

February 2022

THE EUROPEAN BANKING FEDERATION ON THE LATEST DEVELOPMENTS IN THE LEGISLATIVE PROCESS OF THE PROPOSAL FOR A CORPORATE SUSTAINABILITY REPORTING DIRECTIVE

1. On the scope of the proposed directive

The EBF welcomes the 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.

To this end, **we support the Commission's proposal to both extend the scope to non-listed large undertakings (i.e., companies with more than 250 employees) and listed SMEs.** On the contrary, with regards to non-listed large undertakings, we deem that maintaining the original scope of the NFRD would not reflect the majority opinion illustrated in the Summary Report of the Public Consultation on the Review of the Non-Financial Reporting Directive¹ (70% of respondents agreed that the scope of the NFRD should be enlarged to all large non-listed companies) and does not reflect the intention of the review, and more broadly of the renewed sustainable finance strategy to foster transparency and strengthen sustainability disclosure. Moreover, refraining from expanding the scope would solely result in increased bilateral engagement, which will be burdensome both for financial institutions and corporates and hinder, amongst other things, risk management, capital allocation, and more generally efforts to reach the EU objectives.

As for the extension of the scope to listed SMEs, it is important to acknowledge that SMEs are the backbone of the EU economy, and they rely mostly on banks' financing, and we understand that many SMEs are currently in a very challenging situation. However, we also consider that the simplified reporting standards being developed by EFRAG and the 3-year phase in period will ensure proportionality, sufficient time to prepare and ultimately further facilitate bank's support to businesses and development of new sustainable products and services. On top of this, it will contribute to the completion of the Capital Markets Union by enabling investors to access comparable non-financial information from investee companies across the EU.

In fact, listed and unlisted small and medium-sized enterprises may in any case be asked for sustainability information, in particular the B2B SMEs that are part of the supply chain of large undertakings or when seeking finance. In addition to this, it is worth noting that the EU Taxonomy **Article 8 Delegated Act foresees a review** that is **set to take place in June 2024**, when the European Commission will clarify if it allows the inclusion of SMEs and non-EU counterparties in the Green Asset Ratio (GAR) numerator. In such a

¹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12129-Revision-of-Non-Financial-Reporting-Directive/public-consultation_en

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circumstance, financial institutions would have to turn to their SME clients for information in order to comply with their Article 8 disclosure obligations. Moreover, the upcoming **EBA Pillar 3 ITS disclosures on ESG**, if adopted by the European Commission as proposed by the EBA in the final draft of the ITS, **will complement Article 8 Disclosures and introduce additional disclosure obligations for banks**, including EU Taxonomy alignment of non-NFRD exposures (therefore concerning entities outside the scope of the Non-Financial Reporting Directive, and subsequently of the CSRD) for banks while there will continue to be no disclosure obligation on the non-NFRD companies themselves. This poses the issue of how this information is to be retrieved from the non-NFRD counterparties.

It may, therefore, be beneficial for SMEs, including non-listed SMEs, to have a simplified reporting standard ready in time to anticipate such circumstances and ensure that any reporting requirements emanating from larger undertakings or financial institutions 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.

It may be beneficial for SMEs to decide to voluntarily report for a variety of reasons including, but not limited to:

- Avoiding multiple information requests (e.g., from banks to tag sustainable economic activities to allocate capital to purposeful and sustainable causes and for risk purposes or green bonds issuance and from companies as part of value chain)
- Facilitating access to finance
- Communicating on the sustainability progress/commercial advantage
- Avoiding materialization of climate risk
- Reducing their environmental footprint

To conclude, **sustainability reporting will and should become a regular practice** and we believe the CSRD plays a very important role in achieving this objective. To enable and facilitate access to investment and finance, it is critical that the scope include listed SMEs. It will be crucial to ensure minimum burden for such undertakings, but this can **only be achieved through adequate support, training, tools, and simplified reporting standards for SMEs**. We would, therefore, highly encourage maintaining the initial scope proposed by the European Commission, including all large undertakings (with over 250 employees) and listed SMEs. In addition, a further extension of the scope to include undertakings operating in high-risk sectors should be envisioned only following an in-depth impact assessment at a further stage. Such an impact assessment should only be conducted following the adoption of the simplified reporting standards for SMEs, to evaluate the benefits arising from the extension of the scope to all companies operating in high-risk sectors regardless of size or whether they are listed or not.

