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COVER NOTE

From:	Presidency
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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting - Summary of stakeholder feedback on the CSRD proposal – Information from the Commission

Delegations will find attached, for information, a summary of stakeholder feedback on the CSRD proposal prepared by the Commission.

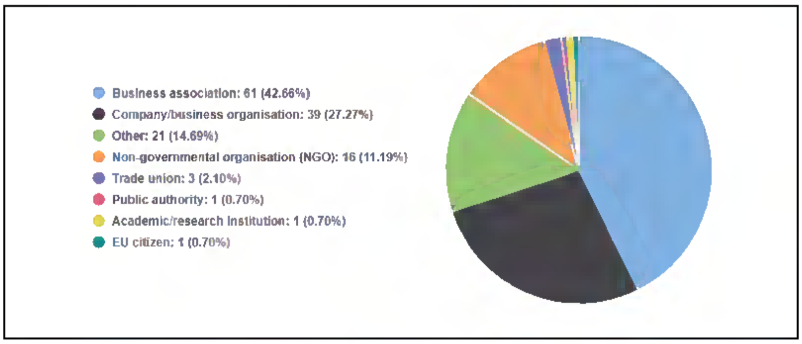
Stakeholder feedback on the European Commission's proposal for a Corporate Sustainability Reporting Directive

CONTENTS

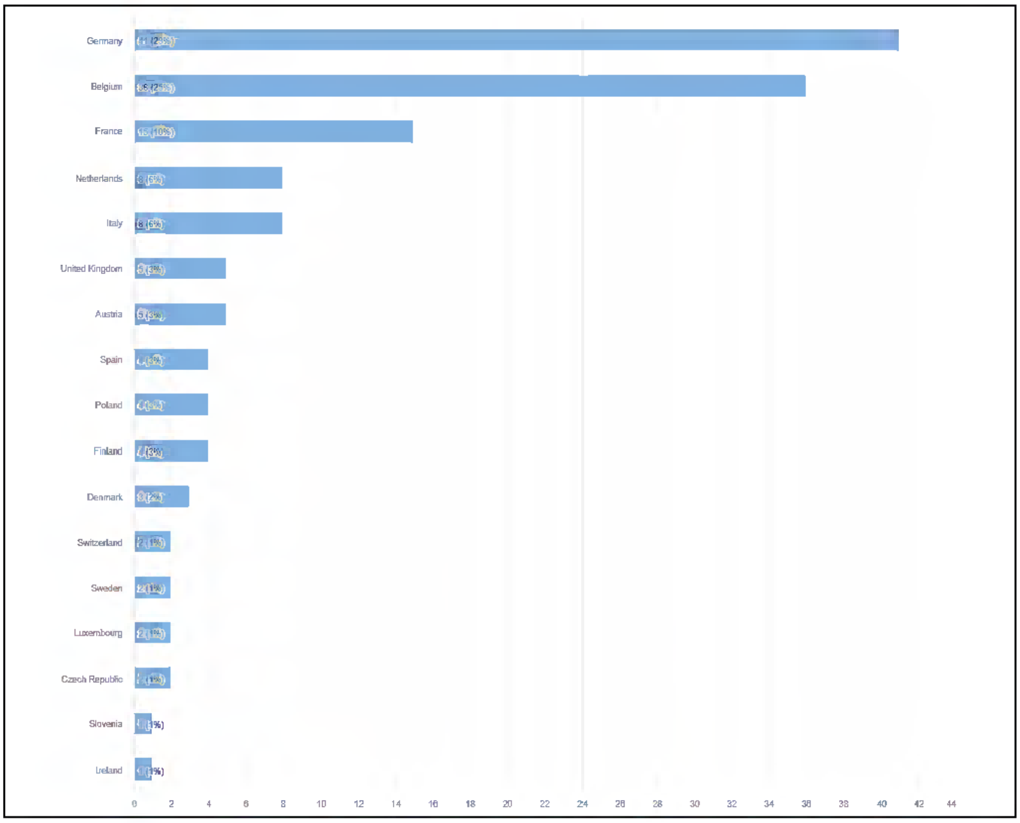
1. BACKGROUND

The European Commission adopted its proposal for a Corporate Sustainability Reporting Directive (CSRD) on 21 April 2021. The stakeholder feedback period was open from 26 April to 14 July 2021. The Commission received 146 responses to the call for feedback.

