plenary  
Session 2****09:00****Recovery and growth for all through coherence, alignment, and harmonisation of RBC standards (Room CC1)**

In recent years, key market economies have introduced a smart mix of regulatory actions regarding due diligence including some mandatory due diligence requirements. In a context of growing focus on RBC standards, and in view of the OECD's continued leadership in the field, governments are increasingly invited to respond to calls for policy coherence and alignment of RBC policies and market-based mechanisms, to avoid a multitude of different standards and resulting obligations for business. This plenary session starts by reflecting on the outcomes of discussions during the 1st day of the Ministerial Meeting. The session then focuses on discussing key ways of incentivising RBC at national and international levels through a 'smart mix' of policies, regulations, and practice in the market.

**10:30****Coffee break****Plenary  
Session 3****11:00****Implementation of the Guidelines for Multinational Enterprises through National Contact Points (Room CC1)**

National Contact Points (NCPs) for Responsible Business Conduct are key to the implementation of the OECD Guidelines. They play a key role in promotion of RBC, including in policy development, and in providing a non-judicial grievance mechanism for resolving RBC issues. As a result of the low barriers to using the specific instance mechanism, a wide range of actors have sought the support of NCPs in relation to corporate impacts in the past 22 years. Meanwhile, other grievance mechanisms are emerging in the field of remedy, including for example, national human rights institutions and ombudspersons. RBC matters are also increasingly subject to judicial proceedings. This plenary session looks at this broader landscape.

**12:30****Break****13:00****Ministerial Working Lunch: Discussion (Room CC1)**

The working lunch focuses on key outcomes of the discussions held during the Ministerial, with a particular focus on policy cooperation on RBC due diligence.

**Plenary  
Session 4****14:30****Conclusions and adoption of the RBC Declaration (Room CC1)**

The RBC Ministerial Declaration is presented for adoption. The Ministerial meeting co-chairs and the OECD Secretary-General provide concluding remarks, reflecting on key themes raised and issues addressed.

**15:00****End of the Ministerial programme****15:00*****Communications and visibility point (Mezzanine)***

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This Key Issues Paper provides **background information** for discussion at the **OECD Ministerial Meeting on Responsible Business Conduct (RBC Ministerial Meeting)**. The paper addresses issues in line with the draft agenda related to: i) resilience of global supply chains; ii) climate change; iii) sustainable finance; iv) responsible digitalisation; v) coherence, alignment, and harmonisation of responsible business conduct (RBC) standards; and vi) implementation of the OECD Guidelines for Multinational Enterprises (the Guidelines) [OECD/LEGAL/0144] through National Contact Points (NCPs).

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## A resilient, sustainable and inclusive global economy that benefits all

With the adoption of the 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals (SDGs) in 2015, the past decade has seen important progress on poverty reduction, health, primary education and job creation and has brought renewed focus on the need for comprehensive development that leaves no one behind. There is growing awareness in many countries around the issues of multidimensional and structural discrimination. The COVID19 pandemic accelerated socioeconomic challenges and emphasised the benefits of digitalisation and of resilient supply chains.

**The climate crisis and the effects of the pandemic have accelerated inequalities**, and to some degree stalled and reversed progress on development goals, e.g. in poverty reduction and eradication of child labour (World Bank, 2021<sup>[1]</sup>). The Russian war of aggression against Ukraine has caused a humanitarian disaster, undermined food and energy security, increased poverty, and deepened inflation. This is accompanied by higher interest rates, increasing costs for businesses and declining real wages, exerting more pressure on economies and people (OECD, 2022<sup>[2]</sup>). The enabling environment for sustainable and inclusive development is increasingly curtailed, as also evidenced by an increasing number of attacks against human rights and environmental defenders (OECD, 2022<sup>[3]</sup>) and alleged incidents of pressure on submitters of specific instances to National Contact Points (NCPs) (OECD Working Party on Responsible Business Conduct, 2020<sup>[4]</sup>) (OECD Watch, 2020<sup>[5]</sup>).



Against this background, **effective multilateralism and international cooperation remain critical for governments to deal with these challenges.** The OECD in its 60 Anniversary Vision Statement reaffirmed the importance of market-based economic principles; an open, free, fair, and rules-based multilateral trading system; transparency and accountability of governments; the rule of law; gender equality; the protection of human rights; and the promotion of environmental stability [OECD, 2021]. These values and principles underscore the OECD's commitment to ensuring a resilient, sustainable, and inclusive global economy. RBC is key to the realisation of this commitment. The global dissemination and effective implementation of OECD RBC standards serves to align business conduct with these values and principles, both within the OECD and beyond, as emphasised in the OECD's Global Relations Strategy [C/MIN(2021)17/FINAL].

**Implementing RBC standards and standards can help companies operationalise the SDGs** and ensure their most significant impacts are prioritised. RBC standards and standards entail that companies regardless of their legal status, size, ownership or sector, should i) make a positive contribution to the economic, environmental and social progress of the countries in which they operate and ii) avoid and address adverse impacts that they may cause or contribute to or that may be directly linked to their operations, products and services. Such impacts and risks cover greenhouse gas emissions, hazardous waste and poor working conditions

in supply chains, including forced labour. For example, of the 27.6 million people in forced labour in 2021, 17.3 million are estimated to be linked to business activity (ILO-Walk Free-IOM, 2022<sup>[6]</sup>).

**RBC standards touch upon most of the areas covered by the SDGs.** By operating responsibly, in line with international expectations, businesses can ensure that at the very least they are not undermining the SDGs, either through their own operations or through their supply chains and other business relationships. This is particularly critical in today's interconnected markets, where supply chains can span multiple jurisdictions and business cultures, and where impacts on people and the environment often occur in the most vulnerable societies (OECD, n.d.<sup>[17]</sup>).

