

## EU Seeks to Supercharge Sustainable Battery Investment

***The EU has implemented a range of measures to promote the sustainability and competitiveness of the battery value chain.***

Batteries play a crucial role across key sectors of the global economy and society, helping to mobilise and scale intermittent renewable energy sources such as wind and solar. Given the strategic importance of batteries in realising the [European Green Deal Industrial Plan](#), the EU has implemented a range of measures and proposed amendments to existing legislation in order to promote the sustainability and competitiveness of the battery value chain. The EU also aims to address concerns regarding the potential impact of the rising demand for batteries on the environment and stakeholders along the value chain. Accordingly, the European Commission published a legislative proposal for a new EU Batteries Regulation.<sup>1</sup> The EU Batteries Regulation will replace and modernise the existing [Batteries Directive 2006/66/EC](#), which governs the EU's strategy, including but not limited to, the production and disposal of batteries.

Although the EU Batteries Regulation will not apply automatically to manufacturers in the UK, any UK manufacturer looking to sell its batteries in the EU will need to comply with the requirements. The EU Batteries Regulation may also provide a benchmark for further initiatives under the [EU's sustainable product policy](#) and for the global battery market. For example, the UK government has already indicated that it intends to strengthen its battery regulations, potentially introducing legislation that requires battery manufacturers to use recycled materials and promoting research and development in sustainable battery technology.

To prepare for the EU Batteries Regulation, Economic Operators (as defined below) will need to update their current compliance procedures and product conformity processes to ensure compliance with the new requirements, including from a production, labelling, waste management, and due diligence perspective. In addition, Economic Operators should ensure they implement a proper CE-marking conformity assessment procedure.

This Client Alert analyses the scope and aims of the EU Batteries Regulation, and explains the implications for all companies operating at each stage of the battery value chain in the EU market. The Alert also provides a graphic showing the key dates of the proposed legislation.

## EU Batteries Regulation

### Who does it apply to?

The EU Batteries Regulation will impact all “Economic Operators”, which is defined in the EU Batteries Regulation as manufacturers, producers, importers, and distributors of all types of batteries which are placed on the EU market and are independent of origin. As such, the EU Batteries Regulation will also apply to batteries manufactured outside of the EU and made available for sale within the EU.

Unlike the existing Batteries Directive, the EU Batteries Regulation will be directly applicable across the EU, limiting the scope for individual EU countries to implement the legislation in diverse ways.

### What does it apply to?

The EU Batteries Regulation applies to all batteries — namely portable batteries, automotive batteries, electric vehicle batteries, industrial batteries, and any batteries used for energy storage. It will also apply to batteries incorporated in or added to other products (e.g., laptop batteries), although some exceptions will apply (e.g., batteries in equipment connected with the protection of Member States’ essential security interests, arms, munitions and war material that is intended for specifically military purposes, and equipment designed to be sent into space).

### What are the main aims and principal areas of focus?

The EU Batteries Regulation will address the entire battery life cycle, from the acquisition of raw materials needed for battery production and the design and manufacture process to battery use and battery disposal/recycling. It also seeks to add responsible-sourcing obligations for all manufacturers looking to operate in the EU market. This initiative will impact all companies manufacturing and selling batteries, as well as investors and lenders involved in or considering battery projects.

Other main aims include:

- ensuring stronger sustainability, performance, and labelling requirements;
- implementing a due diligence policy to address social and environmental risks;
- requiring more stringent targets for waste collection, recycling efficiency, and material recovery; and
- creating a framework for portable batteries in appliances to be easier to replace.

### What are the implications for Economic Operators?

#### Due diligence

The EU Batteries Regulation will introduce a due diligence regime which seeks to ensure that the production of batteries (particularly the extraction and processing of key minerals and materials) does not negatively impact human as well as social and labour rights.

