EBF European Banking Federation

September 2021

Position of the European Banking Federation on the Corporate Sustainability Reporting Directive

Introduction

The EBF welcomes the European Commission's proposal for the Corporate Sustainability Reporting Directive (CSRD). Ensuring coherent, standardised disclosures from non-financial corporates will be a key enabler in ensuring that banks and other financial market participants are able to assess the sustainability profile of their portfolios, and allocate capital effectively to serve the goals of the European Green Deal.

In particular, we welcome:

- the extended scope to non-listed large undertakings, (from >500 employees to >250 employees) and listed SMEs;
- the intended consistency of the content and scope of the reporting requirements emanating from the CSRD, with those of the Sustainable Finance Disclosure Regulation, the Taxonomy Regulation, the forthcoming Pillar III ITS, the proposal on Sustainable Corporate Governance, and any further developments linked to a potential Harmful/No Significant Impact Taxonomy, and Social Taxonomy;
- the intention to ensure digital tagging, and to ensure alignment with the timeline for the creation of the ESAP;
- the requirement for the current provisions on limited assurance of the non-financial information, pending the development of standardized assurance standards for sustainability information which may, at a later stage, allow for reasonable assurance;
- the creation of a legal base for European Sustainability Reporting Standards (ESRS), to be developed by EFRAG, while maintaining or ensuring alignment with global sustainability reporting standards, such as the work being prepared by the IFRS;
- we note the significance of ensuring adequate stakeholder involvement by users and preparers of non-financial information in the development of the different reporting standards for both large undertakings and SMEs.

Areas meriting further consideration include:

- The appropriate thresholds for defining small and medium sized credit institutions;
- A further impact assessment to assess a sector-based approach to mandatory reporting requirements for companies (based on high risk sectors) - independently of their size, and whether listed or non listed;
- The timing of the preparation of the simplified reporting standard for listed small and medium sized non-financial undertakings, to avoid complexity;
- The suitability of entity-level, in addition to consolidated-level, reporting requirements for non-financial undertakings;

- The operational support required for a smooth transition to the use of the European Single Electronic Format (ESEF);
- The need for ensuring a lag between the reporting requirements for non-financial corporates and those for financial institutions, so that adequate time can be given for banks to collect and assess data from their clients before submitting their own reports;
- The discretion for Member States to allow for the sustainability report to be submitted separately from the management report.

I. General Considerations

Feasibility of the reporting requirements. One continuous consideration for the co-legislators and EFRAG should be the feasibility of the requirements being legislated. While banks and their non-financial clients have made huge strides in their ability to methodologically assess the interaction of their business models with sustainability risks and impacts, the expanded scope of the proposed requirements, as well as the rapid inclusion of further sustainability factors, necessitates a careful assessment of the cost-benefit of being able to prepare and use the non-financial information required by the initial application date of 2023, for large undertakings, and subsequently, in 2026, for SMEs. Companies need enough time and clarity to adapt their reporting processes to the new complex requirements. This is particularly true for those companies that have so far not been subject to sustain ability reporting and in many cases do not yet have appropriate organisational structures. It is therefo re essential for the European legislators to ensure that such requirements can actually be met by the reporting companies concerned.

Alignment, including internationally, with existing and developing reporting standards. Further considerations in terms of overall feasibility will be that, firstly, the basic parameters of the mandate for the development of the ESRS, found in the CSRD text, as well as the content of the ESRS itself, bring together the main elements of already existing reporting frameworks (e.g. GRI, CDP, CDSB, TCFD, SASB) that produce the most material information. It will be important that the new standards be based on existing international practices, without complicating the reporting landscape through the creation of requirements disconnected from the mainstream frameworks. Secondly, the feasibility of the standards would be served by alignment with evolving international efforts in the field of sustainability reporting. The co-legislators and EFRAG should thus continuously assess the developments by the IFRS and the newly-created Value Reporting Foundation, ensuring that the final outcome at European level leads to convergence and harmonization. In addition, the work of the World Economic Forum's Measuring Stakeholder Capitalism initiative is a useful reference for the accelerated development of comparable reporting metrics. Conversely, future international standard setters should leverage on EC and EFRAG works in order to avoid double burden and uneven playing in Europe. Attention must be paid to the situation of reporting companies, which are already confronted with many voluntary frameworks and individual requests for information from the international sphere. Ideally, uniform sustainability reporting standards should allow European companies to reduce existing complexities and administrative costs. In the absence of an internationally-cohesive set of standards, an equivalence regime should be instituted, and it should be avoided that European companies have to report under two or more regimes. . It is also important that the sustainability reporting standards developed are easily understandable and accessible for the stakeholders, e.g. investors.

Timing and applicability of the ESRS. Based on recent experience from the Sustainable Finance Disclosure Regulation and the Taxonomy Regulation (Level 2 was not available while Level 1 already required application), the application of the ESRS should generally be required for the first financial year following its adoption and publication. Any delay of the adoption and publication of the EU-NFRS

should trigger a delay of the application. This should also be considered in regard to the RTS for the mark-up for the European Single Electric Format (ESEF).

