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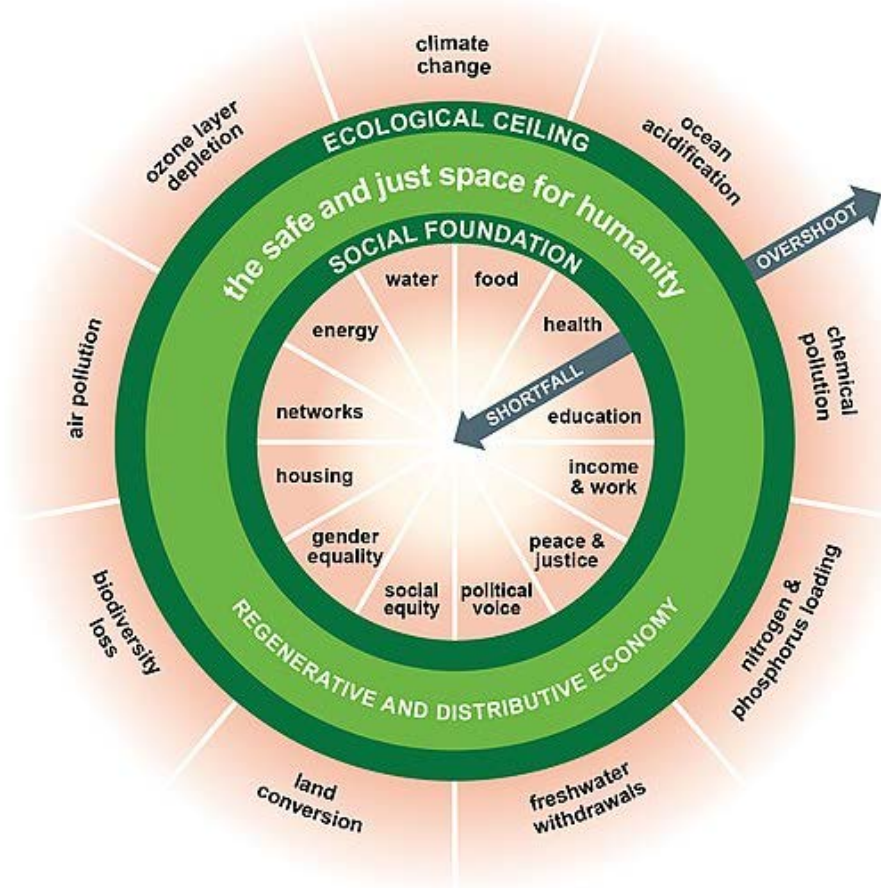
# **Sustainability Due Diligence**

## **Work-in-progress**

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Source: Raworth 2017;  
Leach, Raworth &  
Rockström 2013

# 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 [Action Plan on sustainable finance](#), Action 10 (2018)
- 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 & business risks of unsustainability (forward-looking risk management)
  - To begin the transition towards sustainable business (strategy; business model choice; decision-making)
  - As a basis for meaningful reporting (facilitating sustainable finance, sustainable public procurement, etc)
- A crucial step towards a sustainable future

# What should be encompassed in sustainability due diligence?

- Environmental issues
  - All planetary boundaries issues
  - Circularity – shifting towards sustainability
- Social issues
  - Human rights
  - Employment and labour issues
  - Social justice – shifting towards sustainability
- Governance issues
  - Anti-corruption, anti-bribery
  - Economic governance within a business; taxation
  - Consumer and competition issues
  - Economic justice – shifting towards sustainability

# The due diligence process

- All sustainability aspects and full scope of business
- Include open and participatory processes with affected communities and groups; dynamic process
- Identify negative sustainability impacts and principal risks of future negative sustainability impacts
- Resolve identified lack of legal compliance
- Basis for ambitious plan for continuous improvement
- Select relevant quantitative and qualitative KPIs
- Follow up: annual reporting and enforcement

