

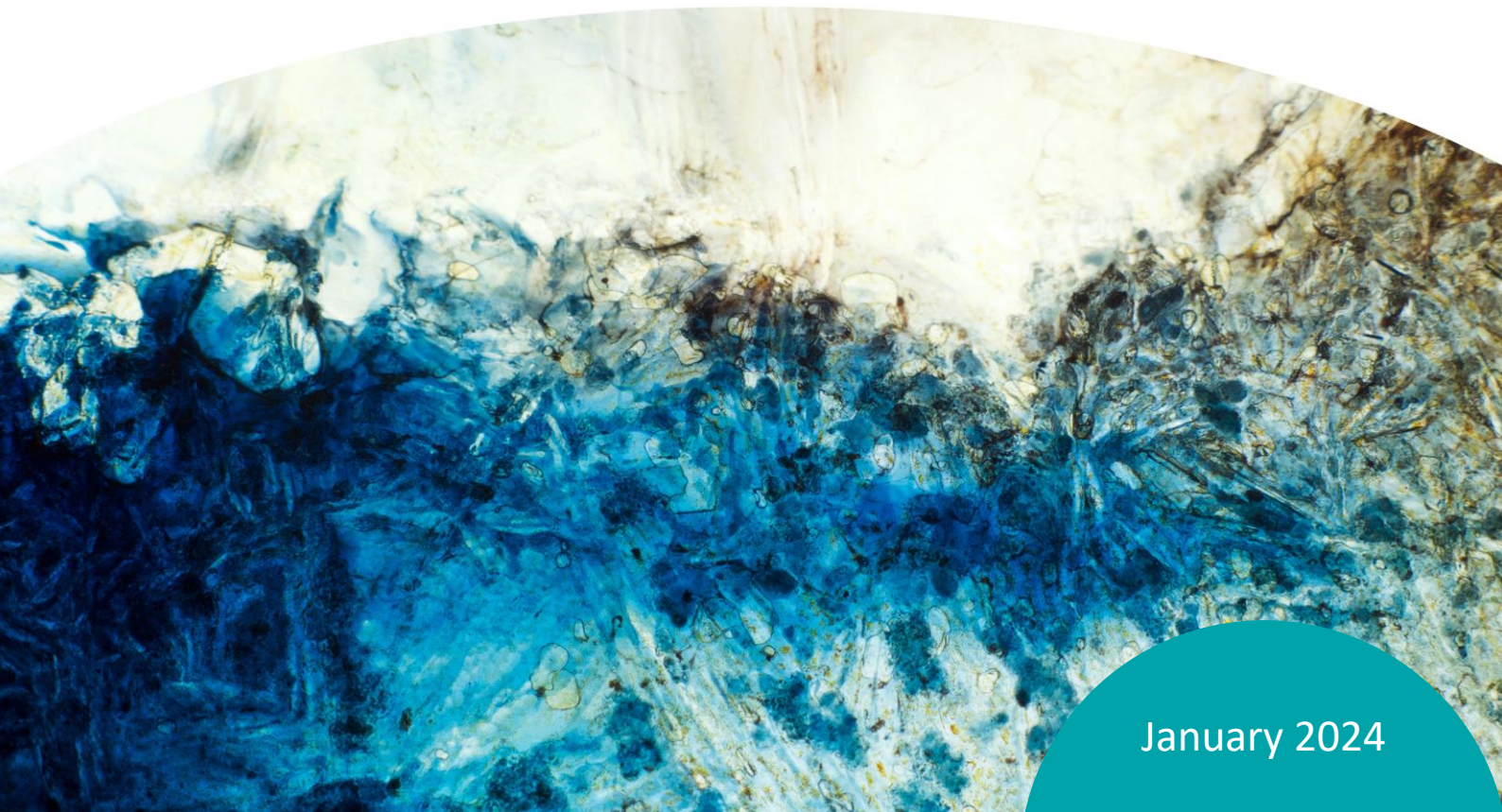


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# Analysis Report of Due Diligence Requirements of the EU Batteries Regulation 2023

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Analysis Report of Due Diligence Requirements of the EU Batteries Regulation

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About this report: This report provides an overview of the emerging due diligence obligations and ensuing recommended changes to common current due diligence practices of Drive Sustainability members, to support Drive Sustainability members to take an effective and efficient approach to implementing the EU Batteries Regulation.

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## Executive Summary

This report provides an overview of the emerging due diligence obligations and ensuing recommended changes to common current due diligence practices of Drive Sustainability members. Its goal is to help enable Drive Sustainability members to take an effective and efficient approach to implementing the EU Batteries Regulation (EU-Batt-R).

From the perspective of the authors and the civil society experts interviewed for this report, a central value of the EU-Batt-Reg lies in its **broader perspective on due diligence, which extends beyond specific regions or isolated interventions**. It aligns due diligence expectations with authoritative international normative due diligence instruments, namely the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD MNE Guidelines), the OECD Due Diligence Guidance for Responsible Business Conduct (OECD RBC Guidance) and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Minerals Guidance).

**This alignment with authoritative global frameworks has several benefits.** It supports a level playing field by aligning the due diligence expectations with well-established frameworks that many businesses already implement. These frameworks inform an increasing number of due diligence-related regulations, such as the EU Corporate Sustainability Reporting Directive and the forthcoming EU Corporate Sustainability Due Diligence Directive. The robust and pragmatic nature of these frameworks has the backing of a diverse group of stakeholders, including civil society, businesses, and states. This consensus gives businesses a high degree of confidence that they can plan their due diligence systems in adherence with these frameworks and meet a range of stakeholder and regulator expectations. The holistic due diligence requirement set out in the EU-Batt-R presents an opportunity for businesses to further engage suppliers while gaining a broader understanding of the operational contexts of their supply chain. This engagement approach, in addition to being central to effective due diligence, can **promote adaptability to risks and supply fluctuations** (supply chain resilience) while driving **positive impact through businesses' supply chains**.

The analysis for this report was based on both primary and secondary research. It included a close analysis of the text of due diligence components of the EU-Batt-R itself, and a critical assessment of current common due diligence practices of automotive original equipment manufacturers (OEMs), which reflect a range of maturity levels. Gaps in desktop research were addressed in interviews with industry experts through semi-structured interviews and thematic analysis. The authors were provided with specific questions from Drive Sustainability members relating to the EU-Batt-R, which were addressed in the drafting process.

Levin Sources has engaged with Drive Sustainability and its members since 2021. Levin Sources is also familiar with the due diligence practices of several members individually through separate engagements. Through these experiences, the authors' observation is that in general, members' due diligence practices broadly seek to align with the OECD Minerals Guidance. Therefore, due diligence as set out in the OECD Minerals Guidance constitutes a primary point of comparison across this report. The report outlines how companies can build on current due diligence practices and recommends changes to current practices to achieve a more effective implementation of the EU-Batt-R.

The EU-Batt-R requires companies<sup>1</sup> to align their due diligence practices with overarching international due diligence frameworks. Hence, the report utilises the 6-step due diligence cycle reflected in the OECD MNE Guidelines and the OECD RBC Guidance, which are generally aligned to the UNGPs. We have used this structure in an effort to enable comparability and alignment with overarching due diligence principles.

## RECOMMENDED CHANGES TO COMMON CURRENT PRACTICES IN ORDER TO IMPLEMENT THE EU-BATT-R MORE EFFECTIVELY



**Step 1 - Embed policies and management systems:** Companies are expected to extend policy commitments and management systems to manage risks beyond the scope of the OECD Minerals Guidance, aligning them with Chapter VII of the EU-Batt-R. This broader scope encompasses minerals outlined in Annex X.1 (cobalt, natural graphite, lithium, nickel and its chemical compounds<sup>2</sup>), social and environmental risk categories from Annex X.2<sup>3</sup>, international instruments specified in Annex X.3, and internationally recognised due diligence systems referenced in Annex X.4.



**Step 2 - Assess risks and prioritise:** Companies are expected to align their due diligence management system with the requirements of the EU-Batt-R and broader international due diligence instruments listed in Annex X.4. (i.e. the UNGPs, OECD MNE Guidelines, and the OECD RBC Guidance). The OECD Minerals Guidance is also listed in Annex X.4 as a reference due diligence instrument, but not in isolation. **Companies are expected to establish senior management oversight for the entire management system and implement controls and transparency for minerals within the EU-Batt-R scope, including those sourced from non-conflict-affected areas.**

Compared to current common practice in the automotive sector, **companies will likely have to adjust their risk assessment and prioritisation approaches. This is to ensure their due diligence risk lens encompasses the full risk categories scope of the EU-Batt-R, and that sources of risk information do not leave blind spots**, which is commonly the case when companies rely solely on data sources of ratings, rankings<sup>4</sup>, and supplier questionnaires.<sup>5</sup> The EU-Batt-R emphasises the importance of engaging affected rightsholders (or their legitimate representatives) which is one of the most significant lacking aspects in common current automotive due diligence practices that can lead to significant risk blind spots.



**Step 3 – Address risks and impacts:** The EU-Batt-R emphasises the **need to exercise leverage (influence) with suppliers and other stakeholders** as a key risk mitigation approach. It will also be **important to engage with relevant stakeholders** (meaning affected people) through meaningful communication channels<sup>6</sup>, including affected communities, when formulating a risk mitigation plan. **These practices tend to be underutilised** in current common due diligence approaches, which frequently rely on audits and certifications as the sole means of preventing or mitigating risks. While audits and certifications may contribute to a degree of risk mitigation,

<sup>1</sup> This refers generally to “companies” when referencing business enterprises that are in scope of the EU-Batt-R. In the Regulation itself, these enterprises are referred to as “economic operators.” It is not within the scope of this report to clarify which Drive Sustainability members are in scope of the Regulation or in what capacity.

<sup>2</sup> Chemical compounds referred to as in scope for the EU-Batt-R are those which are necessary for the manufacturing of the active materials of batteries containing cobalt and nickel.