There is a growing recognition that **governments play a key role in supporting the effective implementation of RBC standards** by providing an enabling policy environment, creating incentives and exemplifying RBC in their own activities. As a result, governments are increasingly seeking ways to integrate RBC standards in domestic legislation, policies, regulations and initiatives. This includes also increasing cooperation around due diligence and aligning of sustainability initiatives in the market. International cooperation and coordination in this regard can be particularly valuable way to help offset unnecessary divergences across countries which may be costly to businesses, societies and governments.

# 2



## Spotlight on key issues

### Reinforcing global supply chains through RBC: alignment and implementation

Recent years however have seen growing questioning of international trade and globalisation, and increasing demands for better management and integration of environmental and social considerations in global supply chains. The COVID19 crisis reignited debates about the ability to ensure the security of supply of essential products and generate benefits for all, while at the same time also showing the benefits of globalisation: vaccines, face masks, and tests relied on production across countries (OECD, 2022<sub>[8]</sub>).

**RBC standards can help build resilience in supply chains in a way that minimises the likelihood and severity of a broad range of risks and impacts. The strong alignment of international RBC standards** (i.e. the OECD Guidelines for Multinational Enterprises (the Guidelines) [OECD/LEGAL/0144], the UN Guiding Principles on Business and Human Rights (UN Guiding Principles) and the International Labour Organization Tripartite Declaration of principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration)) brings clarity to:

- **help navigate challenges linked to critical supply chains:** different actors need to work together to identify and address risks while navigating a patchwork of legal frameworks and local contexts. For example, despite recent international initiatives aimed at fostering coordination and cooperation on critical minerals, strategic direction for such initiatives largely remains to be defined. Mainstreaming RBC standards as part of efforts to strengthen cooperation on critical minerals can help mitigate risks in these complex supply chains, including in ways that strengthen security of supply (K.C. Michaels, 2022<sub>[9]</sub>).

- **ensure consistency and increase uptake of due diligence policies,** thus preventing challenges linked to standards' fragmentation for businesses operating globally. Proliferation of policy measures at domestic and regional level can lead to unnecessary costs for business and undermine the effectiveness of government action (e.g. information and uncertainty costs) (OECD, 2022, p. 86<sub>[3]</sub>). In practice, companies may need to report to multiple authorities, use diverging reporting templates, and engage in burdensome procedures.
- **enable companies to stay engaged in high-risk areas while taking measures to address risks:** business' reliance on environmental, social and governance (ESG) ratings and outsourcing of risk assessment to ESG data analytics may incentivise disengagement strategies, and hinder investors' contributions and capital allocation to key climate and development policy objectives. Due diligence allows businesses to engage responsibly in higher-risk sectors, geographies and supply chains and avoid blanket divestment strategies. (OECD, 2022, p. 28<sub>[3]</sub>).

Overall, **enhanced knowledge of supply chains and robust risk management frameworks through due diligence processes improves business ability to identify vulnerabilities** and support continuity planning to manage disruptions. By increasing risk awareness and transparency, due diligence helps firms improve their knowledge of supply chains, promote continuity in relationships with suppliers and ultimately enhance their resilience. Responsible buyer-supplier relationships, grievance mechanisms and protection of frontline workers can minimise risks of transmission of shocks through supply chains when these happen (OECD, 2021<sub>[10]</sub>).



## Bridging the gap between climate objectives and commitments toward just transition

The world is facing a **triple planetary crisis in relation to climate change, pollution and biodiversity loss**. As highlighted at the Ministerial Meeting of the OECD Environment Policy Committee (EPOC) in March 2022, these challenges will require business to bridge the gap between their climate ambitions and the impacts on the ground [OECD/LEGAL/0468]. RBC standards can help businesses identify, assess, and manage their impacts and contributions to the achievement of climate policy goals and in particular in curbing global greenhouse gas (GHG) emissions, where progress has been insufficient (IPCC, 2022<sup>[11]</sup>).

RBC standards can provide an **authoritative, internationally recognised benchmark for guiding climate action by business**. In the absence of comprehensive legislation or a widely recognised agreement on what climate targets and action should look like for business, market and multistakeholder initiatives have proliferated. RBC standards can complement such initiatives and regulation to fill existing gaps, including through:

- **strengthening the credibility and accountability of climate-related commitments and actions** amidst growing concerns and risks of greenwashing (Rogelj et al., 2021<sup>[12]</sup>; Noels and Jachnik, 2022<sup>[13]</sup>; OECD, 2022<sup>[14]</sup>). Net-zero commitments are often not embedded into companies' governance and management, leading to poor implementation of the commitments. For example, studies suggest that only half of the 700 companies surveyed are embedding net-zero targets into concrete strategies and measures while the Climate Action +100 found that only 19% of assessed companies had produced a quantified decarbonisation strategy and

none had disclosed capital expenditure aligned with their GHG reduction targets. RBC standards provide a reference framework that supports integrating climate objectives into core business operations and governance, enhancing accountability, transparency, comparability and credibility.

