

Proposal for a Corporate Sustainability Reporting Directive amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting

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The Austrian Federal Economic Chamber (WKÖ) is the legal representative of the entire Austrian business community and represents all Austrian companies - some 540,000 businesses drawn from the areas of Crafts and Trade, Industry, Commerce, Banking and Insurance, Information and Consultancy, Tourism and Leisure, Transportation and Communication. 99,6% of our members are SME with less than ten employees.

The Austrian Federal Economic Chamber is committed to sustainable and responsible economic activity which is fit for the future and in this sense recognizes the approach of the European Commission (EC) to create a legal framework that is as coherent as possible with Sustainable Finance. Any proposed regulatory framework must be practicable and proportionate. Companies must not be put at a competitive disadvantage by excessive additional administrative burdens. It is crucial that any reporting requirements serve as an actual driver for sustainable development without creating unnecessary administrative burdens and additional costs. The following comments should therefore be noted:

The initial Non-Financial Reporting Directive (NFRD) was criticized at the time for burdening companies with **additional bureaucracy**. These fundamental concerns persist, especially in light of the COVID crisis. In this respect, the principle of "**one in, one out**" should be observed. Additional administrative burdens must go hand in hand with at least equivalent relief.

The current NFRD is tailored to public interest entities, with the result that the **expansion of the scope** as currently envisioned would overburden SMEs in particular. By reducing the number of employees from 500 to 250, family businesses and medium-sized companies also fall within the scope. There must be significant facilitations and simplifications, especially for non-capital-market-oriented companies, as they can only devote limited personnel resources to sustainability management and the corresponding reporting. However, in the sense of a "**level playing field**", the extension to "EU subsidiaries of non-EU companies as well as all non-EU companies with transferable securities listed on a regulated EU market" is supported.

The proposed changes put EU companies at a **competitive disadvantage** in several respects:

- EU companies are unilaterally burdened with additional **bureaucratic and financial effort**.
- There is a risk that the publication of data could lead to conclusions being drawn about the state of technical development or process innovations. In order to avoid exacerbating competitive disadvantages, it is important to ensure that **sensitive company data** (including, in particular, data that allows conclusions to be drawn about production processes) does not have to be published.
- Moreover, there is also a risk of distortions of competition within the EU due to **differences in implementation**.

The ambitious **time schedule** is challenging and should be **reconsidered** in favor of practical implementability. The final version of the EU Sustainability Reporting Standards (SRS) needs to be published by 31.10.2022 and applied just two months later. New reporting companies in particular need sufficient time after the final standards have been adopted by the EC in order to carry out high-quality implementation. Two months is too little time for this.

In addition, any **delay** in the adoption and publication of the SRS must automatically trigger a delay in its application. The situation where the EC requires Level 1 compliance, but companies are practically unable to comply due to the lack of Level 2 (and Level 3), needs to be avoided. These concerns also exist with regard to the timing of the application of Art. 8 Taxonomy Regulation.

Currently, there are a variety of different **standards** for sustainability reporting that give companies the flexibility they need. While the overriding unification of existing reporting standards is welcomed in principle, **non-mandatory application** of the new standards would be preferable. Especially regarding SMEs, reports should be exclusively voluntary. EU standards must not lead to disproportionate effort and expenditure, must maintain a certain **flexibility** in the configuration of reports, and the **materiality principle** must be observed. It must be ensured that new EU standards and recognized international standards are **harmonized**. Affected companies and their representative bodies should be actively involved in the development of any standards.

It makes sense to **streamline** parallel legislative initiatives (especially in connection with sustainable finance and sustainable corporate governance). The goal must be a coherent, efficient regulatory complex that places as little burden as possible on entrepreneurs overall. The aim should be to bring financial regulations in line with sector-specific regulations.

The proposed Directive removes the possibility for Member States to allow companies to publish the required information in a **separate report** that is not part of the management report. This option is very helpful and works smoothly. The member state option should be reintroduced into the proposal, as resources could be optimized for the new requirements, while well-established formal processes in the respective member states would be maintained.

The reporting at **group level** granted under the NFRD should be maintained. Furthermore, from a timing perspective, exempt subsidiaries should not be required to publish the consolidated management report until the parent company has published it.

The present proposal contains a requirement to use a standardized machine-readable digital format (European Single Electronic Format ESEF). Common data formats such as MS Word, MS Excel, RTF, or PDF are available in the companies themselves and can be created without the use of third-party providers. Publication in the ESEF poses challenges even for large capital market-oriented companies. Especially if the scope of the NFRD should be extended, it is important to also enable publication in the common data formats. The complex ESEF tailored for capital market-oriented companies should not be mandatory for non-capital market-oriented companies. Although the motivation to use machine-readable digital information is understandable, the cost-intensiveness and need for external service providers calls into question whether XHTML is the right format. Practicable solutions must be offered, and companies must be supported in their implementation.

The extension of the **external audit** requirement to non-financial information must be rejected due to the additional costs this would cause on the part of the audited companies. In this context, the depth of the audit must also be taken into account. **limited assurance** should be sufficient for any audit.

The WKÖ firmly rejects **penalties** with regard to a violation of reporting obligations. If a penalty provision is unavoidable, the principle of "**advice instead of punishment**" must be implemented in law. In addition, it must be ensured that there are no punitive excesses due to the principle of accumulation.

Generally, the EC's proposal is viewed very critically. Should it actually become legally binding, the national implementation in the Austrian Nachhaltigkeits- und Diversitätsverbesserungsgesetz (NaDiVeG) must proceed with great caution and national solo efforts must be avoided. Additional gold plating in Austrian law at the expense of business must be averted at all costs.

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