<sup>3</sup> (a) environment, climate and human health, considering direct, induced, indirect and cumulative effects, including air, water, soil, biodiversity, hazardous substances, noise, plant safety, energy use and waste; (b) human rights, labour rights and industrial relations, including occupational health and safety, child labour, forced labour, discrimination and trade union freedoms; and (c) community life, including that of indigenous peoples.

<sup>4</sup> See, for example “No news is bad news”, Levin Sources et al., 2023 at

[https://assets.ctfassets.net/1u811bvgvthc/22Y4ddlqfMSP8anXqfYkiH/adefff21ab9e78594d9166529a215dob/No\\_news\\_is\\_bad\\_news.pdf](https://assets.ctfassets.net/1u811bvgvthc/22Y4ddlqfMSP8anXqfYkiH/adefff21ab9e78594d9166529a215dob/No_news_is_bad_news.pdf)

<sup>5</sup> Various sources have commented on the risks in an overreliance on questionnaires for risk assessment and mitigation, incl. [Why Do We Need SMART Supplier Self-Assessment Questionnaires? | Maplecroft](#), September 2022, [Still Using Questionnaires to Monitor Risk in Supply Chains? \(frdm.co\)](#), November 2023

<sup>6</sup> See, for example “[Operational Guidance on Free, Prior and Informed Consent – Accountability Framework](#)” (June 2019), “[Enabling FPIC through voluntary standards, funded by the ISEAL Alliance](#)” (July 2018), “OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector” (Feb 2017)



evidence over the past two decades shows that they cannot be relied upon to effectively constitute the entirety of risk prevention and mitigation.<sup>7</sup>



**Step 4 - Track and verify implementation and results:** On the one hand, the EU-Batt-R places an emphasis on **third-party verification processes** which will be used in two ways: (1) third-party verification by [notified bodies](#) to assess whether companies' due diligence systems comply with the requirements of the EU-Batt-R and (2) third-party verification of due diligence practices of suppliers used by economic operators in their supply chain. **On the other hand, effective implementation will likely require companies to establish effective tracking processes beyond audits.** As set out in the reference (Annex X.4) global normative due diligence frameworks, a **significant aspect of this due diligence component should include inputs from (potentially) affected people** to gauge the degree to which risk prevention and mitigation efforts are working.



**Step 5 - Communicate how impacts are addressed:** The EU-Batt-R stipulates [annual reporting on due diligence practices](#), including its effects on affected people, and the disclosure of relevant auditing activities. There is a differentiation in reporting audiences, specifying disclosure of information to market surveillance authorities, downstream purchasers to suppliers and the public. The EU-Batt-R allows OEMs to determine, to some degree and considering confidentiality requirements, what information it provides to the public. However, the Regulation expects at a minimum disclosure of significant adverse impacts, how they had been addressed, and a summary report of third-party verifications carried out (including the name of the notified body).



**Step 6 - Remediate where appropriate:** The EU-Batt-R requires companies to review their existing grievance mechanisms and remediation mechanisms in line with the UNGPs. The establishment of a grievance mechanism is not the same as fulfilling the remediation requirements of the UNGPs and based on current common practice in the automotive sector, **this due diligence component will require significant attention given that it is less established in common responses to the OECD Minerals Guidance.**

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<sup>7</sup> See, for example, Shift. [From Audit to Innovation: Advancing Human Rights in Global Supply Chains](#), August 2013, page 5, and German Federal Ministry of Labour and Social Affairs. [Integrating standards in human rights due diligence](#), March 2024.

# 1. Introduction

The EU emphasises the strategic role of batteries for the competitiveness of the automotive industry and as a critical enabling technology for the EU energy transition<sup>8</sup>. In 2020, the EU represented 17 per cent of the global battery market. It aims to increase that share to 26 per cent by 2030, taking advantage of the rapidly growing global demand for batteries in electric vehicles and other transition technologies.<sup>9</sup>

The success of these growth ambitions relies directly on an increased supply of so-called energy transition minerals, such as cobalt, lithium, nickel, and graphite. According to estimates by the International Energy Agency, the mineral requirements for clean energy technologies, including batteries, will increase between four and six times by 2040<sup>10</sup>. Meanwhile, the increased supply of these minerals faces significant obstacles, including high geographical concentration, declining resource quality, high exposure to climate risks and adverse environmental and social impacts<sup>11</sup>.

The European Commission has responded to these concerns by introducing the Regulation in 2023, which replaces the previous Battery Directive of 2006. The Regulation outlines the new EU framework for the responsible production of batteries. It aims to 1) reduce the environmental and social impacts throughout all stages of the battery life cycle, 2) promote a circular economy, and 3) strengthen the functioning of the internal market<sup>12</sup>.

The impact of the EU Batteries Regulation (referred to as EU-Batt-Reg or Regulation in this report) is expected to be substantial. It infers due diligence requirements on economic operators who must evidence transparency and risk management along their supply chain for battery manufacturing.

The Regulation marks a shift towards more mandatory and comprehensive guidelines for responsible business conduct. Current approaches to responsible sourcing encompass a broad spectrum, from providing guiding principles, offering due diligence templates, establishing industry standards, and promoting standardised reporting practices. They stem from various sources, some evolving from authoritative governmental bodies, and others from collective industry learning, civil society and investors.

In the view of the authors and experts interviewed from civil society organisations, **a central value of the EU-Batt-R lies in its broader perspective on due diligence, which extends beyond specific regions or isolated interventions. It aligns due diligence expectations with authoritative international normative due diligence instruments: the OECD MNE Guidelines, the OECD RBC Guidance, the OECD Minerals Guidance, and the UNGPs.** By anchoring the due diligence requirements of the EU-Batt-R in these international normative due diligence instruments and their defined scope of risks, the Regulation can help businesses continue to converge around these international norms. Other mandatory due diligence measures, such as the German Act on Corporate Due Diligence Obligations in Supply Chains (Lieferkettensorgfaltspflichtengesetz - LkSG) and the forthcoming EU Corporate Sustainability Due Diligence Directive, are also derived from these international norms, thereby establishing a largely shared basis for due diligence obligations of businesses subject to all three regulatory instruments.

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<sup>8</sup> European Commission, European Battery Alliance, [https://single-market-economy.ec.europa.eu/industry/strategy/industrial-alliances/european-battery-alliance\\_en](https://single-market-economy.ec.europa.eu/industry/strategy/industrial-alliances/european-battery-alliance_en), accessed January 5<sup>th</sup> 2024

<sup>9</sup> Eurobat, EU Battery Industry, <https://www.eurobat.org/eu-battery-industry/>, accessed January 5<sup>th</sup> 2024

<sup>10</sup> International Energy Agency, The Role of Critical Minerals in Clean Energy Transition, March 2022, page 8,

<https://iea.blob.core.windows.net/assets/ffd2a83b-8c30-4e9d-980a-52b6d9a86fdc/TheRoleofCriticalMineralsinCleanEnergyTransitions.pdf>

<sup>11</sup> Ibid.

<sup>12</sup> [New EU Batteries Regulation: introducing enhanced sustainability, recycling, and safety requirements | White & Case LLP \(whitecase.com\), 2 August 2023](#)

To meet the due diligence expectations set by the Regulation, businesses in the battery value chain will have to take a more holistic approach to due diligence. This includes taking a broader perspective on the impacts of their business activities on society and the environment through integrated due diligence management systems and proactively addressing social and environmental risks<sup>13</sup>. Though the Regulation presently applies to batteries placed on the EU internal market ([see definition on page 10 -Icon 33](#)), its ambition is to increase social and environmental safeguards (jointly) along the value chain, from manufacture to raw material extraction.

## Purpose and approach of this report

This report has been written for Drive Sustainability and its members. It aims to advance understanding of battery value chain due diligence, as introduced by the EU-Batt-R, and guide effective implementation, building on existing due diligence practices.

Levin Sources has engaged with Drive Sustainability and its member companies since 2021. Furthermore, through separate individual engagements, Levin Sources has become familiar with the due diligence practices of several members. Based on that knowledge, the report's authors have noted that, in general, original equipment manufacturers' (OEMs) due diligence practices broadly seek to align with the OECD Minerals Guidance. Therefore, the OECD Minerals Guidance constitutes a primary point of comparison across the report.

The recommendations provided in the report seek to prepare OEMs for current and future regulatory developments in mandatory due diligence and enable proactive compliance. Therefore, explicit connections are made to the broader international normative frameworks, specifically the UNGPs, the OECD MNE Guidelines and the OECD RBC Guidance, as these set the authoritative definition of due diligence across all business activities and sectors, and are the reference frameworks for due diligence in the EU-Batt-R as well as in other current and forthcoming regulations (see executive summary).

As part of this work with Drive Sustainability, Levin Sources has developed an additional report: "Overview of standards, initiatives and resources to support compliance with the EU Batteries Regulation 2023" (*Overview of standards, initiatives and resources*), that considers various third-party verification standards, tools and resources and how these may support the implementation of the EU-Batt-R.

## Contents of this report

- **Section 2** provides an overview of the EU-Batt-R, including covered products and activities and due diligence requirements by supply chain actors.
- **Section 3** specifies due diligence obligations for economic operators as stipulated in Chapter VII of the Regulation. It provides an overview of the key differences in due diligence obligations as compared with the OECD Minerals Guidance.
- **Section 4** provides a high-level comparison of the scope and the due diligence requirements included in the EU-Batt-R, compared to the OECD Minerals Guidance. To enable comparability and alignment with overarching due diligence components, it is organised along the 6-step due diligence cycle set out in the OECD RBC Guidance and reflected in the OECD MNE Guidelines and the UNGPs. Each section under these six steps begins with an overview of (1) the key due diligence elements outlined in Chapter VII of the EU-Batt-R, followed by (2) a brief commentary discussing terminology and outlining parallels to the requirements of internationally recognised due diligence frameworks. This is complemented by (3) a discussion of current common implementation practice, and (4) recommended changes to current practices to implement the EU-Batt-R more effectively. Highlighted boxes clarify selected terms.