Responses by category of respondent



Responses by country



2. SUMMARY OF FEEDBACK RECEIVED

This summary is organised according to the principal recurring themes raised by respondents. Within each theme, the views of different stakeholder groups are highlighted as appropriate.

2.1. Scope (which companies should report?)

2.1.1. General considerations about scope

The CSRD proposal would extend sustainability reporting requirements to all large companies and all listed companies, including listed SMEs (with the exception of listed micro enterprises). The existing reporting requirements introduced by the Non-Financial Reporting Directive apply to large public interest entities (banks, insurance undertakings, and listed companies) with more than 500 employees.

Many respondents (audit profession, civil society, trade unions, financial sector, insurance industry) welcomed the proposed extension of the scope.

A number of respondents from civil society, trade unions and the financial sector called for the scope to be further extended to non-listed SMEs operating in sectors deemed to have high sustainability risks and impacts. Trade unions and some civil society organisations proposed to extend the scope to all SMEs.

A number of respondents from business associations, civil society, trade unions and the financial sector proposed to include in the scope non-EU companies that are not legally established in the EU but that nevertheless do a significant amount of business in the EU.

Many business associations opposed the proposed extension of the scope to large non-listed companies and listed SMEs, considering that it was not proportionate. Some business associations made specific proposals regarding the scope, such as introducing a 1.000 employee threshold, exempting non-listed companies from having to report sustainability information from a financial materiality perspective, and phasing in requirements for some categories of companies.

Some respondents called for the proposal to take particular account of the cooperative business model.

Some respondents from the financial sector called for investment funds that are subject to the reporting requirements of the SFDR to be exempt from the reporting requirements under the proposed CSRD. Some financial sector respondents argued that the thresholds of balance sheet and turnover to distinguish large companies and SMEs are not appropriate for banks and insurance undertakings. Some financial sector respondents also argued that banks should only have to report with respect to EU exposures, on the grounds that non-EU counterparties would not be reporting the necessary corresponding information.

2.1.2. SME standard

The CSRD proposal provides for the development of separate, proportionate reporting standards for SMEs. Listed SMEs would be able to choose to apply the SME standards or the full standards. Non-listed SMEs would be free to use the SMEs standards on a voluntary basis.

Some respondents (business associations, financial sector, audit profession) welcomed the idea of separate, proportionate reporting standards for SMEs. Some business associations questioned whether large companies would accept the information reported by SMEs under such standards. They also expressed concern that voluntary standards would in the future become mandatory, and that SME standards might be designed from the perspective of large company needs rather than taking into consideration the capacity and circumstances of SMEs.

Some business associations that represent SMEs proposed that they should be able to report collectively on behalf of their members.

Some respondents argued the SME standards should be developed before, or at the same time as, the standards for larger companies, so that the market would not impose certain expectations on SMEs in the meantime.

Some business associations called for clarity about which kinds of SMEs the standards would serve, in particular whether they would be primarily for listed or for non-listed SMEs.

Some business associations and financial sector respondents called for direct support to assist SMEs with sustainability reporting.

Some respondents argued that a parent undertaking that is an SME should not be able to report against the SME standards if the group is larger than an SME on a consolidated basis.

2.1.3. Subsidiary exemption and equivalence regime

The CSRD proposal maintains and clarifies the exemption that exists in the current Non-Financial Reporting Directive, whereby the subsidiary of a parent company is exempt from the reporting obligation if the parent company reports on a consolidated basis for the group as a whole. The proposal also provides for the possibility of granting equivalent status to the sustainability reporting requirements of third countries.

Many respondents from business associations and companies welcomed that the fact that proposal maintains the current exemption for subsidiaries if the parent company reports for the group as a whole on a consolidated basis. Some of them called for the possibility to submit a single joint report regardless of the group’s structure.