- **identifying and prioritising climate hot spots within their operations, business relationships and investments**, thereby encouraging business to take steps to reduce GHG emissions where it matters most. The risk-based approach embedded in RBC standards also provides enterprises with the necessary flexibility to take action in a context that is evolving and with significant information gaps.
- **measuring and reducing emissions both within their own operations and throughout their supply chain**. The RBC whole-of-supply-chain approach makes it particularly relevant to encourage business to tackle so-called scope 3 GHG emissions (occurring in the value chain upstream and downstream), in addition to scope 1 emissions and scope 2 emissions. As illustrated in Figure 1 below, Scope 3 emissions are relevant in most economic sectors. They represent close to 100% of GHG emissions associated with the financial sector (based on emissions generated by investees and borrowers)

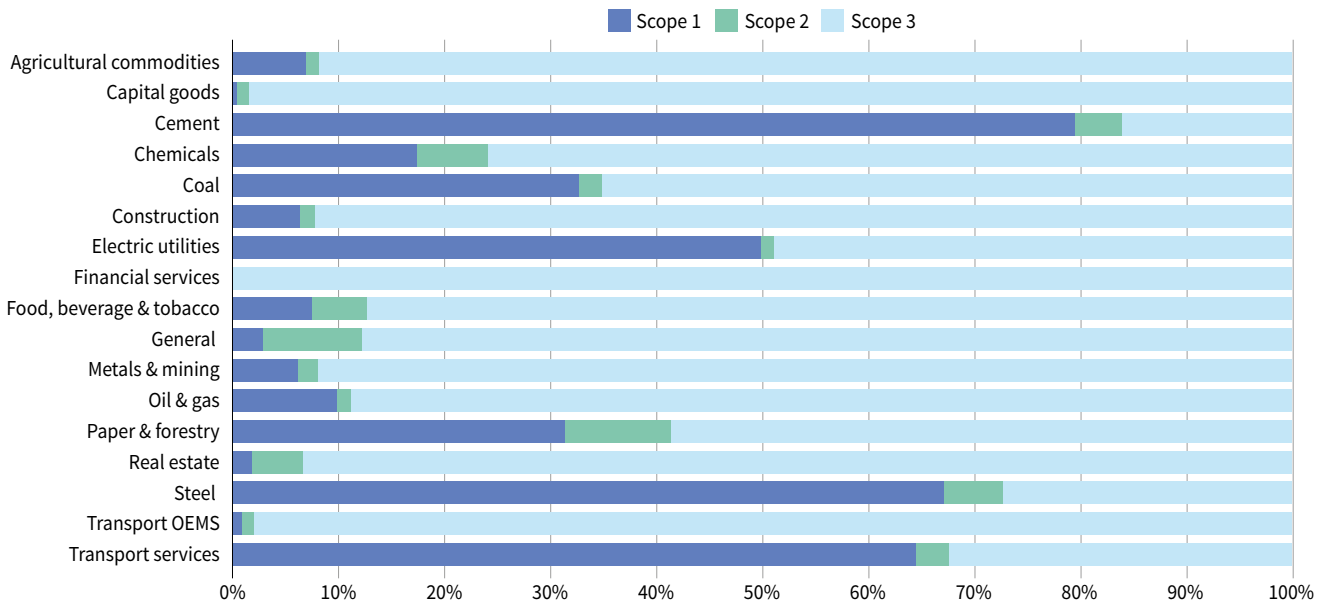
**RBC standards provide a reference framework that supports integrating climate objectives into core business operations and governance, enhancing accountability, transparency, comparability and credibility.**

and 80 90% of total emissions for sector associated with end-products (World Economic Forum, 2021<sup>[15]</sup>). Scope 3 responsibilities are currently not captured by regulatory frameworks or part of most corporate climate mitigation strategies.

- **ensuring that their climate action is supported by impacted stakeholders** to maximise positive impacts and minimise adverse impacts to other environmental (e.g. biodiversity), human rights, labour rights and social priorities and considerations. Most of the existing regulatory and voluntary

climate mitigation initiatives focus solely on emission reduction strategies without taking into account the social and environmental risks and potential adverse impacts that may arise in the context of climate action (OECD, 2022<sup>[16]</sup>). Transitioning from a carbon intensive economy and delivering net-zero commitments is likely to cause major disruptions through economic restructuring, workforce displacement, job losses and creations or localised disruption in the availability and price of goods and services. As such a holistic approach informed by stakeholders, as recommended by RBC standards, is important to ensuring such impacts are addressed.

Figure 1. Illustration of estimated shares of Scope 1, 2, and 3 GHG emissions by sector



Source: CDP (2022<sup>[17]</sup>), Technical Note: Relevance of Scope 3 Categories by Sector CDP Climate Change Questionnaire, [www.cdp.net](http://www.cdp.net).







## Supporting finance as a lever for change

### **The volume of “responsible” or “sustainable” financial products and strategies has grown exponentially in the past ten years,**

driven by a recognition that ESG factors can impact financial performance, increased demand from beneficiaries, as well as policy signals that the financial sector should be a driving force in achieving global sustainability agendas, including the SDGs and the objectives of the Paris Agreement through enabling provision of financing towards key products, services, infrastructure, projects or technology. To illustrate, the size of the ESG market was estimated to exceed USD 30 trillion in total assets in the five major markets at end 2019, an increase of more than 30% compared to 2016. (OECD, 2020<sub>[18]</sub>) Meanwhile, the number of ESG related policy instruments has nearly doubled in the last five years. There are currently over 600 types of sustainability reporting provisions or regulations (EY, 2021<sub>[19]</sub>).

Despite significant progress in this area, currently there is very **little uniformity on how investors or banks are managing**

### **ESG risks related to their investments or clients.**

This lack of standardisation allows financial institutions broad flexibility to design and implement their own approaches. However, this also creates challenges to benchmarking performance with respect to ESG factors, which can diminish the credibility of responsible investment or finance strategies as well as exacerbate risks of greenwashing. For example, a survey by the Alternative Investment Management Association (AIMA) of 582 institutional investors worldwide showed that out of those who reported implementing an “ESG strategy”, 47% use exclusionary strategies, while only 21% practice full integration of ESG risk factors (AIMA, 2018<sub>[20]</sub>). Moreover, many financial institutions do not have any meaningful strategy in place for responding to significant ESG risks. In this respect, a recent study by ShareAction of the world’s 100 largest pension funds found that 60% of funds have little or no approach to environmental risks (ShareAction, 2018<sub>[21]</sub>) (see also Box 1).

