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NOTE

From:	General Secretariat of the Council
To:	Working Party on Company Law (Sustainability information)
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Delegations will find attached a Presidency note with a view to the Working Party meeting on 5 May 2022.

WK 6219/2022 INIT

LIMITE

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PRÉSIDENTIE FRANÇAISE DU CONSEIL DE L'UNION EUROPÉENNE

Note de la Présidence

Groupe Droit des sociétés du 5 mai 2022

Proposition de directive relative à la publication d'informations en matière de durabilité par les entreprises

Chers collègues,

Lors de notre groupe de travail « Droit des sociétés » du 5 mai, nous échangerons sur de possibles pistes de compromis avec le Parlement sur les thèmes identifiés dans cette note. Des tours de table seront organisés à la fin de chaque thématique afin de recueillir vos réactions, et vos commentaires écrits sont les bienvenus.

A. Assurance de durabilité

- Présentation du non-papier du Parlement
- Présentation de pistes de réflexion du Conseil

B. Petites et Moyennes Entreprises (PME) et proportionnalité

- Etat des lieux
- Amendements en faveur de la proportionnalité du reporting notamment des PME

C. Exemption des filiales

- Etat des lieux
- Questions pour les Etats membres :
 - o Y a-t-il des critères pertinents pour l'exemption de certaines filiales (nombre d'employés ; cotation sur un marché réglementé ; entités d'intérêt public ; secteur d'activité) ?
 - o Faut-il privilégier des indicateurs portant sur les différentes filiales au sein du reporting consolidé ?
 - o Alternativement, devrions-nous privilégier un reporting pays par pays (comme demandé par le Parlement à la ligne 161bis) ?

D. Contenu des standards

La présidence fera trois tours de table, en abordant pour chacun les exigences de reporting, le contenu des standards et les considérants correspondants.

a. Intangibles

b. Aspects sociaux

c. Aspects environnementaux

d. Gouvernance et autres aspects

E. Aspects ayant fait l'objet d'une délégation au niveau technique lors du trilogue du 25 avril

- Préparation des standards de reporting
- Localisation et format du reporting
- Articulation avec les autres initiatives législatives de l'UE

ANNEXE N°1

Ne sont présentés ci-dessous que de possibles idées de compromis faisant évoluer le texte du Conseil. Elles n'ont pas été examinées avec la Commission préalablement à leur envoi. Les modifications soumises ci-dessous sont sans préjudice des autres aspects du texte du Conseil. Par exemple, le Conseil a souhaité compléter le considérant 10 tandis que le Parlement ne l'a pas modifié : la Présidence continue de défendre cet amendement mais ne le rappelle pas aux Etats membres dans la présente annexe.

Petites et Moyennes Entreprises (PME) et Proportionnalité du reporting

Numéro de ligne	Possible texte de compromis
39a	(29a) For reporting purposes, Articles 19a(1) and 29a(1) of Directive 2013/34/EU should not require undertakings to publish confidential information, in accordance with Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (Trade Secrets Directive).
50	(40) It should be ensured that the information reported by undertakings in accordance with the sustainability reporting standards meet the needs of users and do not place a disproportionate burden in effort and costs on those reporting. The reporting standards should therefore specify the information that undertakings are to disclose on all major environmental factors, including their impacts and dependencies on climate, air, land, water and biodiversity. [...]
134	[...] that any necessary translation into those languages is certified.
149	2. The sustainability reporting standards referred to in paragraph 1 shall ensure the quality and relevance of reported information, by requiring require that it the information to be reported is understandable, relevant, representative , verifiable, comparable, reliable and is represented in a faithful manner. The standards should avoid disproportionate additional administrative costs.
166	(iv) the management and quality of relationships with customers, suppliers and communities affected by the activities of the undertaking , including payment practices, especially towards SMEs;
188a	Member States are invited to assess the impact of their transposition acts on SMEs giving specific attention to small enterprises, in particular SMEs indirectly impacted by the Directive obligations, in order to ensure that they are not disproportionately affected, and to publish the results of such assessments. Member States may set up and operate measures, such as certified labels or financial support, to help SMEs apply voluntary sustainability reporting standards.
188b	Sustainability reporting standards for SMEs should set a reference for undertakings that are within the scope of the Directive regarding the level of sustainability information that they could reasonably request from SME suppliers and clients in their value chains.
242af	<i>Split of the text of the Council between Article 19a (line 126) and 29b (line 242af) since a part is an obligation on companies and not on defining the content of the standards.</i> 242 af (Article 29b) 2b. Standards shall also take account of the difficulties that undertakings may encounter in gathering information from actors throughout their value

	chain, especially from those which are not obliged to publish sustainability information pursuant to Article 19a or 29a of Directive 2013/34/EU and from suppliers in emerging markets and economies. Standards shall specify disclosures on value chains that are proportionate and relevant to the scale and complexity of the activities, and the capacities and characteristics of undertakings in value chains, especially those of undertakings that are not subject to the sustainability reporting obligations of Articles 19a or 29a of this Directive. <i>126 (Article 19a)</i> For the first three years of application of this Directive, in the event that not all the necessary information regarding the value chain is available, the undertaking shall explain the efforts made to obtain the information, the reasons why the information could not be obtained, and the plans of the undertaking to obtain such information in the future.
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Contenu des standards et Définitions

The EP showed flexibility on recitals related to social matters (rows #11, 12, 18) and to align text with the content of the articles (#19).