All Economic Operators placing batteries on the EU market, except for SMEs, must develop and implement a “due diligence policy”, consistent with international standards (such as the [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals for Conflict-Affected and High-Risk Areas](#)) to address the social and environmental risks linked to sourcing, processing, and trading raw materials and secondary raw materials.

## Safety

The EU Batteries Regulation introduces a new restriction on the use of lead in portable batteries (whether or not they are incorporated into appliances). Additionally, it expands existing restrictions on mercury and cadmium for use in batteries, and gives the European Commission powers to restrict further substances in the future. Electric vehicle batteries will have to comply with the restrictions on the use of hazardous substances, the requirements concerning the carbon footprint of batteries, and the content of recyclates in such batteries.

## Sustainability

Initially, manufacturers will need to calculate the carbon footprint for each battery model produced in the manufacturing plant and include this information in the battery carbon footprint declaration. As a final step, the EU Batteries Regulation will introduce maximum carbon footprint levels that batteries must not exceed during their life cycle.

The EU aims to ensure that batteries, at the end of their life, are repurposed, remanufactured, or recycled, feeding valuable materials back into the economy. Initially, the EU Batteries Regulation will require manufacturers to indicate the content of certain recycled materials in the documentation for batteries, following which the manufacturers will need to comply with minimum recycled content requirements for these materials, as follows:

<b>Collection targets for recycled batteries</b>	<i>Portable batteries</i>	<ul style="list-style-type: none"> <li>• 45% by 2023</li> <li>• 63% by 2027</li> <li>• 73% by 2030</li> </ul>
	<i>Lightweight means of transport (LMT) batteries</i>	<ul style="list-style-type: none"> <li>• 51% by 2028</li> <li>• 61% by 2031</li> </ul>

All waste LMT; electric vehicle; starting, light, and ignition (SLI); and industrial batteries must be collected, free of charge for end-users, regardless of their nature, chemical composition, condition, brand, or origin.

Additionally, mandatory minimum levels of recycled content will be set for 2030 and 2035, as follows:

<b>Minimum levels of recycled content</b>	
<i>As of 1 January 2030:</i> <ul style="list-style-type: none"> <li>• 12% cobalt</li> <li>• 85% lead</li> <li>• 4% lithium</li> <li>• 4% nickel</li> </ul>	<i>As of 1 January 2035:</i> <ul style="list-style-type: none"> <li>• 20% cobalt</li> <li>• 85% lead</li> <li>• 10% lithium</li> <li>• 12% nickel</li> </ul>

## Supply chain

Economic Operators who place certain rechargeable industrial batteries and electric vehicles batteries (over 2kWh) will need to adopt due diligence policies for supply chains of cobalt, natural graphite, lithium, nickel, and other chemical compounds. They will also need to establish and operate a system of controls and transparency to incorporate supply chain policies into their agreements with suppliers (including risk management measures) which are consistent with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals for Conflict-Affected and High-Risk Areas.

In addition to the requirements under the EU Batteries Regulation, a considerable amount of additional legislation has been or will be implemented in the EU and in Member States. The legislation requires companies to disclose information and implement policies with respect to their supply chains (e.g., the proposed Corporate Sustainability Due Diligence Directive, the German Supply Chain Act, the French Duty of Vigilance Law, and the Conflict Minerals Regulation).

## Technical

“Portable batteries of general use” must meet the electrochemical performance and durability requirements set out in the EU Batteries Regulation.

Since the EU Batteries Regulation is part of the EU’s CE-marking regime,<sup>2</sup> manufacturers must carry out a conformity assessment and put a CE-marking on their batteries before placing them on the EU market. All batteries will need to be CE-marked to demonstrate conformity with health, safety, and environmental protection standards.

## Battery passport

The EU Batteries Regulation introduces several labelling requirements, including a so-called “battery passport”, which will be an electronic battery record containing information about the battery. All batteries will have to be marked with a QR code linking to a website that contains information on:

- the manufacturer’s identification;
- the battery category and certain traceability information;
- carbon intensity;
- the manufacturing location;
- capacity;
- chemistry; and
- certain critical raw materials.