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<sup>13</sup> Levin Sources, [What the EU Batteries Directive Means for Battery Mineral Supply Chains - Levin Sources, October 5<sup>th</sup> 2023](#)



## Methodology

The report's authors are business and human rights and due diligence experts with specialist knowledge of minerals, metals, and battery value chains. The recommendations provided in the report draw directly from the author's hands-on experience in working with business clients in battery value chains. The authors' experiences encompass the full range of due diligence components, including setting up and implementing due diligence systems and providing highly specialist strategic and technical advice for policy and standard-setting organisations involved in shaping the broader due diligence agenda.

The key objectives and scope of the report were aligned with the Drive Sustainability members through engagement meetings. Drive Sustainability members shared specific questions relating to the EU-Batt-R, which the authors have addressed in the drafting process.

The analysis for this report was based on both primary and secondary research. It included a close analysis of the EU-Batt-R text, and a critical assessment of common automotive OEMs' due diligence practices covering a range of maturity levels, which broadly can be characterised as seeking to align to the OECD Minerals Guidance. Gaps in desktop research were addressed in interviews with industry experts through semi-structured interviews and thematic analysis. The authors were provided with specific questions from Drive Sustainability members relating to the EU-Batt-R, which were addressed in the drafting process. Where the EU-Batt-R proved inconclusive, the authors referred to the UNGPs and OECD RBC Guidance to interpret terms, and concepts and provide implementation advice.

## Limitations

The report does not constitute a comprehensive analysis of the EU-Batt-R. The scope of the analysis is limited to its due diligence requirements in Chapter VII and Annex X, in line with the questions provided by Drive Sustainability members.

The report provides practical recommendations for effective implementation. It is not a legal analysis or advice. It cannot provide definitive guidance on interpreting specific terms or guarantee compliance. As this report was commissioned a few months after the EU-Batt-R was published, limited expert opinion was available to clarify ambiguous terminology and good implementation practice. The regulator is expected to publish interpretative guidance in 2025, which may affect the conclusions of this report.

## 2. Overview of the EU Batteries Regulation 2023

The Regulation was adopted on 17 August 2023, and repeals the previous Battery Directive of 2006 (Directive 2006/66/EC)<sup>14</sup>. From 18 August 2025, economic operators are required to fulfil the due diligence obligations set out in the EU-Batt-R. The following Section provides an overview of the EU-Batt-R 2023. It clarifies its scope, outlines the different requirements by supply chain actors and comments on conformity assessments, the implementation timeline and expected penalties.

**Covered products:** The scope of the Regulation encompasses all batteries, **whether industrial, automotive, electric vehicle, or portable, placed within the EU market**. Therefore, the Regulation applies to the following batteries: **waste portable batteries; electric vehicle batteries; industrial batteries; starting, lightning, and ignition (SLI) batteries** (used mostly for vehicles and machinery); and **batteries for light means of transport (LMT)**, such as e-bikes, e-mopeds, and e-scooters. In other words, "All types of batteries and accumulators are covered, ultimately all objects that provide electrical energy by converting chemical energy and have a storage capacity"<sup>15</sup>. The Regulation applies according to the type and size of batteries, therefore the distinction on due diligence obligations will not be assessed per vehicle type or final product per se (e.g. cars, trucks, buses) but rather based on the type of battery.

**Covered activities:** The Regulation applies to economic operators placing the Battery on the EU market for the first time. Economic operators are defined in the Regulation in Article 3(22) as the "manufacturer" or those "in relation to the manufacture", including in the instance of repurposing and recycling, where these make the battery available to the EU market. Notably, the **regulatory obligations are imposed on the initial economic operator who introduces the battery to the EU market or puts it into service**. Therefore, its applicability to OEMs varies depending on the covered activities of the former and whether these supply a battery for distribution or use on the European Union market in the course of a commercial activity. Thus, the responsibilities under the Regulation are specific to the role and actions of each economic operator within the battery supply chain<sup>16</sup>.

### Definitions for "placing on the market", "making available on the market" and "putting into service"

As provided by Article 3 of the Regulation:

"placing on the market" means the first making available of a battery on the Union market;

"making available on the market" means any supply of a battery for distribution or use on the Union market in the course of commercial activity, whether in return for payment or free of charge;

"putting into service" means the first use, for its intended purpose, in the Union, of a battery, without having been previously placed on the market".

**Covered supply chain actors:** The Regulation sets out due diligence requirements for economic operators first placing batteries on the EU market (Chapter VII) as well as several expectations for other supply chain actors, through their engagement with economic operators and battery producers. The Regulation does not specify any focus on supply chain tiers but rather emphasises due diligence along the entire supply chain. It explicitly links due diligence to "the sourcing, processing and trading of the raw materials and secondary raw materials

<sup>14</sup> European Chemicals Agency, [Understanding the Batteries Regulation - ECHA \(europa.eu\)](#), accessed January 5<sup>th</sup> 2024

<sup>15</sup> Taylor Wessing, [Harmonization in Battery Law \(taylorwessing.com\)](#), 30 August 2023

<sup>16</sup> Reed Smith, [The EU adopts new mandatory supply chain due diligence rules for batteries and their raw materials | Perspectives | Reed Smith LLP, 20 July 2023](#)

required for battery manufacturing, including by *suppliers in the chain and their subsidiaries or subcontractors*” (Art. 3, (42)). For further information on due diligence requirements per supply chain actor, see Table 1 below and [Sections 2](#) and [3](#) of this report.

**Turnover thresholds:** Chapter VII, which sets out the due diligence requirements, does not apply to economic operators with an annual net turnover of less than EUR 40 million in the last financial year (unless they are part of a parent or subsidiary group that has a consolidated turnover of EUR 40 million).

**Materials in scope for Chapter VII:** The minerals in scope are **cobalt, natural graphite, lithium, and nickel**. These can be found in **Annex X** of the Regulation. Separately, the EU Batteries Regulation restricts the use in batteries of certain substances listed in **Annex I**, including **mercury, cadmium and lead**.

**Table 1: High-level overview of due diligence and related obligations per supply chain actor**

Supply chain actor	Which Articles apply	Overview of obligations
<b>Supplier (tier n)</b>	<ul style="list-style-type: none"> <li>Chapter VII, Article 49 (2b,2d)</li> <li>Chapter VII, Article 50 (1b(iii))</li> </ul>	<ul style="list-style-type: none"> <li>Article 49(2b,2d): Provide name, address, and country of origin to the economic operator, as well as disclose any preceding market transactions</li> <li>Article 50 (1b(iii)): engage in mitigation with economic operator implementing risk management</li> <li>Article 39: Share supply chain information with economic operator free of charge</li> </ul>
<b>The economic operator which places battery on the market</b>	<ul style="list-style-type: none"> <li>Chapter III</li> <li>Chapter VI</li> <li>Chapter VII</li> <li>Chapter VIII (specifically, Articles 56 and 59)</li> </ul>	<ul style="list-style-type: none"> <li>Article 7: Carbon footprint declaration</li> <li>Article 11: Removability and replaceability of batteries</li> <li>Article 13: Marking, labelling, and information obligations</li> </ul> <p><b><u>Due diligence requirements</u></b></p> <ul style="list-style-type: none"> <li>Establish a comprehensive due diligence management system (detailed overview provided in <a href="#">Section 3</a> and <a href="#">Section 4</a> of this report)<sup>17</sup></li> </ul>
<b>Recycler</b>	<ul style="list-style-type: none"> <li>Chapter VI, Article 45</li> <li>Chapter VIII, Article 61, 71, 73</li> </ul>	<p>Recycling companies have specific obligations under this Regulation, which include:</p> <ul style="list-style-type: none"> <li>They need to make sure that any components subjected to these operations meet quality control and safety standards (Article 45).</li> <li>Batteries they handle must comply with this Regulation and other relevant laws concerning product quality, environmental protection, human health, and transport safety. This is important because these operations might change the battery's category (Article 45).</li> <li>If they're involved in remanufacturing, they must be able to prove that the battery meets the Regulation's requirements (Article 45).</li> <li>Recycling facilities must accept and prepare batteries for re-use, repurposing, or recycling, as required (Article 71(1)).</li> </ul>

<sup>17</sup> Levin Sources, [What the EU Batteries Directive Means for Battery Mineral Supply Chains - Levin Sources, 5 October 2023](#)

		<ul style="list-style-type: none"> <li>Recyclers must ensure that their recycling processes meet the targets for recycling efficiency and material recovery set out in Annex XII (Article 71(2))</li> </ul>
<b>Waste Manager</b>	<ul style="list-style-type: none"> <li>Chapter VIII 'Management of Waster Batteries', specifically Articles 57 and 75.</li> </ul>	<ul style="list-style-type: none"> <li>Report to the competent authority for each calendar year the amount of waste portable batteries and waste LMT batteries collected (incl. origin) according to their chemistry</li> </ul>

## 3. EU-Batt-R due diligence requirements in Chapter VII

The following Section provides a high-level comparison of the scope and the due diligence requirements included in the EU-Batt-R. These are compared to the OECD Minerals Guidance given that the latter is the most common reference point for due diligence for the primary readers of this report.

The OECD Minerals Guidance is one of the most established guidance documents used in the mineral supply chain due diligence space. It is referenced in key pieces of legislation (EU Conflict Minerals Regulation<sup>18</sup>; US Securities & Exchange Commission final rule on conflict minerals disclosure; forthcoming EU Corporate Sustainability Due Diligence Directive, among others) and is widely used in the automotive industry.

Over Levin Sources' long-term engagement with Drive Sustainability and its member companies (including reviewing due diligence reports of some of its members), the authors have observed that member OEMs' due diligence practices broadly seek to align with the OECD Minerals Guidance. To implement the EU-Batt-R effectively, OEMs will have to make some changes to their current due diligence practices.

Table 2 of this report provides an at-a-glance overview and comparison of the scope and the due diligence requirements included in the EU-Batt-R and the OECD Minerals Guidance. The implications of the identified differences for effectively implementing the EU-Batt-R will be discussed in [Section 4](#).