Harmonized application of the Directive across the EU27. We consider that, to enhance comparability and consistency, the NFRD should have ideally taken the form of a Regulation, rather than a Directive. Nevertheless, considering that a Directive is the preferred option, the co-legislators need to ensure that the Directive is shaped so as to guarantee **no** gold-plating during the transposition process. This will necessitate a careful balance between ensuring strong views on what the European Parliament and European Council consider politically viable to achieve at EU-level, while also leaving room for Member State specificities within the finalization of the Directive as part of the EU-level negotiations. It is important to ensure that differing reporting requirements across the EU27 do not impede financial flows towards sustainable projects and lead to market fragmentation, and any such differing should thus be avoided. While the more granular reporting requirements would be determined through the ESRS, which will not undergo a transposition process, this recommendation pertains to ensuring that the Level 1 text is not subject to gold-plating that may allow different interpretations and uses of the ESRS.

Alignment with other regulatory reporting requirements. The co-legislators should assess a coherent sequence and timing necessary for the CSRD disclosures that would allow for compliance and synchronisation with the requirements of the Taxonomy Regulation, SFDR, and forthcoming Pillar III requirements . A full alignment should be ensured including on scope, content, application dates, reporting frequency and transition periods – thus allowing banks and other financial institutions to first access information from non-financial corporate clients, have adequate time to assess it, and then use it to build on their own reporting requirements.

A suggested sequence should ensure that non-financial corporate entities reporting under the scope of the CSRD be given priority, as this information will also be used by banks to prepare both their own CSRD disclosures (which include the Art.8 disclosures under the Taxonomy Regulation), as well as forthcoming Pillar III disclosures. This is the case for a first-time reporting, but also on an ongoing basis, where disclosures for financial entities will have to be published with a time lag with respect to their counterparties disclosures.

We urge the European Commission to include in the CSRD legislative proposal a specific point that recognizes that financial companies, banks and insurers, need to report based on the latest available public information, meaning the information published by their customers the year before. This approach will give banks the sufficient time necessary to gather, check, compute, consolidate the data from customers and ultimately provide high quality metrics in line with the limited assurance by third party auditors/validators requested by the CSRD.

In terms of the ESRS it is crucial that the EFRAG take due notice of the content of the forthcoming Pillar III ITS (expected to be adopted this year), as well as ensure consistency with the secondary legislation as part of the SFDR. In terms of Article 8 disclosures as part of the Taxonomy Regulation, on which a delegated act was adopted on July 6th, we would expect an automatic alignment between the forthcoming content and the CSRD due to Article 8 having directly amended the NFRD, but would reiterate the need for ensuring consistency.

II. Specific Considerations

1. Scope and accompanying reporting requirements.

a. Scope for credit institutions

As mentioned previously, the EBF welcomes the extended scope of the proposed Directive, which would cover all large undertakings, as well as listed small and medium-sized enterprises.

We would nonetheless note that the current balance sheet threshold for a large undertaking, as identified in the Accounting Directive, is not entirely appropriate for credit institutions. In practice, small credit institutions would be subject to complex reporting requirements. In addition, Article 4(145) of the Capital Requirements Regulation[1], already determines a category of “small, non-complex” institutions, which are subject to simplified reporting requirements, in terms of prudential reporting for supervisory purposes.

To this end, the EBF would recommend that the co-legislators and the European Commission approach the scope between small and medium sized credit institutions and non-financial undertakings symmetrically, by assessing the need for an appropriately-defined category for small and medium-sized credit institutions.

In order for this to be achieved, we would recommend that listed credit institutions that are defined as “small, non complex” under the Capital Requirements Regulation be subject to a simplified reporting standard, while unlisted credit institutions continue to remain outside the scope of the CSRD. Notably, this change would raise the balance sheet threshold for large credit institutions to EUR 5 billion, and be aligned with the scope of the Pillar III ESG reporting requirements under Article 449a of the Capital Requirements Regulation.

b. Scope for non-financial undertakings

The EBF supports the scope of the CSRD proposal on non-financial undertakings as is. Nonetheless, we would ask for a further impact assessment to be conducted, examining whether companies in high-risk sectors, independently of size, and whether listed or unlisted, ought to be subject to mandatory reporting requirements. This impact assessment should lead to further consideration of whether the risks associated with particular sectors (e.g. mining, chemicals, etc) may merit a distinct treatment, and should lead to a well-defined category of what these sectors may be – accompanied by appropriate NACE code.

In order to properly assess potential data gaps resulting from the current scope, the impact assessment should be conducted once the first reporting period for listed SMEs has passed.

Any further definition of high-risk sectors should take into account, and be aligned with, other regulatory developments, such as : the Taxonomy and any of its possible extensions, analysis put forth by the ECB[2], as well as any forthcoming approach to the topic in the context of the forthcoming ITS on Pillar III disclosures (the EBA has consulted[3] on the issue of disclosures linked to exposures towards sectors that may highly contribute to climate change).