Numéro de ligne	Possible texte de compromis
11	(1) In its communication on the European Green Deal adopted on 11 December 2019¹, the European Commission made a commitment to review the provisions concerning non-financial reporting of Directive 2013/34/EU of the European Parliament and of the Commission Council.² The European Green Deal is the European Union's new growth strategy. It aims to transform the Union into a modern, resource-efficient and competitive economy with no net emissions of greenhouse gases by 2050. It also aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. The European Green Deal aims at decoupling economic growth from resource use, and ensuring that all regions and citizens of the Union participate in a socially just transition to a sustainable economic system so that no person and no place is left behind. It will contribute to the objective of building an economy that works for the people, strengthening the EU's social market economy, helping to ensure that it is future-ready and that it delivers stability, jobs, growth and sustainable investment. These goals are especially important considering the socio-economic damage caused by the COVID-19 pandemic and the need for a sustainable, inclusive and fair recovery. In its proposal of 4 March 2020 for a European Climate Law, the European Commission proposed to make the objective of climate neutrality by 2050 binding in the Union.
12 & 12a	(2) In its Action Plan: Financing Sustainable Growth the Commission set out measures to achieve the following objectives: reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth, manage financial risks stemming from climate change, resource depletion, environmental degradation and social issues, and foster transparency and long-termism in financial and economic activity¹. The disclosure by undertakings of relevant, comparable and reliable sustainability information is a prerequisite for meeting those objectives. In its Guidelines on reporting climate-related information, the European Commission highlighted the benefits for companies to report on climate related information particularly by increasing awareness and understanding of climate related risks and opportunities within the company, diversifying investor base, creating a lower cost of capital and by improving constructive dialogue with all stakeholders. Furthermore, diversity on company boards might have an influence on decision making, corporate governance and resilience. The European Parliament and the Council adopted a number of legislative acts [...]
18	(8) The ultimate beneficiaries of better sustainability reporting by undertakings are individual citizens and savers, including trade unions and workers' representatives to be adequately informed and thereby to better engage in social dialogue. Savers who want to invest ethically and sustainably will have the opportunity to do so, while all citizens should benefit from a stable, sustainable and inclusive economic system. To realise these benefits, the sustainability information disclosed in undertaking's annual reports first has to reach two primary groups ('users'). The first group of users consists of investors, including asset managers, who want to better understand the risks and opportunities that sustainability issues pose to their investments and the impacts of those investments on people and the environment. The second group of users consists of civil society actors organisations, including non-governmental organisations and social partners, that wish to better hold undertakings to account for their impacts on people and the

	environment. Other stakeholders may also make use of sustainability information disclosed in annual reports, notably to foster comparability across and within market sectors . The business partners of undertakings [...]
18a	(8a) The market for sustainability information is rapidly growing, and the role of data providers is gaining in importance with the new obligations that investors and asset managers need to fulfil. With the increased availability of disaggregated data, sustainability information should come at a more reasonable cost. The amended Directive 2013/34 is expected to increase the comparability of data and harmonise standards. Such developments could help to improve the practices of data providers and expertise will grow in this area, with a vast potential for job creation. In the event that the practices of data providers remain fragmented, it should be considered to introduce rules in order to further regulate those practices and increase their reliability.
19	(9) There has been a very significant increase in demand for corporate sustainability information in recent years, especially on the part of the investment community. That increase in demand is driven by the changing nature of risks to undertakings and growing investor awareness of the financial implications of these risks. That is especially the case for climate-related financial risks. Awareness is also growing on of the risks and opportunities to undertakings and to investments resulting from other environmental issues, such as biodiversity loss , and from health and social issues , including health issues , is also growing on child and forced labour . The increase in demand for sustainability information is also driven by the growth in investment products that explicitly seek to meet certain sustainability standards or achieve certain sustainability objectives and to ensure coherence with the ambition of the Paris Agreement, Convention on Biological diversity and Union policies . Part of that increase is [...]
21	(11) The report on the review clause of the Non-Financial Reporting Directive (Directive 2014/95/EU), and its accompanying fitness check on corporate reporting, identified problems as to the effectiveness of that Directive ¹ . There is significant evidence that many undertakings do not disclose material information on all major sustainability-related topics, especially climate-related information including all green-house gas emission and factors that affect biodiversity . The report also identified as significant problems the limited comparability and reliability of sustainability information. Additionally, many undertakings from which users need sustainability information are not obliged to report such information. All this underlines the need for a robust and affordable reporting framework accompanied by effective auditing practices to ensure the reliability of data and avoid greenwashing and/or double accounting.
22	(12) [...] Investors are also less able to channel financial resources to undertakings and economic activities that address and do not exacerbate social and environmental problems, which undermines the objectives of the European Green Deal and the Action Plan on Financing Sustainable Growth and the objectives of the Paris agreement . Non-governmental organisations, social partners, communities affected by undertakings' activities, and other stakeholders are less able to hold undertakings accountable for their impacts on people and the environment. This creates an accountability deficit, and may contribute to lower levels of citizen trust in businesses, which in turn may have negative impacts on the efficient functioning of the social market economy. The lack of generally accepted metrics and methods for measuring, valuing, and managing sustainability-related risks is also an obstacle to the efforts of undertakings to ensure that their business models and activities are sustainable. The lack of sustainability information also limits the ability of stakeholders, including civil society actors, trade unions and workers representatives to enter into dialogue with undertakings on sustainability matters.