# OECD Due Diligence Guidance

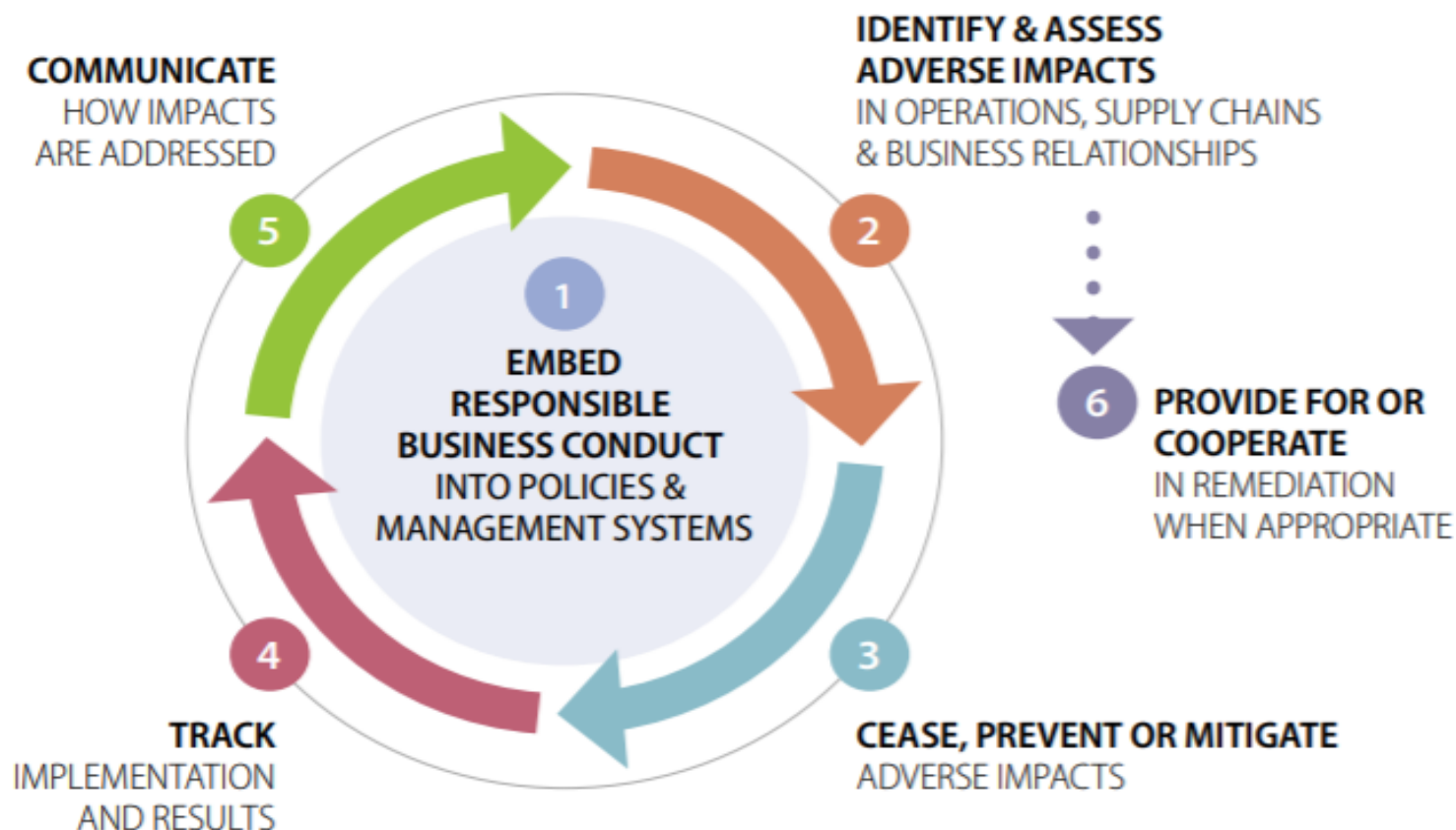
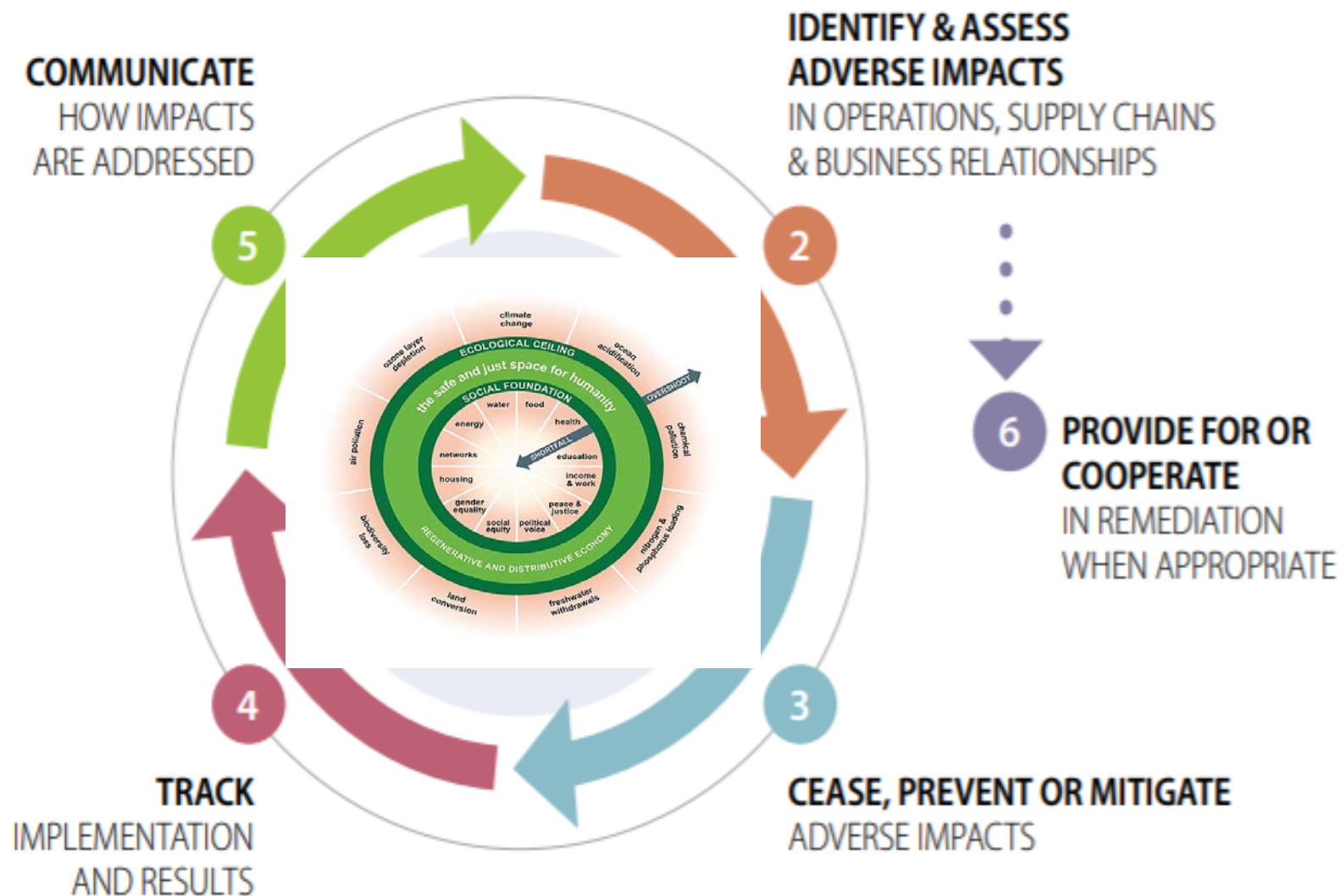


Figure 1, OECD DD Guidance, 2018



Adapted from Figure 1, OECD DD Guidance, 2018



## How should 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

# Further reading

- L. Smith et al., [Study on due diligence requirements through the supply chain](#) (2020)
- L. Smith & C. Bright, [The concept of a ‘safe harbor’ and mandatory human rights due diligence](#) (2020)
- B. Sjøfjell, [Sustainable Value Creation Within Planetary Boundaries—Reforming Corporate Purpose and Duties of the Corporate Board](#) (2020)
- B. Sjøfjell et al., [Securing the Future of European Business](#) (2020), Section 6.2.1 for detailed proposal
- [OECD Due Diligence Guidance for Responsible Business Conduct](#) (2018)

# Sustainability due diligence is crucial to achieving change

Research Group **Companies, Markets &  
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