### Box 1. Strengthening the credibility of net zero commitments in the financial sector

It is now estimated that 70% of the global economy is covered by net-zero pledges by countries in their Nationally Determined Contributions (IEA, 2021<sub>[22]</sub>). In a similar fashion to the stark increase of ESG investing, adopting net-zero commitments has become prevalent among companies, and in particular financial institutions. In that context, financial institutions will play a key role in scaling ambition and implementing net zero transitions notably by channelling policy commitments into aligned climate action in the real economy. However, recent OECD and UN reports have shown the considerable variation as to the ways voluntary commitments materialise in practice and have raised concerns over the quality of commitments with regard to the credibility and transparency of their methodological approaches (Noels, 2022<sub>[23]</sub>).

To address this issue and help translate climate commitments into credible, comparable and transparent action, the OECD is working to contribute to efforts to track progress against financial sector net zero commitments and complement international efforts to support climate-related commitments (including the OECD International Programme for Action on Climate) [DAF/CMF(2022)34]. This work will include analysis of availability of data and metrics in relation to financial sector net zero commitments, considering RBC principles and standards.

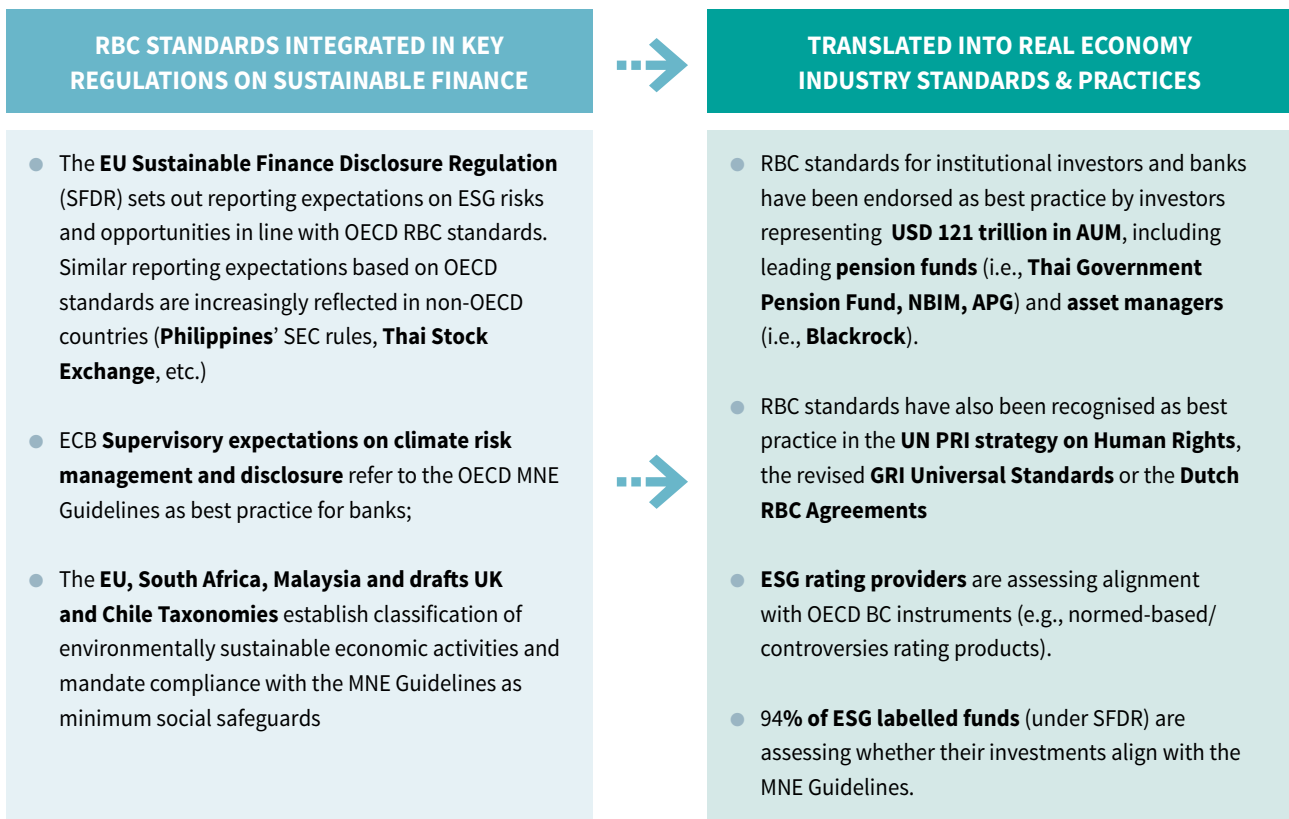
**Financial institutions continue to point to several challenges** hindering their ability to meaningfully pursue responsible investment strategies. Among these challenges are: understanding and design of existing governance frameworks (OECD, 2017<sup>[25]</sup>), poor understanding of ESG risks and lack of standardised approaches to ESG risk management (State Street Global Advisors, 2019<sup>[26]</sup>) and lack of quality data and comparative metrics on ESG issues (Morgan Stanley, 2018<sup>[27]</sup>).