28b	(18b) Member States are invited to assess the impact of their transposition act on SMEs in order to ensure that they are not disproportionately affected, giving specific attention to micro-enterprises and to unnecessary administrative burden, and to publish the results of such assessments. Member States should consider introducing measures to support SMEs in applying the voluntary simplified reporting standards.
34	(24) The list of sustainability matters on which undertakings are required to report should be as coherent as possible with the definition of ‘sustainability factors’ laid down in Regulation (EU) 2019/2088, and prevent a mismatch of information required by data users and to be reported by data preparers. That list should also correspond to the needs and expectations of users and undertakings themselves, who often use the terms ‘environmental’, ‘social’ and ‘governance’ as a means to categorise the three main sustainability matters. The list of sustainability factors laid down in Regulation (EU) 2019/2088 does not explicitly include governance matters. The definition of sustainability matters in Directive 2013/34/EU should therefore be based on the definition of ‘sustainability factors’ laid down in Regulation (EU) 2019/2088, but with the addition of governance matters. The list is a minimum requirement, which will not lower national reporting requirements. The list of environmentally sustainable matters should be based on, and take account of, underlying indicators and methodologies set out in Regulation (EU) 2020/852 and in various delegated acts adopted pursuant to it, as they jointly create a classification system for environmentally sustainable economic activities.
35	(25) Articles 19a and 29a of Directive 2013/34/EU require reporting not only on information ‘to the extent necessary for an understanding of the undertaking’s development, performance, position’, but also on information necessary for an understanding of the impact of the undertaking’s activities on environmental, climate-related , social and employee matters, respect for human rights, gender equality , anti-corruption and bribery matters. Those articles therefore require undertakings to report both on how various sustainability matters affect the undertaking, and on the impacts of the activities of the undertaking on people and the environment, and on how various sustainability matters affect the undertaking. That is referred to as the double-materiality perspective, in which the risks to the undertaking and the impacts of the undertaking each represent one materiality perspective. The fitness check on corporate reporting shows that those two perspectives are often not well understood or applied. It is therefore necessary to clarify that undertakings should consider each materiality perspective in its own right, and should disclose information that is material from both perspectives as well as information that is material from only one perspective, bearing in mind that double-materiality is fundamental to understanding a company’s long-term value creation.
37	(27) To ensure consistency with international instruments such as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Business Conduct, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy , the due diligence disclosure requirements should be specified in greater detail than is the case in Article 19a(1), point (b), and Article 29a(1), point (b) of Directive 2013/34/EU. Due diligence is the process that undertakings carry out to identify, prevent, mitigate, and remediate and bring to an end to the principal actual and potential adverse impacts connected with their activities and identifies how they address those adverse impacts. Impacts connected with an undertaking’s activities include impacts directly caused by the undertaking, impacts to which the undertaking contributes, and impacts which are otherwise linked to the undertaking’s value chain. The due diligence process concerns the whole value chain of the undertaking including its own operations, its products and services, its business relationships and its supply chains. In alignment with the