A number of civil society respondents considered that the full exemption of subsidiaries may not be appropriate, arguing that impacts on sustainability matters, including human rights, play out at the local level. Some respondents from the audit profession also opposed the subsidiary exemption.

A number of business associations expressed support for the possibility of granting equivalence to third country reporting requirements. Some called for such equivalence to be granted to other international standards, and others questioned whether any decision on equivalence would really be possible in practice given the granularity of EU requirements.

2.2. Content (what information should companies report)?

2.2.1. *General considerations about content, reporting areas and sustainability topics*

The CSRD proposal introduces more detailed reporting requirements than those introduced by the Non-Financial Reporting Directive. It defines a more detailed and comprehensive list of reporting areas to be covered. It requires companies under scope to report according to EU sustainability reporting standards, and defines the sustainability topics that those standards should cover.

Many business associations and some individual companies called for the content of reporting requirements (especially the standards) to be proportionate, not excessively detailed, and to focus only on the real information needs of the intended audiences. Some argued that reporting companies should retain the flexibility to decide what to report. They stated some of the proposed reporting areas and topics would be very challenging, especially for companies that report for the first time, and that they saw a risk of excessive burden on reporting companies. They highlighted particular concerns about disclosure requirements on intangibles, the value-chain, and forward-looking information, amongst others. Some respondents called for the phasing-in of supply-chain reporting. They stressed the importance of sector-specific reporting requirements, and of the need to build on existing reporting frameworks.

Some respondents from the financial and insurance sector expressed support for the proposed extension of reporting areas and sustainability topics, including with regard to targets, forward-looking information and governance. Some financial sector respondents supported the requirement to report on intangibles, while others expressed caution or opposed the requirement. Some financial sector respondents called for recognition of the particular situation of financial institutions that have exposures to non-EU counterparties, since such counterparties would not be under an obligation to report sustainability information that corresponds to EU law.

Trade unions called for a minimum list of specific human and labour rights against which companies should report, and for more detailed references to EU labour law and to international instruments, including those of the International Labour Organisation. They also called for a more detailed listing of social issues. They argued that there should be stronger reporting requirements on workforce related issues, and that such reporting should be done on a country-by-country basis. They also argued that trade unions should be given formal consultation rights in the reporting process at company level.

Civil society organisations generally supported the content of the reporting requirements while arguing that they should go further in a number of areas. Civil society organisations welcomed the requirement to report forward-looking information, especially in terms of Paris-alignment, and argued that a stronger approach was needed regarding net-zero commitments and science-based targets. They also argued that stronger and more detailed reporting requirements were needed in the areas of human rights and governance, amongst others. Some civil society organisations called for a requirement to report on animal welfare issues.

2.2.2. *Materiality*

The CSRD proposal clarifies the "double materiality" reporting requirement that was introduced by the Non-Financial Reporting Directive. It means that companies should report information about how sustainability matters affect the company (outside-in perspective), and information about the company's impacts on people and the environment (inside-out perspective).

Civil society respondents were generally very supportive of double materiality reporting. Some business representatives were sceptical about the usefulness of double materiality reporting, arguing that the sustainability risks to the company (financial materiality) are more important and should be the starting point. Many respondents, in particular from industry and financial institutions, emphasised the need for further clarification of double materiality, including linking it to the EU taxonomy. Some respondents stressed that materiality should be defined in terms of the decision usefulness of reported information, and that this should be determined by the company.

2.2.3. Coherence with EU legal framework

The CSRD proposal requires EU reporting standards to take account of relevant EU legislation, including the Taxonomy Regulation, the Sustainable Finance Disclosure Regulation.

Many respondents (trade associations, individual companies, financial sector, insurance sector, audit profession, standard setters, civil society, trade unions) called for the reporting requirements of the CSRD to be coherent and consistent with other EU legislation.

Respondents emphasised in particular the need for coherence with the Taxonomy Regulation, the Sustainable Finance Disclosure Regulation and the forthcoming Sustainable Corporate Governance Initiative.

2.2.4. Coherence with global standards and initiatives

The CSRD proposal requires EU reporting standards to take account of global standard-setting initiatives for sustainability reporting, and of standards and frameworks for natural capital accounting, responsible business conduct, corporate social responsibility, and sustainable development.