### References to the OECD Minerals Guidance in the EU-Batt-R

The EU-Batt-R references the OECD Minerals Guidance as "an internationally acknowledged standard addressing the specific risks for gross human rights violations, and a long-standing effort by governments and stakeholders to establish good practice in this area"<sup>19</sup>. It is one of the recognised due diligence instruments listed in Annex X.4 of the EU-Batt-R (next to the UNGPs, the OECD MNE Guidelines and the OECD RBC Guidance, amongst others). It is also referenced in Article 49 (management systems), concerning establishing due diligence systems for raw minerals originating from conflict-affected and high-risk areas (CAHRAs). Article 51 refers to the OECD Minerals Guidance concerning audit principles during third-party verifications.

### The OECD's 6-step due diligence cycle as a guiding framework

The EU-Batt-R requires battery due diligence systems to align with broader international due diligence frameworks such as the UNGPs, the OECD MNE Guidelines and the OECD RBC Guidance. These due diligence systems generally outline a 6-step due diligence cycle<sup>20</sup>. Using the 6-steps as a guiding framework for due diligence allows comparability and enables alignment with overarching due diligence principles. Therefore, the following table and Section 4 are structured according to the 6-step due diligence cycle.

In line with guidance provided by the OECD and as reflected in the EU-Batt-R, the complete 6-step due diligence cycle provides the overarching architecture of a company's due diligence system. The OECD Minerals Guidance 5-step approach constitutes a specific due diligence practice that should be implemented for high-risk and conflict-affected minerals sourcing.



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<sup>18</sup> Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas

<sup>19</sup> REGULATION (EU) 2023/1542 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 July 2023, page 14


<sup>20</sup> OECD, OECD Due Diligence Guidance for Responsible Business Conduct, 2018, page 20, <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

Table 2: Comparison of scope and due diligence requirements - EU-Batt-R and OECD Minerals Guidance

Due diligence element	EU-Batt-R	OECD Minerals Guidance	Key changes in the EU-Batt-R
<p><b>Companies applying the due diligence standard or obligation</b></p>	<ul style="list-style-type: none"> <li>➤ Economic operators placing certain batteries on the European market with a net turnover of over EUR 40 million a year covering four minerals core to batteries manufacturing.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Companies sourcing or with supply chains including materials from conflict-affected and high-risk areas (CAHRAs).</li> </ul>	<ul style="list-style-type: none"> <li>➤ Shift of focus from the origin of where the raw materials are being sourced to the placing of the battery on the EU market.</li> </ul>
<p><b><u>Step 1: EMBED policies + management systems</u></b></p> 	<ul style="list-style-type: none"> <li>➤ Due diligence policy should cover: <ul style="list-style-type: none"> <li>○ <b>primary and secondary raw materials</b> used in batteries manufacturing, fulfil the requirements under the <b>management obligations and risk management system</b>.</li> </ul> </li> <li>➤ Batteries policy should be <b>verified</b> by a <b>notified body</b> and required <b>documentation</b> to be retained for 10 years.</li> <li>➤ Management system should incorporate <b>internationally recognised due diligence standards</b>, including establishing a <b>grievance and remediation mechanism aligned to the UNGPs</b>.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Policy focus on <b>conflict-sensitive sourcing</b>, including refraining from conflict financing and <b>suppliers' risk awareness</b>.</li> <li>➤ <b>Management system focuses on 5 steps</b>: policy, internal management, a system of controls, supplier engagement, and a grievance mechanism.</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>Policy focus on key raw materials</b>, including secondary, rather than on refraining from contributing to conflict.</li> <li>➤ <b>Policies must be verified by a notified body<sup>21</sup>, as well as the inclusion of documentation requirements</b> for evidence indicating fulfilment of the due diligence requirements.</li> <li>➤ Management system aligned to internationally recognised due diligence standards, based on <b>6-steps due diligence system</b>.</li> <li>➤ UNGPs-aligned grievance mechanism with <b>remediation procedure</b>.</li> </ul>
<p><b><u>Step 2: ASSESS risks + prioritise</u></b></p> 	<ul style="list-style-type: none"> <li>➤ Identify and assess risks in sourcing, processing, and trading of primary and secondary raw</li> </ul>	<ul style="list-style-type: none"> <li>➤ Identify and assess risks of adverse human rights consistent with Annex II in</li> </ul>	<ul style="list-style-type: none"> <li>➤ <b>No selection of specific value chain actors</b>.</li> <li>➤ Inclusion of consideration for</li> </ul>

<sup>21</sup> See definition of notified body on page 18 of this Report.



	<p>materials required for battery manufacturing.</p> <ul style="list-style-type: none"> <li>➤ Risk categories in Annex X cover:             <ol style="list-style-type: none"> <li>a) <b>environment, climate, and human health,</b></li> <li>b) <b>human rights, labour rights and industrial relations,</b> and</li> <li>c) <b>community life,</b> including that of indigenous peoples.</li> </ol> </li> <li>➤ Contains references to international instruments covering the International Bill of Human Rights and the UN Paris Agreement.</li> </ul>	<p>extraction, transport, handling, trading, processing, smelting, refining, alloying, manufacturing, and export of minerals for conflict and high-risk areas<sup>22</sup>.</p> <ul style="list-style-type: none"> <li>➤ Annex II <b>focuses scope of human rights risks on the worst abuses.</b> In practice, this is frequently interpreted narrowly.</li> <li>➤ Limited focus on environmental risk management.</li> </ul>	<p><b>secondary raw materials.</b></p> <ul style="list-style-type: none"> <li>➤ Broader scope of risks in the EU-Batt-R.</li> </ul>
<p><b>Step 3: ADDRESS risks + impacts</b></p> 	<ul style="list-style-type: none"> <li>➤ Risk mitigation focuses on <b>further investigation,</b> supplier engagement and use of leverage with a view to redress the situation, and suspend or discontinue engagement with suppliers when absolutely necessary, considering the potential to exacerbate adverse impacts through disengagement.</li> <li>➤ <b>Consultation</b> with suppliers and relevant stakeholders on measurable risk mitigation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Risk mitigation focuses on <b>continuing trade, and temporarily suspending or disengaging from a supplier.</b></li> </ul>	<ul style="list-style-type: none"> <li>➤ Explicit inclusion of considerations around leverage, based on further fact-finding of risks, and consultation with relevant stakeholders when designing risk mitigation plan.</li> </ul>

<sup>22</sup> The OECD [Minerals Guidance](#) considers the mineral value chain to consist of “extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing and sale of end product”.

<p><a href="#"><u>Step 4: TRACK and VERIFY implementation &amp; results</u></a></p> 	<ul style="list-style-type: none"> <li>➤ Third-party verification by notified bodies of the economic operator and its suppliers, and disclosure of information on management and risk management systems to specified audiences.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Emphasis on third-party audit systems, particularly for smelters/ refiners, as a primary tool for risk prevention and mitigation.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Broader expectation regarding third-party verification of due diligence processes taken by the economic operator in question. Third party verification can also be utilised as an engagement tool with suppliers but is not required along the supply chain.</li> </ul>
<p><a href="#"><u>Step 5: COMMUNICATE how impacts are addressed</u></a></p> 	<ul style="list-style-type: none"> <li>➤ Annual public reporting on batteries due diligence policy, including on mitigation measures taken, third-party verifications carried out and percentage of recycled content in batteries.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Annual public reporting on due diligence policies and practices.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Expanded content to be disclosed in reporting requirements.</li> </ul>
<p><a href="#"><u>Step 6: REMEDIATE where appropriate</u></a></p> 	<ul style="list-style-type: none"> <li>➤ Requirement for an operational-level grievance mechanism as an early-warning and risk-awareness system and <b>remediation mechanism</b> (or through collective agreements/ ombudsperson) aligned to the UNGPs</li> </ul>	<ul style="list-style-type: none"> <li>➤ Company-level or industry-wide grievance mechanism (not explicitly aligned to UNGPs) as an early-warning risk-awareness system.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Grievance mechanism aligned to the UNGPs and inclusion of a remediation mechanism (detailed on pages 30-31).</li> </ul>

## 4. Implementing the EU-Batt-R, effectively

The following Section discusses the due diligence requirements of the EU-Batt-R Chapter VII in detail and provides recommendations for effective implementation.

The Section is organised along the 6-step due diligence cycle set out by the OECD MNE Guidelines and the OECD RBC Guidance, which reflect the UNGPs, to enable comparability and alignment with overarching due diligence principles.

Each sub-section under these six steps begins with an overview of (1) the key due diligence elements outlined in Chapter VII of the EU-Batt-R, followed by (2) a brief commentary discussing terminology and outlining parallels to the requirements of internationally recognised due diligence frameworks. This is complemented by (3) a discussion of current common implementation practice, and (4) recommended changes to current common practices in order to implement the EU-Batt-R more effectively. Highlighted boxes clarify selected terms.

The recommendations to effectively implement the EU-Batt-R are designed to build on current common practices where appropriate while clarifying how companies can align with broader international due diligence frameworks and centring impacts on affected people, as required by the EU-Batt-R.

This report’s discussion of current common practice reflects the authors’ general assessment of common practices in the automotive sector and specifically among Drive Sustainability members. However, these practices will inevitably vary between individual member companies and among their supply chain partners. Readers should consider the degree to which current common practices and recommended changes apply to their specific circumstances.



### Step 1: EMBED policies and management systems

Articles 48 and 49 EU-Batt-R cover the first due diligence step: embed policies and management systems.