	UN Guiding Principles on Business and Human Rights, an actual or potential adverse impact is to be considered principal where it measures among the greatest impacts connected with the undertaking's activities based on: the gravity of the impact on people or the environment; the number of individuals that are or could be affected, or the scale of damage to the environment; and the ease with which the harm could be remediated, restoring the environment or affected people to their prior state.
39	(29) Articles 19a(1) and 29a(1) of Directive 2013/34/EU do not specify whether the information to be reported is to be forward looking or information about past performance. There is currently a lack of forward-looking disclosures, which users of sustainability information especially value. Articles 19a and 29a of Directive 2013/34/EU should therefore specify that the sustainability information reported shall include forward-looking and retrospective, and both qualitative and quantitative information, that is based on science, harmonized, comparable and uniform indicators, while not endangering the commercial position of the undertaking. Reported sustainability information should also take into account short, medium and long-term time horizons and contain information about the undertaking's whole value chain, including its own operations, its products and services, its business relationships, and its supply chain, as appropriate. Information about the undertaking's whole value chain would include information related to its value chain within the EU and information that covers third countries if the undertaking's value chain extends outside the EU.
42	(32) [...] The voluntary nature of the guidelines means that undertakings are free to apply them or not. The guidelines can therefore not ensure on their own the comparability, reliability and sincerity of the information disclosed by different undertakings or the disclosure of all information that users consider relevant. That is why there is a need for mandatory common reporting standards to ensure that information is comparable and reliable and that all relevant information is disclosed. Building on the double-materiality principle, standards should cover all information that is material to users. Common reporting standards are also necessary to enable the audit and digitalisation of sustainability reporting and to facilitate its supervision and enforcement. The development of mandatory common sustainability reporting standards is necessary to progress to a situation in which sustainability information has a status comparable to that of financial information. The adoption of sustainability reporting standards by means of Delegated Regulations will ensure harmonised sustainability reporting across the Union. Therefore, an undertaking would be compliant with the requirements of Articles 19a and 29a by reporting according to the sustainability reporting standards. When defining such standards, it is essential to give due consideration to the main sustainability reporting standards used worldwide today.
43	(33) No existing standard or framework satisfies the Union's needs for detailed sustainability reporting by itself. Information required by Directive 2013/34/EU needs to cover information relevant from each of the materiality perspectives, needs to cover all sustainability matters and needs to be aligned, where appropriate, with other obligations under Union law to disclose sustainability information, including with the EU acquis, including with obligations laid down in Regulation (EU) 2020/852 and Regulation (EU) 2019/2088. In addition, mandatory sustainability reporting standards for Union undertakings must be commensurate with the level of ambition of the European Green Deal and the Union's climate-neutrality objective for 2050 as well as intermediate targets under Regulation (EU) 2021/1119. It is therefore necessary to empower the Commission to adopt Union sustainability reporting standards, enabling their rapid adoption and ensuring that the content of sustainability reporting standards are consistent with the Union's needs.
51	(41) With regard to climate-related information, users are interested in knowing about undertakings' physical and transition risks, and about their resilience and plans to adapt to different climate scenarios and to the EU's climate neutrality goal.

	They are also interested in the level and scope of greenhouse gas emissions and removals attributed to the undertaking, including the extent to which the undertaking uses offsets and the source of those offsets. Achieving a climate neutral economy requires the alignment of greenhouse gas accounting and offset standards. Users need reliable information regarding offsets that addresses concerns regarding possible double-counting and overestimations, given the risks to the achievement of climate-related targets that double-counting and overestimations can create. These parties are also interested to know the efforts made by companies to effectively reduce absolute GHG emissions as part of their climate mitigation and adaptation strategies. The reporting standards should therefore specify the information undertakings should report with regard to those matters.
52	(42) Achieving a climate neutral and circular economy and a toxic-free environment without diffuse pollution requires the full mobilisation of all economic sectors. Reducing energy use and increasing energy efficiency is key in this respect as energy is used across supply chains. Energy aspects should therefore be duly considered in sustainability reporting standards, in particular in relation to environmental and climate-related matters.
53	(43) Sustainability reporting standards should specify the information that undertakings should disclose on social factors, including employee factors working conditions, social partner involvement, collective bargaining, equality, non-discrimination, diversity and inclusion, and human rights. Such information should cover the impacts of the undertakings on its workers, on people, including and on human health. Where the administrative or management body of the undertaking receives an opinion on the sustainability report from the representatives of workers, it should append that opinion to the sustainability report, if that is provided for under national law and practices. The information that undertakings disclose about human rights should include information about forced labour and child labour in their value chains where relevant. Reporting requirements on forced labour should not replace the public authorities' responsibility to address the import of goods, produced as a result of human rights abuses, including forced labour, through trade policy and diplomatic means. Undertakings should also be able to report on possible risks and negative trends regarding employment and incomes, due to the absence of a just transition process. Reporting standards that address social factors should specify the information that undertakings should disclose with regard to the principles of the European Pillar of Social Rights that are relevant to businesses, including equal opportunities for all and working conditions. The European Pillar of Social Rights Action Plan adopted in March 2021 calls for stronger requirements on undertakings to report on social issues. The reporting standards should also specify the information that undertakings should disclose with regard to the human rights, fundamental freedoms, democratic principles and standards established in the International Bill of Human Rights and other core UN human rights conventions, including the UN Convention on the Rights of Persons with Disabilities, the UN Declaration on the Rights of Indigenous Peoples, the UN Convention on the Rights of the Child, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the fundamental conventions of the International Labour Organisation, the International Labour Organisation's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, including the list of relevant standards under its Annex 1, the International Labour Organization's Convention on violence and harassment, the European Convention of Human Rights, the (revised) European Social Charter, and the Charter of Fundamental Rights of the European Union. Reporting carried out on social factors should be proportionate to the scope and the goals of this Directive.
54	(44) Users need information about governance factors. Governance factors that are most relevant to users are listed by authoritative reporting frameworks such as