Many respondents (trade associations, individual companies, financial sector, insurance sector, auditing profession, standard setters and NGOs) called for alignment between EU and global standards. Some respondents referred to the need for a common global baseline for sustainability reporting standards, on which the EU should build as necessary.

Many respondents considered that close cooperation with the future International Sustainability Standards Board is key to reach as much alignment as possible between EU and global standards. Many respondents, especially from business associations and the financial sector, proposed that EU standards should build on existing frameworks and standards such as TCFD, GRI and SASB. Some business associations also referred to the World Economic Forum and UN Global Compact.

Civil society organisations called in particular for coherence with international instruments such as the UN Guiding Principles on Business and Human Rights, the UN Sustainable Development Goals, and the OECD Due Diligence Guidance for Responsible Business Conduct.

2.3. Standards development

The CSRD proposal provides that the Commission can adopt delegated acts containing European sustainability reporting standards. When adopting such delegated acts, the Commission would have to take into consideration technical advice from the European Financial Reporting advisory Group (EFRAG), provided such advice has been developed with proper due process, public oversight and transparency and with the expertise of relevant stakeholders.

A number of respondents (audit profession, business associations, individual companies) welcomed the proposal that the EFRAG should develop draft European sustainability reporting standards. One business association expressed scepticism concerning the role of EFRAG as an independent standard-setter, on the grounds that the final content of the standards would ultimately be decided by EU institutions.

Many respondents mentioned that proper due process, transparency, and effective balanced representation in EFRAG are crucial. Civil society, trade unions and business respondents emphasised that they should have a strong role in the development of standards.

Civil society and trade unions argued that the governance procedures for sustainability reporting standards should be defined in more detail in the CSRD, and that the Commission should define the composition of the relevant bodies within EFRAG. One civil society respondent argued that membership of EFRAG should not be subject to a fee.

A large number of respondents (audit profession, business associations, individual companies, financial and insurance sector) called for the standards to build upon existing international initiatives and frameworks.

Some respondents (business associations, individual companies) called for the standards not to be adopted in the form of delegated acts but be part of the CSRD itself. One business association called for the standards to be developed following conclusion of the legislative process.

Some business respondents highlighted the importance to ensure close dialogue with preparers and more specifically first time preparers. Some business associations stressed the importance of taking account of sector specificities in the standards development process.

Some respondents expressed concerns about the timeline for the standards development process. One business association commented that the EU should bring additional financial support to the standards development process.

2.4. Timeline

The CSRD proposal foresees that the provisions shall apply for financial years starting on or after 1 January 2023. It also foresees adoption of a first set of sustainability reporting standards by October 2022.

Many respondents (business associations, individual companies, financial sector, insurance sector, audit profession, standard-setters) commented that the proposed timeline was very ambitious and challenging, and in some cases they questioned whether it was realistic.

Respondents referred to the time for companies to prepare for the new requirements, in particular the time between the proposed adoption of standards and their application by companies. They considered that this was especially challenging for companies which are not currently subject to any substantial sustainability reporting requirements. They expressed concern about the time needed for recruitment staff and set internal information collection and IT systems. One business association proposed that the development of standards should only begin after the co-legislators reach agreement on the CSRD itself.

Some respondents (business associations, individual companies, audit profession) called for an implementation period of between 1 and 3 years, and proposed that the date of entry into force of reporting obligations should be dependent on the final date of adoption of standards. Some respondents proposed a gradual expansion of the scope, starting with companies already subject to the requirements of the Non-Financial Reporting Directive and then applying the requirements to other categories of companies at a later time.

Some financial sector and insurance respondents considered that the timeline was generally appropriate, in view of the disclosure requirements in financial market participants under the Sustainable Financial Disclosure Regulation (SFDR). A number of financial sector respondents proposed to start with requirements to disclose the information that financial market participants would need to meet their obligations under the Sustainable Financial Disclosure Regulation, and to phase in other reporting requirements in following years. Some financial sector respondents also called for a sequencing, so that the financial sector would only be subject to the requirements 12 months after non-financial companies.

