Sustainability Due Diligence

Professor Beate Sjåfjell, 8 December 2020
What is sustainability due diligence?

- **The UN Guiding Principles for Business and Human Rights** (2011)
- Integrated into **OECD Guidelines for Multinational Enterprises** in 2011
  - **OECD Guidance for Due Diligence** (2018)
- Integrated into **The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy** in 2017
- EU Parliament call for **mandatory due diligence for supply chains** (2020)
- EU Commission **Sustainable Corporate Governance** (2020)
- Various Member States’ initiatives
Why is sustainability due diligence important?

• A crucial tool for the company & its board
  – To identify and mitigate financial risks of unsustainability
  – To begin the transition towards sustainable business
  – As a basis for meaningful reporting

• A crucial step towards a sustainable future
How can sustainability due diligence be shaped to affect change?

- A duty for the company and for the board
- Encompass the *business* of the company
- An integrated sustainability approach
- A mandatory company law instrument
  - Verification
  - Enforcement
  - Liability
- No safe harbour, no box ticking…
- Possible defence – crucial for legal certainty
Source: Raworth 2017; Leach, Raworth & Rockström 2013
Further reading

- L. Smith et al., *Study on due diligence requirements through the supply chain* (2020)


- B. Sjåfjell, *Sustainable Value Creation Within Planetary Boundaries—Reforming Corporate Purpose and Duties of the Corporate Board* (2020)
Sustainability due diligence is crucial to achieving change

Research Group **Companies, Markets & Sustainability** (the Company Law Group):
[www.jus.uio.no/companies](http://www.jus.uio.no/companies)

@BeateSjafjell
@CompanyLawGroup #SMARTLegacy #FuturingNordics