#### BATTERY DUE DILIGENCE POLICIES, ARTICLE 48

Key elements	Additional requirements
<p>The Policy should:</p> <ul style="list-style-type: none"> <li>cover primary and secondary raw materials used in batteries’ manufacturing (<b>cobalt, natural graphite, lithium, nickel and selected chemical compounds</b>);</li> <li>outline and support the implementation of <b>risk management and due diligence systems</b><sup>23</sup></li> </ul>	<p>The Policy should:</p> <ul style="list-style-type: none"> <li>be verified by a <b>notified body</b> issuing on whether the policy fulfils the EU-Batt-R due diligence obligations.</li> </ul> <p>The economic operator should</p> <ul style="list-style-type: none"> <li><b>retain ten-year documentation</b><sup>24</sup> to demonstrate how risk management obligations have been fulfilled, incl. verification reports, the notified body's approval decision, and audit reports.</li> </ul>

<sup>23</sup>Management and risk management systems explained in detail in the following section.

<sup>24</sup> 10 years from the date the last battery manufactured under the due diligence policy has been placed on the market.

## Commentary

The battery due diligence policy should outline the **business' commitment to the EU-Batt-R and the international due diligence standards referenced therein (Annex X.4)**. It should cover the four raw materials (cobalt, natural graphite, lithium, and nickel) listed in Annex X.1 (both in their primary and secondary form), and chemical compounds used in battery manufacturing, regardless of where the materials are sourced. The policy should set out a **structure of the overall management and risk management systems** (described below) and **standards against which due diligence will be conducted**. The battery due diligence policy should be incorporated into contracts and agreements with suppliers. Additionally, the battery due diligence policy will require verification by a notified body to demonstrate that it fulfils the due diligence requirements of the EU-Batt-R. The Regulation does not specify whether the battery due diligence policy should be standalone or integrated within broader due diligence policies.

### What is a notified body?

According to Art. 3 (41), a notified body "means a conformity assessment body" that can **verify compliance with the EU-Batt-R**. It should hold an accreditation certificate issued by a national accreditation body or provide proof of competence to undertake conformity assessments, periodic audits and third-party verification. It must be independent of battery-related businesses (manufacturers, trade partners, investors).

The Regulation outlines the process of defining a notified body in Chapter V, though no timeframe has been attributed to this yet.

## Current practice

Businesses that have sought to align their due diligence systems with the OECD Minerals Guidance have typically adopted a responsible sourcing policy for minerals from conflict-affected and high-risk areas, committing to respect human rights and not contribute to conflict. Policies seeking to align to the OECD Minerals Guidance would typically include a commitment to not "tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party" serious human rights abuses and would set out a risk management plan addressing serious abuses.

## Recommended changes to common current practice to implement EU-Batt-R, effectively

- Extend policy commitment to responsible sourcing practices beyond conflict-affected and high-risk areas in line with Chapter XII EU-Batt-R
- Cover minerals listed in Annex X.1, social and environmental risk categories listed in Annex X.2, international instruments listed in Annex X.3 and internationally recognised due diligence systems referenced in Annex X.4. A practical way to approach this, to avoid adding materials or individual rights or impacts in a reactive fashion as stakeholder expectations and regulator requirements evolve, would be to commit to respect human rights and the environment in line with the UNGPs and the OECD MNE Guidelines, and to implement management systems as set out in those frameworks
- Include a due diligence management system and risk management plan in line with Articles 48, 49, 50 and 52 of EU-Batt-R.

ECONOMIC OPERATOR'S MANAGEMENT SYSTEM, ARTICLE 49

Key elements	Additional requirements
<p><b>Management system</b> requires an economic operator to:</p> <ol style="list-style-type: none"> <li>1. adopt and communicate its battery due diligence policy;</li> <li>2. incorporate internationally recognised due diligence standards;</li> <li>3. include top management level with assigned responsibility to oversee the policy and maintain records of that internal management system for 10 years;</li> <li>4. develop and implement a system of oversight or "systems of controls" about the supply chain, which incorporates a chain of custody or traceability mechanism to identify actors upstream to ensure a transparent supply chain;</li> <li>5. incorporate the policy into supplier contracts and agreements;</li> <li>6. establish a grievance mechanism including an early warning risk awareness system and a remediation mechanism based on the UNGPs or through a collective agreement or an external expert such as an ombudsperson.</li> </ol>	<p><b>Additional information is required</b> where third-party verification reports by a notified body on suppliers' due diligence practices are unavailable, and where raw materials originate from a conflict or a high-risk area.</p> <p><b>Suppliers should provide third-party verification reports</b> on compliance with the Regulation to downstream companies free of charge, should these be available (Art 39 &amp; 49). The Regulation does not stipulate third-party verification as a requirement for suppliers, but expects that should the supplier have conducted these voluntarily (or as part of a customer request), these be made available to downstream companies in scope of the EU-Batt-R.</p>
<p><b>Required documentation for systems of controls:</b></p>	
<ol style="list-style-type: none"> <li>1. Raw material description (trade name and type)</li> <li>2. Supplier of the raw material information (name and address)</li> <li>3. Traceability information from extraction to the immediate supplier to the economic operator (country of origin of the raw material and subsequent market transactions)</li> <li>4. Quantities of raw material in batteries (percentage or weight)</li> <li>5. Third-party verification reports by a notified body (chosen by the economic operator) and on suppliers' due diligence practices, where these are available from suppliers</li> </ol>	

Commentary

The EU-Batt-R requires economic operators to **align their management systems with international due diligence frameworks**, including the UNGPs, the OECD MNE Guidelines, the OECD RBC Guidance, and the OECD Minerals Guidance.

At first reading, the key elements of a management system as per the EU-Batt-R appear similar to the management system required by the OECD Minerals Guidance. Both require companies to adopt a policy commitment, incorporate the policy commitment into supply contracts, involve senior management, establish

a system of controls and transparency, establish a company grievance mechanism or join an industry-wide grievance mechanism, and comply with specific documentation requirements<sup>25</sup>.

However, the management system requirements set out in the EU-Batt-R exceeds the requirements set out in the OECD Mineral Guidance, by requiring a broader scope of the policy, greater involvement of senior management in overseeing the management system as a whole, documentation maintained for ten years, with enhanced documentation where third-party verification reports are unavailable or where raw materials originate from conflict-affected or high-risk areas and more specific requirements for “systems of control” relating to the supply chain, including clear documentation and finally the requirement to establish a remedy mechanism and UNGPs-aligned grievance mechanism.

Furthermore, in the opening of the EU-Batt-R, para 84<sup>26</sup>, the EU Commission stipulates that economic operators should “hold informed, effective and meaningful consultations with affected communities” as part of their due diligence process.

Like the OECD Minerals Guidance, the EU-Batt-R requires economic operators to “establish and operate a **system of controls and transparency** regarding the supply chain, including a chain of custody or traceability system and to identify upstream actors in the supply chain”<sup>27</sup>.

**What is a “system of control”?**

A process of oversight concerning the supply chain incorporates a chain of custody or traceability mechanism to identify actors upstream to ensure a transparent supply chain (Art. 49 EU-Batt-R).

**Documentation requirements** under the system of control and traceability partly **overlap with the OECD Minerals Guidance**, including disclosure requirements on traceability, suppliers, and market transactions records. The EU-Batt-R specifies that the documentation required under the systems of controls should include a raw material description (trade name and type), name and address of the supplier of the raw material, quantities of the raw material in the batteries, third party verification reports of the economic operator and, where available, of suppliers, and traceability information from the extraction tier to the immediate supplier of the economic operator including country of origin and subsequent market transactions.

**What does “market transactions” mean?**

Market transactions in this context relate to the transfer of goods/products/raw materials from one party to another (inputs and outputs as per the OECD Minerals Guidance). According to EU-Batt-R requirements, economic operators are expected provide documentation related to market transactions from the raw material extraction tier through to the immediate supplier of the economic operator (Art.49). It does not explicitly state which documentation might be relevant under market transactions.

**Additional disclosure** of information would be required in case third-party verification reports are unavailable or where raw materials originate from conflict-affected or high-risk areas as set out in the OECD Minerals Guidance. It may include information on mine of origin, locations of material processing, trading, consolidation,

<sup>25</sup> [OECD Minerals Guidance](#), 2016, Annex I, page 17

<sup>26</sup> EU Batteries Regulation, para 84. [Regulation \(EU\) 2023/ of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation \(EU\) 2019/1020 and repealing Directive 2006/66/EC \(europa.eu\)](#)

<sup>27</sup> EU Batteries Regulation, Chapter VII, Art. 49 (d).



taxes, fees and royalties paid (Art. 49). Disclosure of information requirements on third-party verification reports aligns with the requirements in the OECD Minerals Guidance stating that audit reports should be made available with due regard to confidentiality and competitive concerns.

**What is a relevant CAHRA definition?**

The Regulation states that the indicative, non-exhaustive list of conflict-affected and high-risk areas, as in Regulation (EU) 2017/821, is relevant for the implementation of the due diligence provisions under the EU-Batt-R.

**What are recognised due diligence schemes?**

Article 53 indicates that the Commission will recognise specific due diligence schemes as **meeting the requirements of EU-Batt-R and enabling economic operators to meet the due diligence requirements of the EU-Batt-R**. The Commission will establish a publicly available register of recognised due diligence schemes. However, no indicative timeframe has been attributed to this yet.

The Regulation makes clear that participating in a due diligence scheme will not replace the individual responsibility of economic operators to implement due diligence systems and it is not certain that participation in such schemes will ensure the same set of minimum standards. As set out in the Regulation, requirements for third-party verification by a notified body only apply to the economic operator.

Civil society organisations have warned that an over-reliance on due diligence schemes and audits will not be a cost-effective approach as the European Commission is not yet in a position to provide criteria for evaluating and registering due diligence schemes. The OECD has also issued guidance for states advising they avoid overreliance on schemes when mandating due diligence<sup>28</sup>.

Under the EU-Batt-R **suppliers of battery cells and battery modules are expected to provide documentation** necessary to comply with the EU-Batt-R free of charge (Art 39). Economic operators are expected to incorporate their battery due diligence policy into suppliers' contracts and agreements and the suppliers are required to share third-party verification reports with downstream companies (Art. 49). It may imply that the economic operators would be expected to use its contractual leverage to ensure it has all the necessary documentation to comply with the Regulation. However, the authors' view is that caution should be exercised such that economic operators are not merely passing off obligations to their suppliers. The economic operator is ultimately responsible for the due diligence requirements set out in the EU-Batt-R.