	the Global Reporting Initiative and the Task Force on Climate-related Financial Disclosures, as well as by authoritative global frameworks such as the Global Governance Principles of the International Corporate Governance Network and the G20 OECD principles of Corporate Governance. Sustainability reporting standards should specify the, including information that undertakings should disclose on governance factors. Such information should cover on the role of an undertaking's administrative, management and supervisory bodies, including with regard to sustainability matters, the composition of such bodies, and, their access to expertise and skills to fulfil this role through their own expertise or through access to the necessary expertise, whether the company has a policy in terms of incentives offered to members of these bodies which are linked to sustainability matters, and information on an undertaking's internal control and risk management systems, including in relation to the sustainability reporting process. Users also need information about undertakings' corporate culture and approach to business ethics, which are recognised elements of authoritative frameworks on corporate governance such as the Global Governance Principles of the International Corporate Governance Network, including information about anti-corruption and anti-bribery, and about the undertaking's political engagements, including lobbying activities. Information about the management of the undertaking and the quality of relationships with business partners, including customers, suppliers and communities affected by the activities of the undertaking helps users to understand an undertaking's risks as well as its impacts on sustainability matters. Information about relationships with suppliers, includes payment practices relating to the date or period for payment, the rate of interest for late payment or the compensation for recovery costs referred to in Directive 2011/7/EU of the European Parliament and of the Council¹ on late payment in commercial transactions, helps users to understand an undertaking's risks as well as its impacts on sustainability matters. Every year, thousands of businesses, especially SMEs, suffer administrative and financial burdens because they are paid late, or not at all. Ultimately, late payments lead to insolvency and bankruptcy, with destructive effects on entire value chains. Increasing information about payment practices should empower other undertakings to identify prompt and reliable payers, detect unfair payment practices, access information about the businesses they trade with, and negotiate fairer payment terms.
55a	(45a) Member States should ensure that sustainability reporting is done in compliance with workers' rights to information and consultation.
96	<i>Definition of 'sustainability matters' left to lawyer linguists</i>
102b	20a. 'Targets based on science' refers to a target defined on the basis of scientific evidence that when achieved by the undertaking ensures that the undertaking's impacts, as specified in Article 19a, will be aligned with the climate goals and criteria of the European Union.
111	(iii) transition plans: - COM to propose wording; - Any addition should be limited to: (i) the references to the relevant articles of the taxonomy regulation, already referred to in raw 171 – with a mention to the technical screening criteria, the criteria for substantial contribution to environmental objectives, and the Do No Significant Harm; (ii) the mention of specific milestones on climate already included in agreed language (2030 is mentioned in the Glasgow Climate Pact, which was endorsed by the EU)