---

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0575&from=EN
[2] https://www.ecb.europa.eu/pub/pdf/other/ecb.climateriskfinancialstability202107~87822fae81.en.pdf
[3] https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Consultations/2021/Consultation%20on%20draft%20ITS%20on%20Pillar%20disclosures%20on%20ESG%20risk/963621/Consultation%20paper%20on%20draft%20ITS%20on%20Pillar%203%20disclosures%20on%20ESG%20risks.pdf

c. **Timing of the preparation of the simplified reporting standard for small and medium-sized enterprises**

The EBF is supportive of the phase-in reporting period granted to listed small and medium-sized enterprises, which will be allowed to report starting in 2026, following a simplified reporting standard.

Nonetheless, we would like to note that, de facto, both listed and unlisted small and medium-sized enterprises may be called to report starting in 2023 – considering they may form part of the value chains of large undertakings.

Ensuring that the simplified reporting standard would be ready in time to anticipate this circumstance would ensure that any reporting requirements emanating from larger undertakings would be standardised, coherent and comparable - facilitating the ability of SMEs to produce material sustainability data, and reducing burden and complexity for both users and preparers of this information.

2. Level of reporting

Disclosures are required by CSRD at a consolidated level for both non-financial undertakings and financial undertakings. This approach is aligned with our interpretation of the CRR2 (Article 13) that the Pillar 3 ESG will be requested from large financial institutions on a consolidated basis. However, in their distinct role as also users of non-financial information, banks anticipate that they will also need that their clients disclose at entity level in order to be able to assess the corporate ESG risks and to take the decisions related to the loans granting.

In page 33 of its latest report on ESG risk management and supervision[4], EBA clarifies that Pilar 2 for banks is designed at entity level of the counterparty: *"Depending on the business activities, the counterparty may be understood to be a borrower, a client (e.g. an entity, individual) or an issuer (e.g. sovereign, entity)".* Last but not least, banks will also need to comply with ECB Guidelines on climate and environmental risk at entity level of their customers (as it is explicitly specified in the ECB guide).

We would like to highlight this issue as it may jeopardize the efficient implementation of the ESG disclosure framework in Europe. We call for a jointly collaboration between banks, corporates in the scope of the CSRD, the EFRAG and the European Commission to assess to which extent corporates should disclose their non-financial reporting at entity level, using proportionality principles of course (or at sub group of entities level, or on entities only that meet some materiality criteria….). The stake would be not to add extra work to corporates (as normally the internal consolidation process is based on the solo level reporting) and extra costs.

As per the need for efficient implementation of the ESG disclosure framework noted above, and considering the requirements for the assessment of activities (as per the Taxonomy Regulation), the CSRD should specify that activity-level disclosures also be required.

3. Electronic Format

From an investor and lender-perspective the undertakings' sustainability data has to be standardized, digitized, machine-readable and easily accessible on a central platform to allow big scale use. Different and/or analogue formats would impair this use and ultimately weaken the investors and

---

[4]https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Reports/2021/1015656/EBA%20Report%20on%20ESG%20risks%20management%20and%20supervision.pdf

lenders' ability to move investments and financing into a more sustainable direction. However, more support to the undertakings now coming into scope will be necessary in order for this to be achieved. The ESEF format may be costly due to the cost-intensiveness of using external consultants and third-party providers for its production. At the moment non-listed large companies prepare their annual financial statements and management reports in the common data formats: MS Word, MS Excel, RTF or PDF. These common data formats are available in the companies themselves and can be generated without the use of third-party providers. According to the ESEF regulation (EU/2019/815), listed companies in the EU are already obliged to submit their annual financial statements digitally, as inline XBRL documents in ESEF format. Publication in the ESEF format has posed challenges even to large listed companies, especially since external service providers have to be used for the conversion into the ESEF format. Since the scope of the NFRD is extended, it is important to allow the publication in the common data formats for non-listed companies. Therefore, we would advocate for exploring solutions in order to support undertakings in managing the transition to the ESEF format.

4. Location of the sustainability report

Location of the sustainability report. Member States should maintain the discretion to allow for all CSRD-mandated reporting to be part of the management report, or to be separate. The discretion for the location of the sustainability report should be maintained to allow for differing practices and flexibility. The rationale behind this flexibility is predicated on the fact that public sustainability disclosures should be produced in a reader-friendly format that would be understandable by the wide range of stakeholders that may want to understand them: from sophisticated investors, shareholders, counterparties, clients and civil society, but also a wide range of non-specialists. Mandatory inclusion in the management report may lead to an overly complicated and burdensome reporting format. In addition, the lag between collecting financial and non-financial data, which is dependent on clients, must be taken into account – allowing for separate reports, to ensure the most up-to-date data is always reported.

In principle, the reporting of sustainability data separately from the management report should not create material obstacles to the completeness of the information provided, given that banks should follow the same reporting requirements (which they will be expected to do, namely, the ESRS) whether the data is included in the management report or not. At the same time, banks may deem that TCFD-aligned reporting should be included in the main management report, as is also indicated by the TCFD as "best practice". Financially-material ESG data on any risk could thus be included in the management report, while additional data in a separate report.