**Current practice**

Under the EU-Batt-R, management systems are expected to include systems of control and traceability obligations. These obligations go somewhat beyond the requirements of the OECD Minerals Guidance on issues of scope, as set out in the table on page 14-16. Supply chain mapping is typically the first step in risk identification and can also be considered as part of Step 2 in the due diligence cycle. Given the detailed

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<sup>28</sup> See OECD (2022), The role of sustainability initiatives in mandatory due diligence: Background note on Regulatory Developments concerning Due Diligence for Responsible Business Conduct <https://mneguidelines.oecd.org/the-role-of-sustainability-initiatives-in-mandatory-due-diligence-note-for-policy-makers.pdf>

emphasis on systems of control in Article 49, which is discussed in this section, this report discusses current common practices concerning supply chain traceability here.

In common current practice, a significant focus has been on supply chain traceability, which some critics and industry representatives themselves have noted comes at the expense of adequate investment in risk mitigation. Many businesses have employed technology to improve traceability, such as blockchain and DNA and analytical fingerprinting. General good practice in this area would include mapping companies' supply chains while **acknowledging that perfect traceability throughout the entire value chain of a mineral may not be possible**<sup>29</sup>. Businesses should be able to recognise when they have reached a sufficient level of traceability to start with risk mitigation measures. For instance, companies might be unable to identify an exact supplier; however, identifying a country would still provide significant insights about heightened risks. In specific examples, such as when sourcing materials such as cobalt and nickel, businesses could, at least as an interim approach, presume such supply chains will include the DRC, China or Indonesia because of their dominance in the supply chain.

Another option for companies to improve traceability would be to simplify their supply chain and focus on fewer but stronger relationships. However, if diversification of suppliers due to demand challenges is of the essence, such a strategy might not be an option. Additionally, the upcoming digital battery passport(s) may support traceability requirements under the EU-Batt-R. Some of the upcoming digital battery passports are described in detail in the accompanying report *Overview of standards, initiatives and resources*.

#### What is a digital battery passport?

Digital battery passport requirements are set out in Articles 77 and 78 of the EU-Batt-R. The Regulation requires LMT batteries, electric vehicle batteries and industrial batteries with a capacity greater than 2kWh placed on the market or put into service to have an electronic record in the format of a battery passport as of February 2027 (Art. 77). It also sets out the technical design and operation of the battery passport (Art. 78). These specifications give guidance regarding the operationalisation of the battery passport and pertain to the service provider to be employed for this purpose, rather than to the economic operator. Access to the data within the battery passport will be contingent upon meeting specific access criteria and entitlements.

This relates to economic operators' due diligence obligations in that it may support companies' traceability efforts through in-depth data management infrastructures or technical solutions for record keeping on company operations and supply chains.

#### Recommended changes to current practice to implement EU-Batt-R, effectively

- Align the due diligence management system with recognised international due diligence standards listed in Annex X.4
- Adopt a system of controls and transparency for the minerals in the scope of the EU-Batt-R, sourced beyond conflict-affected and high-risk countries
- Exercise the risk-based approach set out in the Regulation and the recognised international due diligence standards cited in Annex X.4, meaning that due diligence would focus on risks with high severity for affected people and environments

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<sup>29</sup> Levin Sources, Rethinking traceability as a common good, May 15 2023, <https://www.levinources.com/knowledge-centre/insights/traceability-common-good#:~:text=Traceability%3A%20knowing%20where%20the%20materials,industry%20for%20over%20a%20decade.>

- Ensure engagement with affected rightsholders and communities as part of the due diligence management system
- Establish a grievance mechanism aligned to the UNGPs, which is part of a broader remediation mechanism (see [Step 6: REMEDIATE](#))
- Retain required documentation for ten years



## Step 2: ASSESS risks and prioritise

Article 50.1 (a) EU-Batt-R covers the second due diligence step: assess risks and prioritise.

### RISK MANAGEMENT OBLIGATIONS, ARTICLE 50

Key elements	Additional requirements
<b>Identify and assess social and environmental risks</b> listed in Annex X.2.	Risk assessment to include information provided based on Article 49 EU-Batt-R or any other information that is publicly available or provided by stakeholders.

#### Commentary

The EU-Batt-R covers a broader risk selection in Annex X.2 compared to the (common interpretation of) the OECD Mineral Guidance Annex II. The risks in Annex X are presented in three categories: (1) “environment, climate and human health considering direct, induced and cumulative effects”, (2) “human rights, labour rights and industrial relations”, and (3) “community life, including that of indigenous peoples”. The inclusion of “human rights” under list item no.2 may cover all subsequent social risk categories in the list (meaning that all internationally recognised human rights are already covered by this list). In addition to these three risk categories, Annex X.3 references a list of international instruments covering a full of environmental and human rights risks. This addition could be interpreted to add (if not already covered by the “human rights” reference; see above) all internationally recognised human rights to the scope of the EU-Batt-R. Further clarification from the Regulator would be useful to clarify this point. Meanwhile, to be confident that the risk lens has been properly set, the authors’ view is that businesses would achieve more robust compliance with the EU-Batt-R by assessing the full selection of **internationally recognised environmental and human rights** as covered by the list of international legal instruments in Annex X.3 of the EU-Batt-R.

The inclusion of the third risk category in Annex X.2 on **community life, including that of indigenous peoples**, is notable. This is a somewhat unusual name for a social risk category under the international instruments cited in Annex X. To feel confident in compliance with the Regulation while awaiting clarification from the regulator, businesses may follow a UNGPs lens by considering their impacts on communities regarding rights that are particularly relevant to community life, such as water, health and an adequate standard of living. This interpretation would also include Indigenous People’s collective rights, including the right to free, prior, and informed consent (FPIC), particularly where operations involve resettling communities<sup>30</sup>.

The EU-Batt-R does not provide detailed instructions regarding **risk assessment or prioritisation**. Given the Regulation’s explicit reference to internationally accepted due diligence frameworks, such as the UNGPs, the

<sup>30</sup> Business Respect for Human Rights, An Introduction to the core concepts in the UN Guiding Principles, accessed January 5<sup>th</sup> 2024, <https://www.businessrespecthumanrights.org/en/page/341/an-introduction-to-the-core-concepts-in-the-un-guiding-principles>

OECD MNE Guidelines and the OECD RBC Guidance, it is the authors' view that businesses should probably have reasonable confidence to conduct their risk assessment and prioritisation in line with these overarching due diligence principles, specifically the salience approach<sup>31</sup> to risk prioritisation set out in the UNGPs and reflected in the OECD Guidelines and RBC Guidance. The Regulation does explicitly note that it expects a risk-based approach to due diligence<sup>32</sup>.

### Current practice

Where current practice is focused on aligning with the OECD Minerals Guidance to the exclusion of other international due diligence frameworks as defined in the EU-Batt-R, risk assessments are likely limited to the **specific risks listed in Annex II of the OECD Minerals Guidance**. Given the broader risk scope of the EU-Batt-R, risk assessments would need to be expanded to cover the more comprehensive selection of risk topics outlined above.

Further, common current practices in risk assessments often appear to assume a set of risks, focused on a pre-determined list or geographic focus identified by another party (often an industry group, research institution, or think tank organisation). This approach may be a sound initial step, but sole reliance on it may leave businesses with significant blind spots<sup>33</sup> to risks that should be in scope for due diligence as required under the EU-Batt-R.

A more robust approach to assess risks may include considerations on a **combination of heightened risk factors** such as (a) the broader operational context, including factors such as conflict, corruption, weak governance, free trade zones, civic space, and environmental and human rights records, (b) the nature of the business relationship, including experience and track record, and management capacities of suppliers to manage human rights risks, (c) the nature of the business activities, including those associated with human rights impacts such as resettlement, land acquisition, extensive water usage, (d) the presence of vulnerable people, such as those who experience political, social or economic marginalisation that makes them particularly vulnerable to business impacts<sup>34</sup>. A diversification of information sources about businesses' supply chains will help alleviate circumstances where suppliers may be reticent to disclose risks. An awareness of the broader operational context will aid in engagement with suppliers and can promote adaptability in the case of trade restrictions, price volatility, conflict or other factors. The [Drive Sustainability Raw Material Outlook](#) Platform is a useful starting point in this endeavour<sup>35</sup>.

### Recommended changes to current practice to implement EU-Batt-R, effectively

- Identify and assess risks using various sources of data and information (including those provided by relevant stakeholders or their legitimate representatives, if available) and consider heightened risk indicators outlined above
- Prioritise risks to mitigate adverse impacts using the UNGP's saliency approach
- Adhere to internationally recognised due diligence frameworks which encompass the full scope of internationally recognised human rights and environmental issues. Meanwhile, seek further clarity from the Regulator on definitions of the "community rights" category.

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<sup>31</sup> Shift, [Salient Human Rights Issues](#), accessed January 5<sup>th</sup> 2024, <https://www.ungpreporting.org/resources/salient-human-rights-issues/>

<sup>32</sup> A risk-based due diligence approach is commensurate to the severity (for affected people and environments) and, to a lesser degree, the likelihood of the adverse impacts. Risk-based prioritisation is premised on the recognition that businesses may lack the resources to address all potential adverse impacts at the same time, and may need to prioritise which impacts to address first. The process of prioritisation is ongoing and as new factors arise, businesses may need to adjust their prioritisation. and new or emerging adverse impacts may arise and should be prioritised. For further reading on risk prioritisation, see the OECD RBC Guidance, page 17, and the UNGPs, principle 24.

<sup>33</sup> To learn more about how these approaches can create risk blind spots, see: <https://www.levinsources.com/knowledge-centre/insights/human-rights-risk-assessment>

<sup>34</sup> Shift, [Human Rights Due Diligence in High-Risk Circumstances: Practical Strategies for Business](#), 2015

<sup>35</sup> Drive Sustainability, Raw Material Outlook, accessed January 5<sup>th</sup> 2024, <https://www.rawmaterialoutlook.org/>



## Step 3: ADDRESS risks and impacts

Article 50 EU-Batt-R covers the third due diligence step: address risks and impacts.