**Broadly recognised expectations with respect to responsible investment and finance can promote quality processes, enhance impact and mitigate the risk of a multiplication of varying expectations** across jurisdictions and initiatives. They can also promote complementarity between expectations of financial practitioners and corporates, facilitating implementation of new expectations. In this respect, RBC standards, already being integrated in law and leading initiatives (see below), can provide a useful framework. Alignment,

synergy and consistency between RBC practices and emerging sustainable finance approaches is thus necessary to avoid greenwashing, and risks of standard fragmentation. Clarifications and guidance to financial institutions on how to implement the risk-based due diligence approach under the Guidelines to manage social and environmental risks associated with their clients and investments would also contribute to shedding light on blind spots. These recommendations have been embedded in a number of key regulations and market standards on sustainable finance, most notably within the EU but also in non-Adherent countries and taken up by key market initiatives (see Figure 2).

**Alignment, synergy and consistency between RBC practices and emerging sustainable finance approaches is necessary to avoid greenwashing, and risks of standard fragmentation.**

Figure 2. RBC standards in the sustainable finance landscape



RBC due diligence in the financial sector is **spreading** – either incentivised by **voluntary standards** or mainstreamed by **investor coalitions** and now by **mandatory regulations**. This ecosystem of existing practices and legal requirements is bound under a comprehensive framework: RBC due diligence. It brings further clarity as to investors’ connection to **adverse impacts**, helps avoid **greenwashing** and ties investors’ actions to **policy goals**

Source: PowerPoint presentation of the OECD Centre for Responsible Business Conduct at the Working Party on Responsible Business Conduct.



## Responsible digitalisation

Changes linked to the digital transformation of the economy and development of new technology result in both **opportunities and risks**. Digital tools, such as Artificial Intelligence (AI) and distributed ledger technology (DLT), can help companies accelerate contributions to sustainable development through, among other benefits, increased efficiency, facilitating new opportunities for education and employment, and enabling companies to strengthen their responsible supply chain management. At the same time, digitalisation can give rise to serious human rights concerns and may be also linked to other social and environmental harms, such as AI-powered mass surveillance technology used to target and suppress minorities, the amplification of hate speech and misinformation campaigns through social media platforms (OECD, 2021<sup>[28]</sup>), and the massive carbon footprint of computing (Monserate, 2022<sup>[28]</sup>). In order to maximise the positive impact of digitalisation, companies and governments also need to understand risks of harm and how to address them.

By way of example, **new technologies may:**

- **help companies accelerate contributions to sustainable development** through, among other benefits, increased data processing capabilities that can boost productivity and accuracy. The ability notably of AI to quickly analyse enormous amounts of data, recognise patterns, and build predictive models makes it a valuable tool for economic and social development. AI is being applied in multiple sectors such as health care for patient monitoring and epidemiology; in law enforcement to detect financial crime and to combat human trafficking; and in local government administration to improve welfare distribution and to direct traffic flows to reduce road congestion.
- **cause, contribute or be linked to human rights violations and other social and environmental harms.** In order to maximise the positive impact of digitalisation, companies, stakeholder groups, and governments also need to understand risks of harm. AI has notably had an observed negative impact on human rights and labour rights across a broad scope of applications, for example, through the development, use and sale of mass surveillance technology, predictive policing tools, social scoring technology and hiring algorithms. AI can be linked to violations of the right to privacy, non-discrimination, freedom of expression, freedom of association, freedom of assembly, collective bargaining, full-time employment, income inequality, gender inequality, and in the most serious cases, the right to life and personal security (OECD, 2021<sup>[29]</sup>).



### **Digital tools also play an increasing role in supporting RBC.**

Physical supply chains (e.g. minerals/metals, garment, and agriculture) are extremely complex and fragmented. These supply chains include both informal and formal actors in developed and developing parts of the world, which makes it particularly difficult to track where the goods are coming from and who is handling the goods, which are both key sets of information for conducting supply chain due diligence. Distributed ledger technology-powered data management and AI powered data analysis have allowed for greater ability to detect risks and more informed decision-making when mitigating risks.

Beyond AI, stakeholders have also shown interest in further exploring **topics related to RBC and online platforms**. Online platforms and the digital ecosystem that supports them have become increasingly present in daily life. The lockdowns and

social distancing that came with the COVID19 pandemic have reinforced the ways in which online platforms complement or supplant essential services; from communicating with friends, family, and co-workers, to buying groceries and other products, to calling a taxi, to even educating children. Due to this broad entanglement with so many other topics, RBC issues have become much more visible including with regards to the collection, transfer, sale and use of user data, and the protection of workers providing services through online platforms.

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**RBC issues have become much more visible including with regards to the collection, transfer, sale and use of user data.**



### **Box 2. Reaping the benefits of digitalisation while addressing adverse impacts**

The OECD works in several different ways to support effective policies on digitalisation. The work of the OECD Committee on Digital Economic Policy (CDEP) on AI – including the adoption of the Recommendation on Artificial Intelligence [OECD/LEGAL/0449] which embodies the OECD AI Principles and, among others, the launch of the AI Policy Observatory and OECD Network of Experts on AI – and more broadly the OECD’s “Going Digital” project, which aims to ensure harmonisation and visibility of work on the digital economy across the OECD, explore these developments. The Working Party on Responsible Business Conduct (WPRBC) is piloting guidance on how to apply RBC standards to the development and applications of technology through collaboration with the CDEP and its Working Party on AI Governance (AIGO), and their on-going work to develop research and tools for AI actors and policy makers. In parallel, the OECD work on Public Governance provides evidence on how governments’ public communication function can help to respond to the rapidly evolving phenomenon of mis- and disinformation to design better policies, increase citizen trust, and ultimately lead to stronger democracies. An additional milestone to help governments to respond effectively to the challenges of the digital era is the development of the OECD Principles of good practice for public communication responses to mis- and disinformation (OECD, 2022<sup>[30]</sup>).