The battery passport will require companies that sell batteries to provide extensive data on their electricity storage system. The European Commission’s plans call for around 120 data points. For example, companies will have to record details about charging and discharging cycles or about the temperatures to which the component has been exposed and for how long. In addition, the entire carbon footprint of the battery must feature in the passport, from material extraction in mining to production and recycling.

## Waste management

The EU Batteries Regulation will oblige electric vehicle manufacturers to set up a scheme for recovering used batteries from end-users. Battery producers are also required to participate in certain costs associated with battery waste management. Additionally, batteries will need to be available as spare parts for a minimum of five years.

## Key Dates for Economic Operators

### 2024

#### 1 July

Electric vehicle batteries and rechargeable industrial batteries with internal storage and a capacity above 2 kWh shall be accompanied by a carbon footprint declaration.

### 2025

#### Mid-year

System of extended producer responsibility established, in which battery producers are to participate in certain costs associated with battery waste management.

### 2026

#### 1 January

Each industrial battery and electric vehicle battery whose capacity is higher than 2 kWh shall have a battery passport which identifies the battery through a unique identifier and provides key data points (see above).

#### September / October

(i.e., 42 months after entry into force of the EU Batteries Regulation)  
Producers marketing devices incorporating:

(1) portable batteries must ensure that the batteries are “**readily removable and replaceable**” by the “**end user**” (i.e., not an independent professional)<sup>[2]</sup> at any time during the lifetime of the device and must be accompanied by instructions and safety information on the use, removal, and replacement of the batteries. This information must also be permanently available online; or

*[2] There are some exceptions to this rule where portable batteries are designed in such ways as to make their batteries removable and replacement only by independent professionals in order to ensure the safety of the user and the appliance.*

(2) LMT batteries and the battery cells included in the battery pack in the EU/EEA must ensure that the batteries are readily removable and replaceable “**at any time during the lifetime**” of the device by an “**independent professional**”.

### 2027

#### Around July

Maximum carbon thresholds in batteries will be implemented.

### 2030

#### 1 January

Industrial batteries, electric vehicle batteries, and automotive batteries with internal storage and a capacity above 2 kWh shall contain a specific percentage of recycled materials, which is set to increase in 2035.

The EU Batteries Regulation will introduce enhanced obligations for the separate collection of waste batteries (with a 73% collection target by 2030 for portable batteries and a requirement to ensure there is no loss for all other batteries) and a total prohibition on landfilling waste batteries.

#### By 31 December

The Commission will assess whether to phase out the use of non-rechargeable portable batteries of general use.

## Managing Transparency and Confidentiality

We anticipate that parties will be concerned about balancing the protection of confidential and commercially sensitive information with the enhanced disclosure and transparency rules. In certain circumstances, parties may seek to include contractual requirements and restrictions in both their supply and sale agreements in order to mitigate perceived negative consequences of supply chain information disclosure.

If a battery manufacturer's customers are largely EU-based companies (e.g., European OEMs), these entities will have their own legal obligations to report information in relation to their supply chains, and therefore are unlikely to permit contractual arrangements severely limiting their ability to make such disclosures. Indeed, supply chain partners that seek to impose such contractual restrictions may be commercially disadvantaged given the nature of the EU Batteries Regulation, if competitors do not require such contractual restrictions.

## Next Steps

The draft legislation has been approved by the relevant parliamentary committee but still needs the approval of the full chamber of the Parliament and the Council. While changes to the text are possible, we expect the definitive legislation to follow substantively the final draft.

The text of the provisional agreement on the EU Batteries Regulation can be found [here](#).

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#### Endnotes

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<sup>1</sup> Regulation of the European Parliament of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020 (the EU Batteries Regulation).

<sup>2</sup> The letters "CE" appear on many products traded on the extended Single Market in the European Economic Area (EEA). It signifies that products sold in the EEA have been assessed to meet high safety, health, and environmental protection requirements.