### RISK MANAGEMENT OBLIGATIONS, ARTICLE 50

Key elements	Additional requirements
<p>Design and implement a strategy to <b>prevent, mitigate and address adverse impacts</b>:</p> <ul style="list-style-type: none"> <li>• Report findings to top management level</li> <li>• Align risk management measures to internationally recognised due diligence instruments listed in Annex X.4 EU-Batt-R</li> <li>• Consider the ability to influence suppliers</li> <li>• Design and implement a risk management plan</li> <li>• Monitor and track performance and risk mitigation efforts</li> <li>• Consider suspending or disengaging suppliers after failed attempts at mitigation</li> <li>• Undertake additional facts and risk assessment of issues requiring mitigation or after a change of circumstances</li> </ul>	<p>Consult with suppliers and relevant stakeholders before establishing a strategy for measurable risk mitigation.</p>

#### Commentary

Risk management obligations detailed under Article 50 EU-Batt-R should cover the battery materials listed in Annex X.1 EU-Batt-R and align with the internationally recognised due diligence instruments listed in Annex X.4 EU-Batt-R, including the UNGPs, the OECD MNE Guidelines and the OECD RBC Guidance. Compared to the OECD Minerals Guidance, the risk mitigation strategy under the EU-Batt-R appears to emphasise audits less. Article 50 EU-Batt-R references third-party audits next to several additional due diligence principles including leverage and stakeholder engagement.

The EU-Batt-R expects businesses to “exert pressure on suppliers [...] who can most effectively prevent or mitigate the identified risk”<sup>36</sup>. Good practice as set out in the reference international due diligence instruments would constitute building and exercising leverage using various approaches. Such approaches can be organised into five categories of leverage, set out by Shift<sup>37</sup>: 1) traditional commercial leverage, 2) broader internal leverage, 3) leverage together with business peers, 4) leverage through bilateral agreements with stakeholders, and 5) leverage through multi-stakeholder collaboration. In cases where specific suppliers cannot be identified, businesses could attempt to influence a system in the region from which minerals are sourced, or collaborate with other regional actors (this point relates to the previous discussion in this report regarding the limits of traceability).

The EU-Batt-R expects economic operators to **engage with relevant stakeholders** when designing a mitigation strategy. The EU-Batt-R lists particularly relevant stakeholders, including suppliers, local and national governments, civil society organisations, and affected third parties such as local communities. It does not request explicit or formal criteria for stakeholder consultation processes. However, given the overarching requirement to align due diligence with the expectations of the reference international due diligence instruments, such criteria can be deduced from the known UNGPs principles, including direct consultation with

<sup>36</sup> Article 50 (1(a)ii) of the EU-Batt-R on risk management obligations.

<sup>37</sup> Shift, [Using Leverage in Business Relationships to Reduce Human Rights Risks](#), 2013

relevant stakeholders, taking into account language and other potential barriers to effective engagement, and, where direct consultation is not possible, to engage with credible independent experts such as human rights defenders or other representatives from civil society.

### Current practice

The OECD Minerals Guidance focuses on auditing and supplier engagement in the case of red flags being raised. In common practice, auditing protocols developed by industry due diligence schemes are often used as the primary risk mitigation measure. Supplier engagement that includes regular dialogue and exchanges and other interactions such as capacity building tend to be less typical in the automotive sector (and in minerals value chains broadly). In practice, there is significant evidence of insufficient audit quality and limited detectable improvements for affected rightsholders.<sup>38</sup>

The OECD has stated that while some audits and industry schemes have a well-developed approach to due diligence, many are “overly focused on documentation checks rather than robustly challenging companies’ management practices and due diligence decision-making”<sup>39</sup>. Thus, relying on “limited and infrequent supplier audits that have proven ineffective at identifying hidden or emerging risks, such as forced labour or discrimination”<sup>40</sup> is unlikely to contribute to effective battery due diligence by downstream companies.

Existing auditing protocols could be examined against the requirements of the EU-Batt-R. Good practices would include **using audits with a broader scope, ensuring auditors have specialised training, and ensuring that audits are part of a broader package of measures such as supplier engagement, joint capacity building, and building and exercising leverage**<sup>41</sup>. In addition, the EU-Batt-R expects economic operators to use influence and exert pressure through business relationships, including with subcontractors, to ensure adverse risks are adequately addressed and mitigated.

There are some examples of current better practices **in applying leverage** as a risk mitigation measure in minerals value chains, even in challenging and high-risk environments:

- Working jointly on **collaborative projects** with various actors to address risks and challenges surrounding artisanal and small-scale mining (ASM), such as Cobalt for Development and the Fair Cobalt Alliance, both focused on ASM-related issues in the Democratic Republic of the Congo.
- **Building and enhancing dialogue** with Chinese rare earth elements actors through engagement facilitated by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters and BGR.<sup>42</sup>
- **Building a dialogue with key stakeholders** in the context of lithium mining in Chile, including affected Indigenous communities, civil society, and the Chilean government, facilitated by GLZ.

### Recommended changes to current practice to implement EU-Batt-R, effectively

- Critically examine the effectiveness of existing audit programmes as a risk mitigation strategy and improve effectiveness where needed
- Include building and exercising leverage as a risk mitigation strategy

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<sup>38</sup> Shift. From Audit to Innovation: Advancing Human Rights in Global Supply Chains, August 2013, page 5, [FINAL GSCP 12 August \(shiftproject.org\)](https://www.shiftproject.org/)

<sup>39</sup> OECD, Alignment assessment of industry programmes with the OECD minerals guidance, 2018, page 11, <https://mneguidelines.oecd.org/Alignment-assessment-of-industry-programmes-with-the-OECD-minerals-guidance.pdf>

<sup>40</sup> Ibid.

<sup>41</sup> For instance, these practices and the limitations of audits in minerals value chains were discussed in a 2-day event held in February 2023 by the London Metal Exchange and the OECD, which focused entirely on this topic. The event was moderated by Levin Sources.

<sup>42</sup> Federal Institute for Geosciences and Natural Resources ([Bundesanstalt für Geowissenschaften und Rohstoffe](https://www.bgr.bund.de/) – BGR)



- Engage with relevant stakeholders, including affected people, when preparing a risk mitigation plan



## Step 4: TRACK and VERIFY implementation and results

Articles 50 (risk management obligations) and 51 (third-party verification) of the EU-Batt-R cover due diligence step four: track and verify implementation and results.

### RISK MANAGEMENT OBLIGATIONS, ARTICLE 50

Key elements	Additional requirements
<ol style="list-style-type: none"> <li>1. Monitor and track the performance of risk mitigation efforts</li> <li>2. Carry third-party verifications of its due diligence and its suppliers to assess those suppliers' due diligence practices</li> </ol>	Report back to top management level

### VERIFICATION AND OVERSIGHT, ARTICLE 51

Key elements	Additional requirements
<p>A notified body shall carry out <b>periodic third-party verifications</b>:</p> <ol style="list-style-type: none"> <li>1. Covering all activities, processes and systems used by economic operators to fulfil their due diligence obligations per Articles 49, 50, and 52 <ol style="list-style-type: none"> <li>a. Identify areas of potential improvement concerning due diligence practices</li> <li>b. Where relevant, includes data collection from stakeholders and checks on undertakings</li> </ol> </li> <li>2. Determine conformity with due diligence obligations per Articles 49, 50, and 52</li> </ol>	Must respect the audit principles of independence, competence, and accountability <sup>43</sup>

#### Commentary

Article 50 (1) of the EU-Batt-R details distinct requirements relating to the tracking and tracing of risk mitigation efforts. Article 50(3) of the Regulation refers to third-party verification reports of the economic operator and its suppliers' due diligence practices. Third-party verification reports of suppliers are distinct from third-party verification reports of the due diligence practices of economic operators. More specifically, the EU-Batt-R only requires third-party verification reports of economic operators in scope of the Regulation, while reports on suppliers can be used as a source of information about their due diligence practices, where these are made available by the relevant supplier (free of charge). Economic operators may use those reports to assess suppliers' due diligence practices when assessing risks in their supply chains. Article 51 refers to third-party verification of economic operators that place batteries on the market. Neither article appears to clarify whether these reports will replace audits, which type of audits are preferred, or whether questionnaires can be used as a reliable instrument.

<sup>43</sup> As per the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

Moreover, Article 48(2) requires third-party verification (of the battery due diligence policy) and periodic auditing of the economic operator to assess conformance with the Regulation and Article 49 (2e) refers to the economic operator keeping documentation of those third-party verification reports on the economic operator as well as its suppliers.

Third-party verification will assess the degree to which the elements set out in the Regulation are found in an economic operator's supply chain, such as due diligence policies and management systems. This appears to imply an emphasis on policy in the first instance. However, the EU-Batt-R notes that verification should additionally pinpoint areas to enhance due diligence practices while incorporating data collection from suppliers and stakeholders for verification.

The OECD Minerals Guidance auditing requirements target smelters and refiners in conflict-affected and high-risk areas. Third-party verification requirements in the EU-Batt-R appear to go beyond the OECD Minerals Guidance auditing requirements as they are not targeted at any particular supply chain actor. According to the EU-Batt-R, third-party verifications should be carried out by a notified body approved by the Regulator and should respect auditing principles as set out in the OECD Minerals Guidance. The Regulation does not clarify how these auditing efforts should be prioritised or funded.