# 3

## Recovery and growth for all through coherence, alignment, and harmonisation of RBC standards

### Coherence, alignment and harmonisation of government policies

The past decade has seen an increased demand on business to meet international standards on RBC to contribute to sustainable development, and prevent and avoid harm to people, planet, and society. At the same time, governments play a fundamental role in promoting and enabling RBC, creating incentives and exemplifying RBC in their own activities. For this purpose, they can draw on a wide set of policy tools and approaches to make RBC more impactful, more effective and more straightforward for businesses and stakeholders alike. Government action is becoming increasingly important to thrive in the global economy and ensure that business activity contributes to broader value creation and sustainable development. Enabling RBC environments are paramount for countries to position themselves as reliable and safe places to invest in, source from, and/or trade with, as well as to advance towards the achievement of the SDGs and the objectives of the Paris Agreement.

As a result, governments are increasingly seeking ways to integrate RBC-related standards in domestic legislation, policies, regulations and initiatives. In addition to establishing and enforcing a legal framework that creates an enabling environment for RBC in relation to human and labour rights, the protection of the environment and anti-corruption, OECD and non-OECD Member Adherents to the Guidelines have taken various initiatives, including through National Action Plans on RBC or on Business and Human Rights (NAPs), the inclusion of sustainability clauses in trade and investment agreements, the provision of recognition and incentives to businesses that act in line with RBC standards, and the promotion of the observance of RBC standards through their roles as economic actors and owners of companies.

One clear manifestation of this has been the significant increase in regulation and industry, government and multi-stakeholder sustainability initiatives embedding expectations on RBC due diligence. As a result, the RBC landscape that companies and stakeholders have to navigate is becoming increasingly complex. Such complexity is further increased for companies whose operations span multiple jurisdictions or that sell their services and product globally – as is the case for most companies today. In this respect, Adherents to the Guidelines have recognised the importance of policy coherence for RBC and alignment with international instruments (see Box 1). International coordination on due diligence regulations and sustainability initiatives represents one aspect of policy coherence for RBC.

**Effective international coordination on due diligence regulations and sustainability initiatives could help offset unnecessary divergences across countries** which may be costly to businesses, but also to societies and governments. For example, in the financial sector, regulatory divergences are perceived to cost financial institutions between 5 to 10% of their annual global turnover, with the financial performance of smaller firms the hardest hit. In addition, between 2013 and 2018, more than half of the financial institutions have had to divert resources away from investment toward regulatory risk management activities as a result of regulatory divergence (IFAC/BIAC, 2018<sup>[31]</sup>). To that end, standards interoperability and comparability has already been identified as a strong policy lever in sustainable finance to ensure financial markets contribute to an orderly low-carbon transition (OECD, 2021<sup>[32]</sup>) and listed among the priorities of the G20 Sustainable Finance Working Group's roadmap (G20, 2021<sup>[33]</sup>).

### Box 3. OECD Recommendation on the Role of Government in Promoting RBC (2023) [OECD/LEGAL/0486]

This Recommendation focuses on the part played by governments in the promotion of responsible business practices. It lays out a set of principles and policy recommendations to assist governments and other public authorities in their efforts to address unnecessary barriers that impede the implementation of RBC standards by businesses with a view to promoting coherence, and establishing conditions that will effectively drive, support or promote responsible business practices, in particular through:

- legal and regulatory frameworks that enable RBC
- policies and measures to encourage RBC across relevant policy areas
- the governments' role as economic actors and in their commercial activities
- stakeholder participation in the development and implementation of RBC policies
- access to remedy, and
- coordination of government policies and activities relevant to RBC.

SCAN TO READ THE  
RECOMMENDATION



Coordination on RBC due diligence can be **equally important for countries that may not have or do not plan to introduce regulation or specific policies on due diligence, as for those that do**. A multiplication of national due diligence requirements which are not aligned or coordinated could result in cascading conflicting or overlapping expectations onto suppliers or producers, which can result in burdensome compliance, administrative costs and operational delays. Such costs could disproportionately impact SMEs as well as businesses in developing countries which do not have the resources or capacity to align and respond to multiple RBC due diligence expectations. In the longer term, this could represent a barrier to accessing global supply chains and trade opportunities, which can in turn have negative effects on socioeconomic development.

In addition, international cooperation on RBC due diligence could **improve the capacity of domestic regulators to design and oversee effective due diligence policy**. Developing sound regulations and initiatives on RBC due diligence requires significant expertise and resources. Increased cooperation and exchange among policy makers from different jurisdictions allows them to share their experiences in achieving effectiveness and addressing challenges. Coordination can also involve information sharing or harmonisation and recognition of initiatives across jurisdictions, which can in turn contribute to cost savings and more effective and efficient oversight of implementation by public authorities.

**Considerable opportunities exist to leverage the platforms of the OECD for further elevating and scaling this work**, including through an inclusive platform for dialogue, information sharing, capacity building and cooperation in order to address potential challenges for business and support effective implementation of RBC due diligence standards.

Developing sound regulations and initiatives on RBC due diligence requires significant expertise and resources.





## Coherent approaches to assessing the credibility and alignment of sustainability initiatives

**Voluntary sustainability initiatives** of different shapes and sizes will continue to **play a role in shaping how companies respond to governments mandating more sustainable activities, investments and supply chains**. Continued development of mandatory requirements for RBC due diligence has brought to the fore debates about the potential role of initiatives in mandatory frameworks, including the extent to which they can inform implementation and enforcement and be used as ‘indicators of compliance’. A piecemeal approach and lack of standardisation across initiatives can create enormous challenges for companies. It can also lead to confusion for governments, customers, investors, workers and other stakeholders who use initiatives to assess company practices.

**Policymakers can contribute to a cohesive approach** by clarifying the ways in which different types of initiatives can support implementation of RBC standards, without undermining companies’ own due diligence responsibilities, and creating de facto safe harbours from liability or promoting over-reliance.