	(iiia) elements specific to levels of investments in the oil, gas and coal sectors requested by the EP: ► COM to propose a wording; ► Presidency suggests we might get inspiration from wording of the COP26 Declaration signed by EU (iiib) biodiversity and ecosystems: take the Council recital (row 11)
112	(iv) how the undertaking's business model and strategy take account of the interests of the undertaking's stakeholders, including its employees , and of the impacts of the undertaking on sustainability matters;
114	(b) a description of the targets related to sustainability matters set by the undertaking with respect to the undertaking's risks, opportunities and adverse impacts on sustainability matters , and of the progress the undertaking has made towards achieving those targets including a clearly defined path and implementing actions to reach those; for environmental targets, a specification of whether these targets are based on science;
115	(c) a description of the role of the administrative, management and supervisory bodies with regard to sustainability matters, and of their access to expertise and skills to fulfil this role through their own expertise or through access to the necessary expertise;
116a	(da) information about the existence of incentive schemes offered to members of the administrative, management and supervisory bodies which are linked to sustainability matters;
124	Undertakings shall report the process carried out to identify the information that they have included in the management report in accordance with paragraph 1 and in this process they shall take account of short, medium and long-term horizons. The information listed under paragraph 2 shall include information related to short, medium and long-term time horizons as appropriate.
130	In accordance with the EU labour law acquis and national law and practice, at the beginning of the reporting period, central management shall inform workers' representatives at the appropriate level and consult with them on the relevant information and the means of obtaining and verifying sustainability information. Their opinion should be presented, where applicable, to the relevant administrative, management or supervisory bodies.
152	(i) climate change mitigation, including emissions on scopes 1, 2 and 3 of greenhouse gas emissions;
159	(i) equal treatment and opportunities for all, including gender equality and equal pay for work of equal work-value, diversity, pay transparency, training and skills development, and employment and inclusion of people with disabilities ► <i>Recitals will be suggested by the EP/Commission, in particular on diversity at all levels, the rate and breakdown of workers participating in training, the composition of the workforce disaggregated by sex. "Measures against violence and harassment" was deleted from the EP position to refer instead to ILO 190 in row 161.</i>
159b	I Ib existence of collective agreements and the coverage of workers therein, and the existence of work councils in accordance with applicable law and practice; ► <i>To be merged into 160 (specific drafting to come from Commission)</i>
160	(ii) working conditions, including workforce representation by work councils and through employee's representatives in the supervisory or administrative bodies, collective agreements, secure employment, wages, working time and adaptable employment, wages, social dialogue, freedom of association, collective bargaining and the involvement consultation and participation of workers, work-life balance, maternity, paternity and parental leave, and a healthy a healthy, safe and well-adapted work environment, safe and well adapted work environment;

	► <i>“Fair” or “adequate” might be added in front of “wages” if an agreement is reached on the minimum pay directive before the end of the CSRD trilogues.</i>
161	(iii) respect for the human rights, fundamental freedoms, democratic principles and standards established in the International Bill of Human Rights, and other core UN human rights conventions, <i>including the UN Convention on Persons with Disabilities, the UN Declaration on the Rights of Indigenous Peoples, the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work and the ILO fundamental and governance conventions, the International Labour Organization’s Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, including the list of relevant standards in Annex I, the International Labour Organization’s convention on violence and harassment, the European Convention of Human Rights, the revised European Social Charter and the Charter of Fundamental Rights of the European Union.</i>
161bis	Where appropriate, the information that undertakings are to disclose about social factors and human capital should be broken down on a country-by-country basis.
163	(i) the role of the undertaking’s administrative, management and supervisory bodies, including with regard to sustainability matters, and their composition, and their expertise and skills to fulfill this role or access to such expertise and skills;
164	(ii) business ethics and corporate culture, including anti-corruption and anti-bribery, animal welfare, and the protection of whistle-blowers;
165	(iii) political engagements of the undertaking to increase its political influence, including its lobbying activities;
167	(v) the main features of the undertaking’s internal control and risk management systems, including in relation to the undertaking’s sustainability reporting and decision-making process.
198	(g) a description of the diversity policy applied in relation to the undertaking’s administrative, management and supervisory bodies with regard to gender and other aspects such as, age, or educational and professional backgrounds or disabilities, the objectives of that diversity policy, how it has been implemented and the results in the reporting period. If no such policy is applied, the statement shall contain an explanation as to why this is the case.;

Numéro de ligne	Possible texte de compromis
44	(34) [...] In March 2021, the EFRAG President published recommendations for possible governance changes to EFRAG if it were to be asked to develop technical advice about sustainability reporting standards. These recommendations include offsetting up within EFRAG a new sustainability reporting pillar while not significantly modifying the existing financial reporting pillar. On 10 March 2022, the EFRAG General Assembly appointed the members of the newly created EFRAG Sustainability Reporting Board and on 25 April 2022, the EFRAG Sustainability Reporting Board appointed the members of the EFRAG Sustainability Reporting Technical Expert Group. It is essential to ensure a balanced representation among the various stakeholders within both the Sustainability Reporting Board and the Technical Expert Group. When adopting sustainability reporting standards, the Commission should take account of technical advice that EFRAG will develop. In order to ensure high-quality standards that contribute to the European public good and meet the needs of undertakings and of users of the information reported, EFRAG should have both sufficient funding and sufficient independence from private funding contributions to its budget. Its EFRAG's technical advice should be developed with proper due process, public oversight and transparency, accompanied by cost benefit analyses, and be developed with the expertise of a balanced representation of relevant stakeholders. Participation in the Technical Expert Group should be based on the expertise on matters outlined in articles 19a and 29b and shall not be conditional to any financial contribution. A transparent process avoiding any risk of conflict of interest should be guaranteed. To ensure that Union sustainability reporting standards take account of the views of the Member States of the Union, before adopting the standards the Commission should consult the Member State Expert Group on Sustainable Finance referred to in Article 24 of Regulation (EU) 2020/852 and the Accounting Regulatory Committee referred to in Article 6 of Regulation (EU) 1606/2002 on EFRAG's technical advice. The European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) play plays a role in drafting regulatory technical standards pursuant to Regulation (EU) 2019/2088 and there needs to be coherence between those regulatory technical standards and sustainability reporting standards. According to Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹, ESMA also plays a role in promoting supervisory converge in the enforcement of corporate reporting by issuers whose securities are listed on EU regulated markets and who will be required to use these sustainability reporting standards. Therefore, ESMA, EBA and EIOPA should be required to provide an opinion on EFRAG's technical advice. This These opinions should be provided within two months from the date of receipt of the request from the Commission. In addition, the Commission should consult the European Banking Authority, the European Insurance and Occupational Pensions Authority, the European Environment Agency, the European Union Agency for Fundamental Rights, the European Central Bank, the Committee of European Auditing Oversight Bodies and the Platform on Sustainable Finance to ensure that the sustainability reporting standards are coherent with relevant Union policy and legislation. Where any of those bodies decide to submit an opinion, they shall do so within two months from the date of being consulted by the Commission.
44a	(34a) In order to foster democratic control, scrutiny and transparency, the Commission should at least once a year consult the European Parliament, and jointly the Member State Expert Group on Sustainable Finance referred to in