### Current practice

Although social and environmental audits are frequently understood to track performance, they frequently track the existence of policies and procedures rather than outcomes for affected people and environments. This general statement applies to many audits conducted in conformance with the OECD Minerals Guidance. To be fair, capturing performance outcomes for affected people and environments is challenging in a typical auditing paradigm. There are, however, some aspects in auditing that businesses can look for to determine the likely fitness of the audit to tell the business something meaningful about performance outcomes, such as the role of affected people in the audit and the qualifications of the auditor(s).<sup>44</sup>

Good practice in performance tracking, as set out in the reference international due diligence instruments, would entail **seeking regular feedback from affected people, aligned with the EU-Batt-R's** requirement under paragraph (84)<sup>45</sup>. While it might be challenging for individual companies to engage with affected people at scale, engagement through groups representing the voices of affected people could be considered good practice in this area. Thus, stakeholder engagement, including with affected communities as described in the risk mitigation section above, is also relevant here. Trade unions, civil society organisations, multi-stakeholder initiatives and industry associations could foster and facilitate engagement with affected people. These approaches are already practised in sectors such as electronics<sup>46</sup> and the garment industry<sup>47</sup>.

Common understandings of the OECD Minerals Guidance view stakeholder engagement as engaging with other departments within the company or using an operational-level grievance mechanism to enable the business to hear concerns from affected people. There are emerging examples of companies engaging with groups representing affected people through **dialogue-fostering initiatives** from Latin America, such as through GIZ (see [Step 3](#)). Organisations such as the Responsible Business Alliance, the OECD, and the UN Working Group on Business and Human Rights seek to **engage representatives or groups of affected people at international events** to further enfranchise stakeholders along the value chain. Some businesses have

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<sup>44</sup> For more on these aspects, see "[Beyond audits in copper supply chains: using leverage to prevent and address copper-specific salient human rights issues](#)," Levin Sources, March 2024.

<sup>45</sup> "Economic operators should hold informed, effective and meaningful consultations with affected communities."

<sup>46</sup> See worker-driven monitoring by KnowtheChain: <https://knowthechain.org/addressing-forced-labor-risks-in-lower-tiers-of-electronics-supply-chains-examples-of-company-practice/#1615914899823-423168ad-febo>

<sup>47</sup> See social dialogue by BetterWork: <https://betterwork.org/social-dialogue/>

already used various opportunities to engage with affected people through delegation visits to sourcing countries such as the DRC and Madagascar.

**Recommended changes to current practice to implement EU-Batt-R, effectively**

- Establish effective performance tracking processes that are not solely reliant on audits. As noted in the *Overview of standards, initiatives and resources* a combination of existing tools and the development of new approaches – inspired by other sectors that have shown leadership in engagement with affected people, such as the apparel sector, will likely be necessary.
- Identify and explore meaningful engagement opportunities with affected people as part of tracking and verifying the effectiveness of the risk mitigation strategy



## Step 5: COMMUNICATE how impacts are addressed

Articles 49 and 52 EU-Batt-R detail how economic operators should report on their battery due diligence. This section refers to external communication of due diligence processes and outcomes.

### MANAGEMENT SYSTEM, ARTICLE 49

Key elements	Additional requirements
Adopt and clearly communicate to suppliers and the public a company battery due diligence policy.	

### DOCUMENTATION, ARTICLE 52

Key elements	Additional requirements
<p>Annual public reporting, including on the internet, on steps taken to comply with management system and risk management obligations.</p> <ol style="list-style-type: none"> <li>1. Annual reports should include findings on significant adverse impacts, how they had been addressed and a summary report of third-party verifications carried out (incl. name of notified body).</li> <li>2. The report should be easily understandable and identify the batteries concerned and whether these are derived from recycled sources.</li> </ol>	The report should also cover access to information, public participation in decision-making and access to justice in environmental matters related to raw materials present in batteries, sourcing, processing and trading <sup>48</sup> .

### Commentary

The EU-Batt-R requires economic operators to **communicate their battery due diligence policy to suppliers and the public**. Additionally, they must **report annually** on the steps they took to comply with the management system and risk management obligations, including findings of significant adverse impacts and mitigation measures taken. The annual public report should also provide a **summary of third-party verifications carried out**, including the name of the notified body (with due regard to confidentiality and competitive concerns). The report should be easily understandable for end-users. The regulatory text suggests that the annual reports should identify the batteries concerned; however, it is unclear whether reporting is

<sup>48</sup> Due diligence obligations are to be fulfilled from 18 August 2025 (Art. 48).

required to be specific to the batteries or economic operator's due diligence policies along the battery value chain more broadly. .

Additionally, the upcoming digital battery passport must disclose due diligence-related information and thus would support reporting efforts, particularly to the public. Multiple battery passports are still in development across the EU (see *Overview of standards, initiatives and resources*) The data contained in the battery passport will encompass:

- a) Information that can be publicly accessed, as defined in Annex XIII.1,
- b) Data accessible exclusively to notified bodies, market surveillance authorities<sup>49</sup>, and the Commission, as detailed in Annex XIII.2 and Annex XIII.3.
- c) Information that can be accessed solely by individuals or legal entities with a valid interest in obtaining and utilising this data for the purposes outlined in points (a) and (b) of the third paragraph, in line with Annex XIII.2 and Annex XIII.4.

### Current practice

Currently, few businesses report comprehensively and regularly on their due diligence practices and even fewer on the outcomes of these practices for affected people and environments. It is even rarer that these reports reach the affected people. Leading practice as set out in the reference international due diligence instruments include annual reports that disclose, to the degree known, outcomes for affected people and are accessible by affected people.

### Recommended changes to current practice to implement EU-Batt-R, effectively

- Annually report on due diligence practices, outcomes for affected people, and disclosure of auditing carried out.



## Step 6: REMEDIATE where appropriate

Art. 49 EU-Batt-R sets out the requirements for grievance and remediation mechanisms.

### ECONOMIC OPERATOR'S MANAGEMENT SYSTEM, ARTICLE 49

Key element	Additional requirements
Establish a grievance mechanism including an early-warning risk-awareness system and remediation mechanism aligned to the UNGPs.	Such a mechanism can be arranged through collaborative agreements with other businesses (such as an industry mechanism) or organisations or an external expert or body such as an ombudsperson.

### Commentary

<sup>49</sup> Market surveillance is an activity carried out by authorities to ensure that products on the market are conformant to the applicable laws and regulations through close contact of authorities with economic operators as well as customers and consumer organisations. Market surveillance covers actions of monitoring, control of the market and imposition of corrective measures and penalties. European Commission, 'The role of market surveillance authorities', December 2023.

According to the EU-Batt-R, any grievance **mechanism** should be **aligned with the UNGPs and include a remediation mechanism**. Such a mechanism could be arranged through industry schemes, together with other businesses or organisations, or an independent expert or body such as an ombudsperson. Good practice under the EU-Batt-R would include an operational-level grievance mechanism and remediation mechanism, which could also be offered through collective agreements or facilitated by an external expert or body. It is notable that the EU-Batt-R introduces the term “remediation mechanism.” This term does not appear as such in either the UNGPs or the OECD Guidelines. One interpretation could be to mean that the Regulation requires a ‘mechanism’ (or system) in place to enable access to remedy, as set out in the UNGPs and OECD Guidelines. This interpretation cannot be guaranteed given that “remediation mechanism” does not appear as a term of art in the reference frameworks.

GIZ has been running a series of learning and knowledge-sharing webinars<sup>50</sup> on access to remedy that could be useful in setting effective grievance and remedy processes. Additionally, industry associations could develop an industry-wide grievance or remedy mechanism aligned with UNGPs requirements. Some industry associations in the metals sector are at various stages of exploration or implementation of channels through which grievances can be raised. However, users of these channels should examine them carefully to see if they qualify as grievance mechanisms fulfilling the effectiveness criteria of the UNGPs and whether these sufficiently address access to remedy.

### **Current practice**

To date, many businesses have set up operational-level grievance mechanisms. This is, in part, a reflection of the requirements of the OECD Minerals Guidance. However, the establishment of an operational-level grievance mechanism is not wholly equivalent to providing or enabling access to remedy in accordance with the reference international due diligence instruments. Good practice would imply a review of the existing mechanisms against the UNGPs effectiveness criteria and as part of the establishment of broader measures that put the business in a position to provide or enable access to remedy, according to the nature of its connection to the adverse impacts (as set out in the reference frameworks).

To date, **industry-level grievance mechanisms** have largely been designed to align with the OECD Minerals Guidance requirements. For instance, an online cross-industry platform, the Minerals Grievance Platform<sup>51</sup>, was set up by the Responsible Mining Initiative (RMI), London Bullion Market Association (LBMA) and Responsible Jewellery Council (RJC). It seeks to screen and address grievances connected to smelters and refiners. However, this cross-industry grievance platform is for use by audit programmes to review and improve their corrective action plans, which do not necessarily have import for the provision of remedy for affected people. The Responsible Business Alliance (RBA), has developed a worker voice platform titled “RBA Voices”, which seeks to collect workers’ feedback from RBA members and their suppliers through a worker survey tool, on-site assessment support, mobile learning app, and a grievance reporting mechanism. Based on publicly-available information, it is unclear the degree to which this mechanism has enabled access to remedy for affected people. Such industry-level mechanisms are advantageous because they can support the broader industry to become aware of (potential) cases of human rights abuses. However, their existence is not necessarily equivalent to the provision of remedy. Given that the EU-Batt-R in general expects due diligence to meet the expectations of the reference international due diligence instruments and explicitly requires companies to establish a “remediation mechanism,” the existence of grievance mechanisms whose utility for the provision of remedy more broadly cannot be substantiated may be insufficient for compliance.

### **Recommended changes to current practice to implement EU-Batt-R, effectively**

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<sup>50</sup> GIZ, Access to Remedy, accessed January 5<sup>th</sup> 2024, <https://access-to-remedywebinar.eventement.ser.nl/>

<sup>51</sup> RMI, Minerals Grievance Platform, accessed January 5<sup>th</sup> 2024, <https://mineralsgrievanceplatform.org/>

- Review existing grievance mechanisms against the UNGPs effectiveness criteria
- Set up a remediation mechanism that enables remedy for affected people, in line with the UNGPs (including where the responsibility for remedy is differentiated depending on the nature of the company's connection to the impact)