Governments can do this by i) setting clear expectations for initiatives, companies and enforcement authorities and, ii) where appropriate, ensuring that companies and governments have robust processes in place to monitor and verify the alignment with international standards and the credibility of initiatives that they use or rely on (OECD, 2022, p. 3<sub>[34]</sub>).

**A robust model to assess the credibility and alignment of sustainability initiatives with policy objectives** can help governments and companies to understand the precise scope and relevance of individual initiatives, and the specific ways in which they can and cannot credibly support implementation of due diligence standards and enforcement of regulations. It can also help to enhance credibility and trust in well-designed initiatives and reduce assessment, reporting and benchmarking fatigue, by providing opportunities for mutual recognition agreements and other collaborative activities and efficiencies across aligned and credible initiatives (OECD, 2022, p. 13<sub>[34]</sub>).





# National Contact Points: A unique implementation mechanism in a changing landscape

**The system of National Contact Points (NCPs) is recognised as one of the main achievements of the Guidelines.** NCPs make the Guidelines the only international instrument on RBC equipped with an implementation mechanism (OECD, 2022, p. 82<sub>[3]</sub>) and further their effectiveness through their dual mandate of promoting the Guidelines and providing a non-judicial grievance mechanism to resolve cases (“specific instances”) of alleged non-observance of the Guidelines by companies operating ‘in or from’ their country. NCPs also contribute to policy efforts in their countries (see Figure 3).

**In 2020, NCPs celebrated the 20 year-anniversary of the establishment of their mandate as non-judicial grievance mechanisms.** Given that 51 countries representing over 50% of the world’s GDP, and over 70% of global FDI stocks have adhered to the Guidelines, the grievance mechanism potentially covers a large share of the world’s economic activity (OECD, 2020, p. 19<sub>[35]</sub>). Relying on their global scope and wide accessibility, NCPs regularly offer a forum for affected persons that would otherwise be deprived of access to remedy for adverse impacts they are experiencing (OECD, 2020<sub>[36]</sub>).

**Despite these achievements and opportunities, NCPs are facing important challenges:** functional equivalence of NCPs is not achieved, risking undermining the effectiveness and credibility of the system. Governments have flexibility in the way they organise their NCPs to meet the criteria of visibility, accessibility, transparency and accountability, and handle specific instances in a way that is impartial, predictable, equitable and compatible with the Guidelines. There are wide divergences in how these criteria are being met by NCPs. To take visibility as an example, promotional activity that could ensure visibility of NCPs is uneven across the NCP network, with some NCPs organising or participating in dozens of events, and ten NCPs not organising, coorganising, nor participating in any promotional

event in 2021. Likewise, to ensure access to stakeholder expertise and perspectives relevant to their work, good practice has been for NCPs to include stakeholders in their structure. In 2021, two thirds of NCPs (32) involved key stakeholders in their institutional arrangements, of which 14 involved them in their main body, 15 in their advisory body and 3 in both. However, as of January 2023, 30% of the NCP Network does not include stakeholders in their structures.

**These divergences contribute to specific instances being distributed unevenly across the network.** Since 2011, six NCPs have received over 20 cases each, and 16 NCPs have received fewer than five. Eleven NCPs have not yet received a single case (OECD, 2022, p. 72<sub>[3]</sub>). Low visibility or support from government may also cause NCPs to be bypassed or overlooked in the development and implementation of policies that are relevant to RBC and the Guidelines.

**These gaps often result from under-resourcing, and/or insufficient government support.** Indicatively, almost 40% of the NCP network operate today with one or less than one full time equivalent staff. In 2021, i) 25 NCPs reported only having staff working part-time on NCP matters and one NCP reported having no staff at all; ii) 27 NCPs did not have a dedicated budget for their activities.

In light of their many achievements and despite these challenges, **NCPs benefit from a high level of support.** Calls to strengthen the NCP network are regularly expressed, notably at the G7, G20 (G20, 7/8 July 2017<sub>[37]</sub>) and OECD Ministerial Council Meetings (MCMs), but remain to be fully answered. In 2017, Ministers of OECD Member countries committed to having all NCPs undergo a voluntary peer review by 2023 (OECD, 2017<sub>[38]</sub>). To date, 41 NCPs out of 51 are expected to meet that deadline.



By **building on the achievements of NCPs and lending more support to NCPs to help address these challenges**, as well as by **supporting the delivery of Action Plans to Strengthen NCPs** (OECD, 2022<sup>[39]</sup>), governments can more effectively contribute to inclusive and sustainable growth and development for the next generation. NCPs can further contribute to the resilience of global supply chains, and to facilitate access to remedy for affected

persons. Likewise, with an increasing focus on public policy on RBC, NCPs have a key role to play in contributing to coherence and alignment in view of the increase in regulation and government or industry-led initiatives on RBC due diligence. In the current context, NCPs can contribute expertise and knowledge of the Guidelines and due diligence guidance to inform policy efforts and support companies in understanding and implementing these expectations.

