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### WORKING PAPER

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### **WORKING DOCUMENT**

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From:	General Secretariat of the Council
To:	Working Party on Company Law (Sustainability information)
N° Cion doc.:	8132/21
Subject:	CSRD proposal - Intangibles

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Delegations will find attached some examples provided by the Commission of what information on intangible resources would be considered related to sustainability matters vs. what information on intangible resources would not be considered related to sustainability matters.

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**Examples** of information on intangible resources that would be considered related to sustainability matters vs. information on intangible resources that would not be considered related to sustainability matters

In the recital of the current CT you can find some examples of intangible resources related to sustainability matters:

- (28) Directive 2013/34/EU does not require the disclosure of information on intangibles other than intangible assets recognised in the balance sheet. It is widely recognised that information on intangible assets and other intangible factors, including internally-generated intangibles, is underreported, impeding the proper assessment of an undertaking's development, performance and position and monitoring of investments. To enable investors to better understand the increasing gap between the accounting book value of many undertakings and their market valuation, which is observed in many sectors of the economy, adequate reporting on intangibles should be required. Some of this information is closely linked to sustainability reporting. It is therefore necessary to require undertakings to disclose information on intangible resources related to sustainability matters alongside their sustainability reporting. **This category of information normally includes information about employees' skills, competencies, experience, loyalty to the undertaking and motivation for improving processes, goods and services, commonly named 'human capital' by recognised international frameworks such as the IIRC and the WICI in its Intangibles Reporting Framework Consultation Draft; and information about the quality of the relationships between the undertaking and its stakeholders, including customers, suppliers and communities affected by the activities of the undertaking, commonly named 'social and relationship capital' by such frameworks.**

The disclosure requirement in the CSRD focuses on intangible resources related to sustainability matters on which the business model of the undertaking fundamentally depends.

This means that the same type of resource could relate to sustainability matters in some cases but not in others. For example:

- Intellectual property, including patents, copyrights, software and licences:
  - o No disclosure will be required under the CSRD about a patent on a videogame, a legally protected trademark of a whisky producer, a copyright over a (non-sustainability related) publication, or an architectural plan for example, as they do not relate to sustainability matters.
  - o However, a patent on a low carbon technology for example, clearly relates to sustainability matters (mainly environmental). In this case, if the business model of the undertaking fundamentally depends on this resource, and if this resource is a source of creation of the value of the undertaking, these two points would need to be explained by the undertaking according to the CSRD in its sustainability reporting.

It is not relevant in the context of the CSRD that these intangible resources might be recognised assets in the balance sheet.<sup>1</sup> In the given example, there is a clear link with sustainability matters, and therefore additional narrative information about how the business model depends on these intangible resource is needed within sustainability reporting. It would not make sense to explicitly exclude from sustainability reporting narrative disclosures about intangible resources only because there are already figures included in the financial statements. This would contradict the efforts to foster connectivity between financial and sustainability information, a connectivity that is required in Article 19a(3) itself: 'Where appropriate, the information referred to in paragraphs 1 and 2 shall also contain references to, and additional explanations of, other information included in the management report in accordance with Article 19 and amounts reported in the annual financial statements.'

- Brand value:
  - o No disclosure will be required under the CSRD about brand value in the case of a company whose brand value does not depend to a significant extent on sustainability matters. This could be the case, for example, of a publishing company or a software development company.
  - o However, the brand value of companies in some sectors could be strongly related to sustainability matters. This could be the case, for example, for a clothing company or for companies in the energy sector. In such a case, the company subject to the CSRD would be expected to explain how its sustainability performance contributes to its brand value.

Other examples of intangible resources not related to sustainability matters would be computer software, internet domains , newspaper mastheads, video and audio-visual material (e.g. motion pictures, television programmes), or mortgage servicing rights.

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<sup>1</sup> The disclosure requirements under IAS38 on intangible assets mainly relate to information about useful life, amortisation and the reconciliation of carrying amounts from the beginning to the end of the reporting period, etc. Disclosures do not cover the dependency of the business model on these intangible assets.