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Public Consultation on EU proposal for a Corporate Sustainability Reporting Directive

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Public Consultation on EU Proposal for a Corporate Sustainability Reporting Directive

Background

Rules for the disclosure of non-financial information by certain companies, including environmental reporting, have been in effect in Ireland (S.I. No. 360/2017) since 2017 through the EU's Non-financial Reporting Directive (Directive 2014/95/EU). The rules apply to companies that are large *and* have more than 500 employees.

One of the areas of EU action on climate change contained in the European Green Deal is the objective of mainstreaming sustainability in EU policies.

Some of the criticisms of the existing Directive are the lack of comparability and reliability of the current disclosures and complexity for companies due to uncertainty relating to the information to be disclosed. The Commission argues that "there is ample evidence that the information that companies report is not sufficient. Reports often omit information that investors and other stakeholders think is important. Reported information can be hard to compare from company to company, and users of the information are often unsure whether they can trust it".

The Commission has reviewed the Non-financial Reporting Directive and proposed a Corporate Sustainability Reporting Directive on 21 April 2021 - see Sustainable finance package | European Commission (europa.eu).

The proposal will amend the existing reporting requirements of the NFRD. The proposal:

- extends the scope to all large companies (not just those with over 500 employees) and all companies listed on regulated markets (except listed micro-enterprises);
- requires the audit (assurance) of reported information;
- introduces more detailed reporting requirements, and a requirement to report according to mandatory EU sustainability reporting standards; and
- requires companies to digitally 'tag' the reported information, so it is machine readable and feeds into the European single access point envisaged in the capital markets union action plan.

While the new proposal does not substantially change the type of information that must be reported, it increases significantly the detail of the information as new EU standards are developed.

It is anticipated that EU Council negotiations at working party level will commence in the near future. The final proposal will depend on EU Parliament and Council agreement and this is hoped for in the first half of 2022.

The Department is seeking the views of stakeholders on the proposal in order to inform Ireland's negotiating position.

Scope of the proposal

The reporting rules under the existing Non-Financial Reporting Directive apply to "public interest entities", meaning listed companies, banks, and insurance companies. The rules apply to companies that are large (i.e. they are not SMEs, as defined in the Accounting Directive), and have more than 500 employees. As a result, The Commission reports that only about 11.000 companies in the EU are covered by the NFRD.

The Commission holds that many stakeholders are in favour of extending reporting requirements to additional categories of companies. The proposal will extend the scope of current requirements to include all large companies, whether they are listed or not and without the previous 500-employee threshold. This change would mean that all large companies are publicly accountable for their impact on people and the environment. The Commission opines that this would also respond to demands from investors for sustainability information from such companies.

In addition, the Commission is proposing to extend the scope to include listed SMEs, with the exception of listed micro-enterprises, arguing that for reasons of investor protection, it is especially important that investors have access to adequate sustainability information from listed companies. Furthermore, if listed SMEs do not report sustainability information, they may find themselves at risk of exclusion from investment portfolios. This risk will grow as sustainability information becomes ever more important throughout the financial system.

The obligations for listed SMEs will only come into effect three years after the application to all other companies.

Question 1.

What are your views of the expanded scope of the Directive?

Question 2.

What are your views of the application of the new requirements for listed SMEs three years after the application to all other companies?

Standards

The European Financial Reporting Advisory Group (EFRAG) will be responsible for developing draft EU sustainability reporting standards with appropriate consultation processes.

The proposal seeks to introduce separate, simpler and proportionate reporting standards for SMEs which can be used by listed SMEs to meet their obligations. While the proposal does not include non-listed SMEs, they too could use such standards on a voluntary basis.

It is in the interests of the EU and European companies and investors to have standards that are globally aligned. The Commission envisages EU standards to incorporate the essential elements of globally accepted standards currently being developed. However, EU sustainability reporting standards need to be consistent with the ambition of the European Green Deal and with Europe's existing legal framework, the Sustainable Finance Disclosure Regulation and the Taxonomy Regulation. Therefore, EU standards should go further where necessary to meet the EU's own ambitions and be consistent with the EU's legal framework. They need to cover not just the risks to companies but also the impacts of companies on society and the environment (the so-called ‘double materiality' principle).

An objective is that the proposed EU sustainability reporting standards will build on and contribute to standardisation initiatives at global level.

Question 3.

What are your views of the proposals for EU sustainability standards?