**Figure 3. Achievements and milestones of NCPs**

#### Promoting the Guidelines and contributing to their uptake and implementation by companies

- Since 2015, NCPs have collectively organised over 900 events with stakeholders across government, business, trade unions and civil society and have participated in over 1600 events organised by other actors
- 46 out of 51 NCPs have dedicated websites or dedicated webpages
- Broad and far-reaching set of tools used across the NCP network include the 'RBC Compass' designed by the Norwegian NCP to allow companies to evaluate the extent to which they comply with the Guidelines

#### Providing a widely available and affordable grievance mechanism

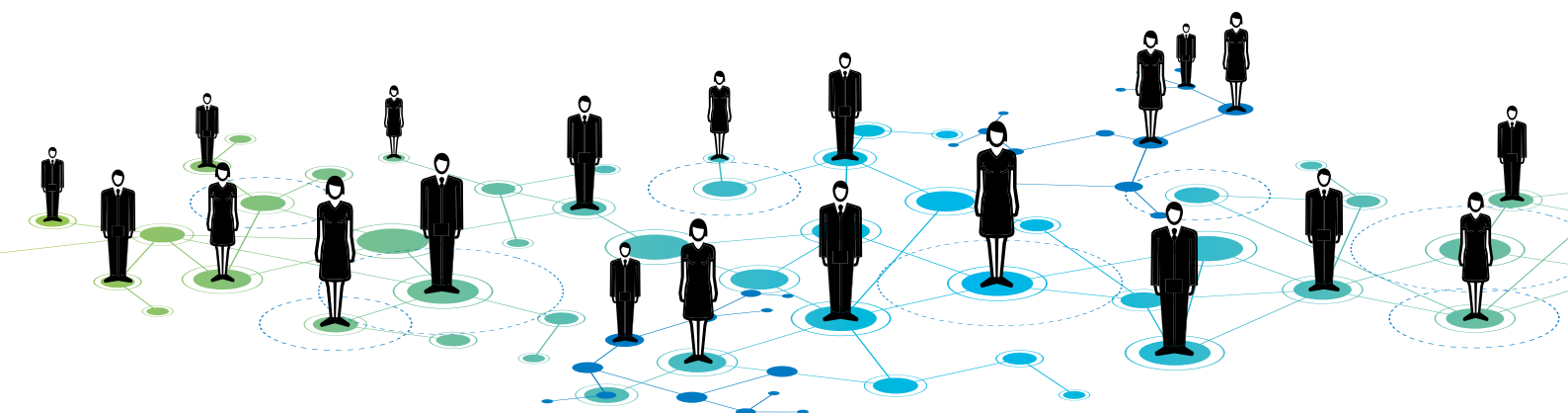
- Since 2000, NCPs have handled 620 cases in 105 countries
- Cases have been submitted by a wide range of actors, including NGOs (41%), trade unions (38%) and individuals (18%)
- In a recent trend of increase of submissions, 1 out of 4 1 cases since 2011 were submitted between 2018-2021

#### Contributing to public policies and government decisions that support implementation of RBC

- Some NCPs have assisted governments in developing mandatory due diligence legislations
- 22 out of 26 countries that have adopted a National Action Plan on Business and Human Rights (NAP) are Adherents to the Guidelines.
- All NAPs adopted by Adherents mention NCPs in some capacity.

**Source:** OECD (2022<sup>[37]</sup>), *Annual Report on the OECD Guidelines for Multinational Enterprises 2021: Update on National Contact Point Activity*, <https://mneguidelines.oecd.org/annual-report-on-the-activity-of-national-contact-points-for-responsible-business-conduct-2021.pdf>; OECD (2020<sup>[36]</sup>),

*National Contact Points for Responsible Business Conduct – Providing access to remedy: 20 years and the road ahead*, <http://mneguidelines.oecd.org/NCPs-for-RBC-providing-access-to-remedy-20-years-and-the-road-ahead.pdf>.



## Background documents

### *A resilient, sustainable, and inclusive global economy that benefits all*

Declaration on International Investment and Multinational Enterprises [OECD/LEGAL/0144]  
 Decision of the Council on the OECD Guidelines for Multinational Enterprises [OECD/LEGAL/0307] (Decision on the Guidelines)  
 Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Business Conduct [OECD/LEGAL/0443]  
 OECD (2022), Stocktaking Report on the OECD Guidelines for Multinational Enterprises

### *Reinforcing global supply chains through RBC: alignment and implementation*

ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy  
 UN Guiding Principles on Business and Human Rights  
 OECD (2021), Building more resilient and sustainable global value chains through responsible business conduct  
 OECD (2020), COVID-19 and Responsible Business Conduct  
 OECD, (2020), COVID-19 and global value chains: Policy options to build more resilient production networks  
 OECD-ILO-UNOHCHR (2019), Responsible Business: Key messages from international instruments  
 ILO-OECD-IOM- UNICEF (2019), Ending child labour, forced labour and human trafficking in global supply chains

### *Bridging the gap between climate objectives and commitments towards just transition*

OECD (2021), The role of OECD instruments on responsible business conduct in progressing environmental objectives  
 OECD-UNFCCC side event at COP26 (2021), Responsible Business Conduct and Climate Action: how global instruments on responsible business conduct can support implementation and accountability of business' net-zero commitments  
 OECD (2021) Policy Trends on Environmental Due Diligence

### *Supporting finance as a lever for change through consistency*

OECD (2022), Due Diligence for Responsible Project and Asset Finance  
 OECD (2020), Business and Finance Outlook: Promoting responsible lending in the banking sector: The next frontier for sustainable finance  
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 OECD (2019), Due Diligence for Responsible Corporate Lending and Securities Underwriting  
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OECD (2023), Draft Recommendation on the Role of Government in Promoting RBC [OECD/LEGAL/0486] (forthcoming)  
 OECD (2021), OECD Best Practice Principles on International Regulatory Co-operation  
 OECD (2021), The Role of Sustainability Initiatives in Mandatory Due Diligence  
 OECD (2020), Integrating Responsible Business Conduct in Public Procurement

### *National Contact Points: a unique implementation mechanism in a changing landscape*

OECD (2022), Annual report on the Activity of National Contact Points for Responsible Business Conduct  
 OECD (2022), Action Plan to Strengthen National Contact Points for Responsible Business Conduct 2022-2024  
 OECD (2020), National Contact Points for Responsible Business Conduct - Providing access to remedy: 20 years and the road ahead

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