	Article 24 of Regulation (EU) 2020/852 and the Accounting Regulatory Committee referred to in Article 6 of Regulation (EU) 1606/2002, on EFRAG's work programme as regards the development of sustainability reporting standards.
242k	The Commission shall, at least once a year consult the European Parliament, and jointly the Member State Expert Group on Sustainable Finance referred to in Article 24 of Regulation (EU) 2020/852 and the Accounting Regulatory Committee referred to in Article 6 of Regulation (EU) 1606/2002, on EFRAG's work programme as regards the development of sustainability reporting standards.
268	2. The power to adopt delegated acts referred to in Article 1(2), Article 3(13), Article 46(2), Article 19b and Article 19c shall be conferred on the Commission for an an indeterminate period of time 4 years from the entry into force of the basic legislative act or any other date set by the co-legislators tacitly. The delegation of power shall be extended for periods of an identical duration, unless the European Parliament or the Council revoke such delegation of power.
271	3a. When adopting delegated acts pursuant to Articles 19b and 19c 29b and 29c , the Commission shall take into consideration technical advice from EFRAG, provided that such advice has been developed with proper due process, public oversight and transparency and with the expertise of relevant stakeholders, and is accompanied by cost-benefit analyses that include analyses of the impacts of the technical advice on sustainability matters.
271a	a) such advice has been developed with proper due process, public oversight and transparency, and with the expertise and adequately balanced participation of relevant stakeholders, and with sufficient public funding to ensure its independence;
271c	b) such advice is accompanied by cost-benefit analyses that include analyses of the impacts of the technical advice on sustainability matters;
271d	c) such advice is accompanied by an explanation of how it takes account of the initiatives and legislation listed in Article 29b(3); d) participation in the EFRAG work at technical level is based on expertise in sustainability reporting and is not conditional on any financial contribution.
273	The Commission shall request the opinion of the European Securities and Markets Authority, the European Banking Authority and the European Insurance and Occupational Pensions Authority on the technical advice provided by EFRAG, in particular with regard to its consistency with Regulation (EU) 2019/2088 and its delegated acts. The European Securities and Markets Authority, the European Banking Authority and the European Insurance and Occupational Pensions Authority shall provide their its opinions within two months from the date of receipt of the request from the Commission.