Role of auditors

The proposal would for the first time introduce a general EU-wide audit (assurance) requirement for reported sustainability information. This will help to ensure that reported information is accurate and reliable. It should go a long way towards addressing the concerns of investors and other stakeholders about the reliability of the sustainability information that companies report today.

The proposal introduces a new role for statutory auditors to provide assurance for the reported information. The new Corporate Sustainability Reporting requirement comprises the same categories of information as the existing Non-Financial reporting Directive that is companies will report on their performance in relation to climate/environmental, social and employee matters, human rights and bribery and corruption/governance.

The Commission has proposed that the requirement on auditors will not be at the same level of assurance as that for financial reporting. However, over time it will progress from a limited assurance requirement to one which provides a reasonable assurance once sustainability assurance standards are in place.

The Commission's proposal allows Member States to open up the market for sustainability assurance services to so-called 'independent assurance services providers'. This means that Member States could chose to allow firms other than the usual auditors of financial information to assure sustainability information.

Question 4.

What are your views on the new role for statutory auditors in assurance of sustainability reporting?

Question 5.

Do you agree that it should be optional for Member States to provide for independent assurance providers?

Digitalisation

The Commission's proposal anticipates the increasing digitalisation of sustainability information. Over time, this should lower reporting costs for companies and improve how investors and other stakeholders can compare and use reported information.

It is proposed that the reporting information will be digitalised and accessible through the European Single Access Point planned under the Capital Markets Union Action Plan.

Question 6.

What are your views on digitalisation of sustainability reporting using the European Single Electronic Format (ESEF)?

Costs

The European Commission's Impact Assessment found that there will be additional costs for entities currently in scope of the Non-financial Reporting Directive arising from new standards that will require more detailed reporting, the new audit assurance and digitalisation. There will also be costs for entities not previously within the scope of the Directive i.e. large companies with less than 500 employees and listed SMEs. There may be some additional costs for national authorities in oversight under the Transparency Directive and in relation to statutory auditors.

The Commission points out that most companies will face an increase in costs anyway because of the growing demand from investors and other stakeholders for corporate sustainability information. This problem is exacerbated by the existence of several overlapping standards and frameworks and inconsistent information requests from investors and other stakeholders. The Commission argues that its proposal is an opportunity for an orderly, cost-efficient solution to the problems posed by this increase in demand, based on building consensus around the essential information that companies should disclose. The Commission's Impact Assessment suggests there could be consequential savings arising from companies publishing clearer, standardised information hence having to answer fewer queries from stakeholders.

Question 7.

What are your views on the potential costs of sustainability reporting for

a) entities currently within scope?

b) entities newly in scope?

Timeframe

We understand that EU Council negotiations at working party level will commence in the near future.

According to the European Commission's estimation, the final text the Directive will depend on EU Parliament and Council agreement which is hoped for in the first half of 2022. Allowing for the development of the reporting standards by the end of 2022 this would mean that large companies would apply the new requirements and standards for financial years from 2023.

Question 8.

What are your views on the timeframe for implementation of the new sustainability reporting requirements?

More information and any other views

For more information please see:

1. Questions and Answers: Corporate Sustainability Reporting Directive proposal
2. Commission Communication: EU Taxonomy – Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties
3. EU Taxonomy delegated act
4. Press release
5. Q&A - Taxonomy Climate Delegated Act and Amendments to Delegated Acts on fiduciary duties, investment and insurance advice
6. Factsheet – the April 2021 sustainable finance package
7. DG FISMA's website on sustainable finance

Question 9. **Please give any other views you might have on the proposal and its impacts.**

THANK YOU FOR YOUR RESPONSES

Deadline for Submissions

The deadline for responses is **Wednesday 23 June 2021.**

Submissions should be sent to: csrd@enterprise.gov.ie

When making your submission please provide the name of the individual, firm or organisation making the submission; contact details and briefly describe your interest in this subject matter.

FREEDOM OF INFORMATION ACT 2014 AND PUBLICATION OF SUBMISSIONS

The Department will make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

GENERAL DATA PROTECTION REGULATION

Respondents should note that the General Data Protection Regulation ('GDPR') entered into force in Ireland on 25th May 2018 and it is intended to give individuals more control over their personal data. The key principles under the Regulation are as follows:

- Lawfulness, fairness and transparency;
- Purpose Limitation;
- Data minimisation;
- Accuracy;
- Storage Limitation;
- Integrity and confidentiality, and
- Accountability.

The Department of Enterprise, Trade and Employment is subject to the provisions of the Regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 to 2018.

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