2. On the need for a coherent sequence and timeline

The EBF would like to reiterate the need to improve data availability, reliability and relevance and considers the CSRD an important tool towards achieving this objective. For

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the purpose of their own reporting obligations but also for risk management, and portfolio steering towards sustainability goals, banks will be relying on data from companies. At the same time, we recognize that 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 sustainability reporting and in many cases still do not have appropriate organizational structures. **However, any contemplation to postpone reporting obligations for companies will have to be carefully considered.** Postponement of the application date of the CSRD must take into consideration reporting obligations stemming from other relevant EU legislation (including the Taxonomy Regulation, the SFDR, MiFID, the risk disclosure obligations for banks under Pillar 3 ITS, CRR, and CRD and supervisory expectations). **Coherence is fundamental both in terms of content of the reported information and the timelines** foreseen for the legislations' application. Such alignment is crucial not only to avoid confusion for preparers and users of the sustainability information and ensure consistency between data reported by companies and by financial institutions, but also allocate the time needed so that the data is concretely available.

The co-legislators should assess a **coherent sequence and timing** necessary for the CSRD disclosures that would allow for compliance and **synchronization with other regulatory and supervisory 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.

Moreover, ensuring a **one-year time lag** between the **reporting requirements for non-financial corporates** and **those for financial institutions** is also key, as banks depend on the data provided by their clients and need sufficient time to assess the data from their clients before submitting their own reports. Such one-year time lag should be considered regardless of the application date of the Directive.

3. On the level of reporting

The EBF strongly supports an increased availability of data, which will allow banks to reach their own sustainability objectives and manage their ESG risks, while allowing financial institutions to employ such information to successfully accompany their clients on their own transition journey. However, **subsidiaries should be exempted from reporting** at entity level when they operate under a parent undertaking, which reports at consolidated level, as long as such reporting includes specific entity-level information on the subsidiaries. The information the parent undertaking must disclose on its subsidiaries within the consolidated report should be clearly defined by EFRAG and be based on materiality criteria, taking into consideration that entity level information on clients will be expected from financial institutions in the context of the assessment of their ESG risks² as well as other reporting obligations.

² In the [EBA report on Management and Supervision of ESG Risks for Credit Institutions and Investment Firms](#), EBA states in §43 that "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**)".

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Consolidated reporting, which comprehends adequate entity-level information, would be sufficient to allow financial institutions to comply with their own reporting requirements, while reducing the burden for a number of subsidiaries, many of which will be undergoing reporting requirements for the first time.

4. On extra-territoriality

The EBF supports the proposal to extend the scope to include certain undertakings established outside the European Union, which operate in the internal market. This is necessary to ensure a **level playing field between all entities operating in the European Union**.

5. On the separation of audit and limited assurance

The EBF calls for a thorough evaluation before considering the possible prohibition for statutory auditors and audit firms to carry out audits of the sustainability reporting in the same undertaking or group. We deem it fundamental to consider that **financial and sustainability performance will progressively become the two sides of the same coin**, as sustainability performance does indeed have a financial impact. The separation of auditing may wrongfully provide the impression that financial and sustainability reporting are not tightly interlinked.

In addition, the mandatory separation of financial and sustainability auditing would likely result in incremented costs associated to obtaining such auditing services, especially in the circumstance of reasonable assurance. The separation also raises the further concern of the availability of audit service providers, as it has been highlighted that in many circumstances and in several Member States there currently are already difficulties being encountered with regards to the availability of audit providers. This would be further exacerbated by the obligation of having separate auditors.

Finally, the EBF agrees, however, that the providers of assurance around sustainability information must be subject to the same high level of standards, qualifications, objectivity, independence, ethics, quality assurance and oversight that statutory auditors of financial statements are currently subject to.

6. On the definition of small, non-complex institutions

While the EBF welcomes the extended scope as proposed by the European Commission, we would nonetheless note that the current balance sheet threshold for a large undertaking, as identified in the Accounting Directive, is not appropriate for credit institutions.

Article 4(145) of the Capital Requirements Regulation already determines a category of “small, non-complex” institutions (SNCIs), 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 approach the scope between small non-

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complex credit institutions and non-financial undertakings **symmetrically**. 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** developed by EFRAG, while unlisted SNCIs fall outside the scope of the CSRD.

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About EBF

The European Banking Federation is the voice of the European banking sector, bringing together national banking associations from across Europe. The federation is committed to a thriving European economy that is underpinned by a stable, secure, and inclusive financial ecosystem, and to a flourishing society where financing is available to fund the dreams of citizens, businesses and innovators everywhere.

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