Some respondents stated that the timeline for transposition into national law was very short. Other respondents referred to the challenge of preparing for the introduction of assurance requirements within the proposed timeline.

2.5. Assurance

The CSRD proposal introduces an assurance requirement for reported sustainability information. The requirement is for “limited” assurance, which would become a “reasonable” assurance requirement when the Commission adopts a delegated act containing a standard for the reasonable assurance of sustainability information.

Most respondents from the audit profession and the financial sector welcomed the proposal to start with limited assurance and later to move to reasonable assurance. Some business associations and companies supported a limited assurance engagement but opposed the idea of moving to reasonable assurance. Several business associations and insurance companies believe the transition to reasonable assurance should not be automatic, and that a minimum period of time should pass before the requirements change.

Some business associations and companies support the need for a transitional period in the entry into application of the assurance requirements, especially for first time reporters, and even exempting non-listed companies from the assurance requirement.

Some business associations welcome the possibility to have other independent assurance service providers assuring sustainability reporting. Some respondents from the audit profession and business associations raised the importance of having minimum requirements of independence, competence, quality controls, oversight and adherence to assurance standards on independent assurance service providers, so that all firms or persons providing assurance on sustainability reporting are subject to consistent requirements.

Some respondents from the audit profession believe ISAE 3000 together with the recent IAASB developments on Extended External Reporting, is a suitable starting point for carrying out the assurance of sustainability reporting.

Many civil society respondents called for a reasonable assurance requirements from the start, and some suggested that this should apply only to certain disclosed elements, such as GHG emissions.

2.6. Location (in management report or separate report)

The CSRD proposal requires the sustainability information to be reported as part of the management report. The existing provision introduced by the NFRD allow Member States to allow companies to report the information in a separate report.

Many business associations and respondents from the financial sector and insurance industry, as well as some individual companies, opposed the requirement to include all sustainability information in the management report, citing amongst other things the perceived risk of overloading management reports with too much information.

Respondents from the audit profession and trade unions, and some individual companies, supported the requirement to disclose all mandatory sustainability information in the management report.

2.7. Digitalisation

The CSRD proposal requires companies to digitally tag reported sustainability information in accordance with a digital taxonomy.

Many respondents (business associations, companies, audit profession, financial sector, civil society) supported the goal of having sustainability information in a single electronic format and accessible through a single access point. Some respondents proposed the single access point should also allow for information published on a voluntary basis. Many business associations and companies called for sufficient time to implement the requirements, and stressed the need for proportionality. Some respondents raised doubts about the tagging of qualitative information.

2.8. Enforcement and penalties

The CSRD proposal introduces a minimum set of sanctions for non-compliance.

Some respondents (business associations, individual companies, financial and insurance sector and standards setter) agreed with the penalties proposed, provided they are proportionate. Other respondents call for a gradual approach to sanctions, such as a year grace period. Some civil society respondents advocated for stronger penalties.

2.9. Costs and benefits

Many respondents (business, financial sector, civil society, trade unions, audit profession and others) strongly welcomed the proposal. Respondents from the financial sector, civil society and trade unions, as well as some business representatives, welcomed the proposal as a very significant and necessary step towards the creation of a sustainable financial system and a sustainable economy more generally. Respondents from the financial sector stressed that the proposal was a necessary conditions for them to meet be able to meet their own disclosure requirements under EU law. Respondents from the audit profession argued that the proposal would lead to a major and welcome transformation in corporate reporting.

Some respondents (business associations, representatives of SMEs and other companies) argued that the CSRD could lead to very significant administrative burden for reporting companies, and also for SMEs and co-operative businesses in the supply chain. Some respondents called for the phasing-in of supply-chain reporting. Some respondents argued that the proposal could harm the international competitiveness of European companies compared to non-EU companies not subject to similar requirements.

Respondents pointed out different drivers of costs e.g. the collection of information, changes to the organisation of business, assurance, digital tagging, and disclosure. Some respondents stressed the need to consider the cumulative costs of new reporting obligations, stemming not only from CSRD but also the Taxonomy Regulation. Some respondents expressed concerns about the burden for newly established companies and those newly brought into the scope for CSRD.