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Our ref | CSRD Public Consultation Response  
Your ref |

**By Email: CSRD@enterprise.gov.ie**

Minister Simon Coveney  
Minister for Enterprise, Trade and Employment  
Department of Enterprise, Trade and Employment (DETE)  
23 Kildare Street, Dublin 2, D02 TD30

## Public Consultation on the Corporate Sustainability Reporting Directive (Consultation)

Dear Minister Coveney

We write further to the public consultation opened by the DETE on 30 January 2023 welcoming views of stakeholders and interested parties on the transposition into Irish law of the Corporate Sustainability Reporting Directive (EU) 2022/2464 (the **CSRD**).

### Summary

- Ireland is required to bring into force the laws, regulations and administrative provisions of the CSRD in compliance with Articles 1 to 3 of the CSRD no later than 6 July 2024
- The CSRD is to be welcomed as it will provide all market stakeholders with greater clarity around sustainability reporting
- The phased application of the CSRD pursuant to Article 5 of the CSRD does not provide member states with discretion regarding the timing of application of the requirements of the CSRD
- It is imperative for the purposes of market certainty that the DETE clarify that the provisions of Article 5 will be transposed in the phased manner contemplated in the CSRD

We refer to the communication prepared by the Law Society of Ireland's Business Law Committee and addressed to the DETE, dated on or around this date, in connection with the Consultation which we have seen (the **BLC Letter**). A&L Goodbody LLP endorses the views set out in the BLC Letter.

As noted in the BLC Letter, the reporting obligations pursuant to Article 1 of the CSRD (which will amend Directive 2013/34/EU (the **Accounting Directive**)) apply to companies in a phased manner as set out in Article 5 of the CSRD as follows:

- For Financial Years starting on or after 1 January 2024 - large undertakings (within the meaning of Article 3(4) of the Accounting Directive) and parent undertakings of a large group which are 'public interest entities' (as defined in point 1 of Article 2 of the Accounting Directive, i.e. undertakings which are

governed by the law of a member state and whose transferable securities are admitted to trading on a regulated market of a member state) with more than 500 employees. These entities are required to publish their first compliant reports from 2025.

- For Financial Years starting on or after 1 January 2025 - large undertakings and parent undertakings of a large group (per the Accounting Directive) *other than those referred to above*. These entities are required to publish their first compliant reports from 2026.
- For Financial Years starting on or after 1 January 2026 - small and medium-sized entities which are public interest entities, small and non-complex institutions and captive insurance undertakings, in each case which are not micro-undertakings. These entities are required to publish their first compliant reports from 2027.

Article 5 is a mandatory provision of the CSRD: member states have no discretion as to its implementation. The phased approach inherent in Article 5 has been widely communicated to all stakeholders, including relevant undertakings, by the European Commission and other EU institutions at all stages as the CSRD transited the EU's legislative process. It is clear that under Article 5 of the CSRD, large Irish incorporated companies that are not listed on an EU regulated market (such as US-listed, Irish incorporated entities) are only required to report in the second phase referred to above.

The DETE's document, "[Public Consultation on the Corporate Sustainability Reporting Directive](#)", indicates at p. 3 an intention that Ireland will apply the CSRD requirements to report on ESG matters in accordance with Article 1 to companies and public interest entities "in scope of the existing rules", which is clarified in footnote 5 to refer to 'ineligible entities' in the Companies Act 2014 reporting pursuant to [S.I. No. 360/2017 – European Union \(Disclosure of Non-Financial and Diversity Information by certain large undertakings and groups\) Regulations 2017](#) (the **NFR Regulations**). As the NFR Regulations apply to a broader range of entities than is specified in the Accounting Directive (specifically to Irish incorporated companies that are listed outside the EU), to include such entities in the first phase of reporting under the CSRD would have consequences that are unintended by the CSRD in a material departure from the requirements of Article 5, resulting in an accelerated application of the CSRD's reporting requirements to such undertakings.

It is clear that the phased application of the CSRD is intended to be harmonised among member states. It is widely recognised that the mandatory standards against which relevant undertakings will have to report (and which are currently being finalised) will involve a significant resource burden on these entities. Many public interest entities within the first reporting group are already devoting considerable resources to ensuring they will be in a position to meet the CSRD's requirements. An approach which does not provide certainty regarding implementation dates or which accelerates the application of the CSRD imposes an undue burden on this cohort of large Irish incorporated companies listed outside the EU by depriving them of the ability to make timely resource acquisition and allocation plans to meet the CSRD's requirements for their businesses. This is a cohort of companies with a combined market capitalisation of many billions of Euro, and which employs a significant number of people in Ireland. These companies generally have large, complex, global businesses which operate across jurisdictions and which will require ample time to prepare for their CSRD reporting obligations.

A phased approach to implementation will also allow the wider stakeholder community (including independent assurance professionals, the investment community and regulators) the time to implement systems and procedures necessary to consume and verify reported information in an orderly manner as the volume of reported information increases in response to the expanding universe of reporting entities. We believe that accelerating the application of the CSRD in Ireland could result in unintended adverse consequences and be a disincentive to enterprises of this kind.

We would therefore respectfully request that the DETE take this letter along with the BLC Response under consideration and provide clarity to stakeholders that Ireland's transposing legislation will reflect the phased

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application of Article 5 and that non-EU listed, Irish incorporated companies will not be required to report under the CSRD until 2026 for financial years starting on or after 1 January 2025.

Yours faithfully

*A&L Goodbody LLP*

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