Localisation et format du reporting

Numéro de ligne	Possible texte de compromis
58	(48) Directive 2013/34/EU does not require that the financial statements or the management report are provided in a digital format, which hinders the findability, accessibility and usability of the reported information. Users of sustainability information increasingly expect such information to be findable, comparable and machine-readable in digital formats and fully accessible, including to persons with disabilities. Digitalisation creates opportunities to exploit information more efficiently and holds the potential for significant cost savings for both users and undertakings. Digitalisation also enables the centralization at Union and Member State level of data in an open and accessible format that facilitates reading and allows for the comparison of data. Undertakings should therefore be required to prepare and make publicly available their financial statements and their management report in XHTML the format in accordance with referred to in Article 3 of Commission Delegated Regulation (EU) 2019/815,¹ XHTML format, and to mark-up sustainability information, including the disclosures required by Article 8 of Regulation (EU) 2020/852, in accordance with the format referred to in that Delegated Regulation once this is determined. A digital taxonomy to the Union sustainability reporting standards will be necessary to allow for the reported information reported to be tagged in accordance with those standards. These requirements should feed into the work on digitalisation announced by the Commission in its Communication <i>A European strategy for data</i>² and in the <i>Digital Finance Strategy for the EU</i>³. Digital Finance Strategy for the EU³ These requirements also complement the creation of a European single access point for public corporate information as envisaged in the capital markets union action plan, which also considers the need for structured data.
192a	1a. Member states shall ensure that the use of electronic financial statements and management reports by people with disabilities, as defined in Article 3, point (1), of Directive 2019/882, is facilitated, by requiring undertakings to: i. make such statements and reports available via more than one sensory channel ii. present them in an understandable way iii. present them to users in ways they can perceive iv. make the information content in the statements and reports available in text formats that can be used to generate alternative assistive formats to be presented in different ways by the users and via more than one sensory channel v. present in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs vi. supplement any non-textual content in the statements and reports with an alternative presentation of that content.
245	1. Member States shall ensure that undertakings publish within a reasonable period of time, which shall not exceed 12 months after the balance sheet date, the duly approved annual financial statements and the management report in the format prescribed by Article 19^{29d} of this Directive where applicable, together with the opinions and statement submitted by the statutory auditor or audit firm referred to in Article 34 of this Directive, as laid down by the laws of each Member State in accordance with Title 1, Chapter 3 of Directive (EU) 2017/1132 of the European Parliament and of the Council¹⁶.²

	An undertaking subject to Articles 19a and 29a shall also make the management report available on its website free of charge to the public. If the undertaking does not have a website, it shall make a written copy of its management report available upon request at its headquarter.
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Articulation avec les autres initiatives législatives de l'UE

Numéro de ligne	Possible texte de compromis
50	(40) [...] The reporting standards should consider and specify any geographical or other contextual information that undertakings should disclose to provide an understanding of their principal impacts on sustainability matters and the principal risks to the undertaking arising from sustainability matters. When specifying the information about environmental factors that undertakings are to disclose, coherence should be ensured with the definitions in Article 2 and the reporting requirements of Article 8 in Regulation (EU) 2020/852 and the delegated acts adopted pursuant to that Regulation.
118	(i) the due diligence process implemented by the undertaking with regard to sustainability matters, where applicable in line with EU requirements on undertakings to conduct such a due diligence process.
119	(ii) the principal actual or potential adverse impacts connected with the undertaking's value chain, including its own operations, its products and services, its business relationships and its supply chain, and actions taken to identify these impacts ;
120	(iii) any actions taken by the undertaking , and the result of such actions, to prevent, mitigate or , remediate or bring to an end to actual or potential adverse impacts;
171	(c) the criteria, indicators and methodologies set out in the delegated acts adopted pursuant to Regulation (EU) 2020/852*7, including the technical screening criteria established pursuant to Articles 10(3), 11(3), 12(2), 13(2), 14(2) and 15(2) of that Regulation and the reporting requirements set out in the delegated act adopted pursuant to Article 8 of that Regulation.
175	(g) Directive 2003/87/EC of the European Parliament and of the Council* ¹³ ; (ga) Regulation (EU) 2021/1119 of the European Parliament and of the Council
176a	(h a) Directive (EU) 2019/1937 of the European Parliament and of the Council.

ANNEXE N°2

Possible alternatives with respect to Audit

The mandatory split between auditing of financial statements and assuring the sustainability report could be replaced by one or several of the following provisions:

1. **Implementation of a process similar to that foreseen in Article 22b of the Audit Directive (*Preparation for the statutory audit and assessment of threats to independence*) before a financial auditor can assure the sustainability report:** an auditor should assess whether its independence could be compromised by the combination of engagements and if needed implement safeguards mitigating the threats caused by such combination of engagements.
 - a. In addition to the process set out above, with respect to public interest entities (PIEs), the approval of the audit committee could be made mandatory before a financial auditor can assure the sustainability report of that same company.
 - b. This self-assessment of threats to independence would be supervised by audit regulators and sanctioned if need be. In order to ensure a coherent approach with respect to this self-assessment of threats to the independence, the CEAOB could be tasked with issuing non-binding guidelines.
2. **With respect to the PIEs, amend provisions relating to the tender process in order to appoint auditors:** prohibit a company from conditioning the choice of the auditor on a double engagement financial auditing / assurance of sustainability reporting.
3. **Review clauses:**
 - a. Provide in a review clause (or a recital) a commitment from the Commission to substantially review the legislation relating to audit in order to address the concentration of the audit market.
 - b. Request the Commission after X years of entry into force of CSRD, to review the concentration of sustainability report assurance market and of the contribution of the IASP regime to opening up the market, in order to take further steps if need be (making the IASP regime mandatory for member states, and possibly reviewing the need to foresee a mandatory split).