insurance europe

Key comments on the EC CSRD proposal

Insurance Europe is highly supportive of the Corporate Sustainability Reporting Directive (CSRD) initiative proposed by the European Commission. The insurance industry is Europe's largest institutional investor, with €10trn of assets under management, and in order to make appropriate investment decisions and comply with sustainability regulation it is vital that consistent, comparable and machine-readable sustainability data is available, and can be accessed and used efficiently. The CSRD, together with the European Single Access Point (ESAP) initiative, can achieve this.

The industry is particularly supportive of the following important aspects of the EC's proposal (although those indicated with an asterisk require some improvements to the wording of the text to work as intended):

- Mandatory reporting in machine-readable format.
- Data needed for EU Taxonomy and Sustainable Finance Disclosures Regulation (SFDR) reporting is prioritised and included in the first set of sustainability reporting standards.
- A significant increase in the scope of companies covered by mandatory reporting and those outside the scope (unlisted SMEs) are encouraged to report voluntarily based on simplified SME standards.*
- A target timeline for first standards to be adopted by Q3 2022, with mandatory reporting in 2024 on the year 2023.*
- EU sustainability reporting standards build on and contribute to standardisation initiatives at global level through constructive two-way cooperation between EFRAG (the European Financial Reporting Advisory Group) and international initiatives.
- Limited assurance, with a later review to consider whether this should change to reasonable assurance.*
- The role of EFRAG to develop standards in consultation with stakeholders.
- Mandatory reporting requirements at consolidated (group) level.*

A limited number of simple but important improvements are needed for the CSRD to work as intended:

1 The definition of SME undertakings included in the draft text does not work for insurers

This is because their balance sheet and revenue are fundamentally different from companies in other sectors. Even tiny insurers, with only a few employees can have much larger balance sheets/sales turnover than allowed for in the definition. For such companies, mandatory reporting under the full standards would be far too burdensome and costly relative to their staffing and profit levels. To address this issue, the industry suggests that for Financial Market Participants (FMPs), only the employee criteria would apply to define which companies are SMEs.

Current rules define an SME company as one which meets at least two of the following criteria: 1) Headcount:< 250, 2) Turnover: <€ 40m, 3) Balance Sheet: < €20m). The staff headcount criterion can work for insurers, but the turnover and balance Sheet criteria do not work as intended by the Accounting Directive for the Financial sector. We note that the EC has shown that the headcount measure was the dominant one in the past and argued that the headcount criterion should be used before the turnover or balance Sheet criteria[1].

The concept of "high-risk" sectors is being discussed in the European Parliament in the JURI draft report and EMPL draft opinion on the CSRD, based on sectors that are likely to have serious negative impacts on sustainability matters. If such a category is developed, insurers should not be included. Insurers are financial intermediaries and do not have a significant direct impact on the environment. Insurance Europe notes that even small listed insurers under its proposed approach below would still be under mandatory reporting but on the more appropriate simplified SME basis.

1 European Works Council recommendation concerning SMEs, May 2003

Proposed solution

Financial undertakings[2] that meet the SME "number of employees criteria" (fewer than 250 full time employees (FTEs)), but that do not meet the other SME requirements, should be subject to mandatory sustainability reporting, but under the SME standards rather than full standards designed for large companies.

This proposed alternative definition would slightly alter the existing three categories proposed by the EC:

- Large companies: Mandatory reporting under full sustainability reporting standards
- Listed SMEs and financial undertakings < 250 FTEs: Mandatory reporting under simplified sustainability reporting standards
- Unlisted SMEs: Voluntary reporting under simplified sustainability reporting standards.

2 The decision to move to reasonable assurance should not be automatically linked to the development of standards on reasonable assurance

Given the very significant cost difference, the assessment of whether such a change is needed should be made after the CSRD is up and running. The current text gives the EC powers to develop assurance standards (Article 26a (2)) and, if these are developed, it would make the change to reasonable assurance automatic (Article 26a (3)). However, the decision to move from limited assurance to reasonable assurance should be separated from any decision to define assurance standards. This is the approach that was seemingly intended by the EC because in the explanatory memorandum of its proposals it states that its "*proposal includes a requirement that the Commission report to the European Parliament and to the Council on the implementation of assurance requirements no later than 3 years after the entry into application of this Directive. The report will be accompanied, if appropriate, by legislative proposals for stricter assurance requirements ('reasonable assurance')*." However, there does not appear to be any reference to the requirement for this report in the legal amendments actually proposed.

Proposed solution

Delete the current text directly linking the move to reasonable assurance with the development of reasonable assurance standards and include text referring to the requirement that the "Commission report to the European Parliament and to the Council on the implementation of assurance requirements no later than three years after the entry into application of the CSRD. The report will be accompanied, if deemed appropriate, by a legislative proposal for stricter assurance requirements."

3 The option to report at consolidated (group) level must apply to public interest entities (PIEs) as it does for others

This is because the group level is the relevant level for investors, provides a holistic view and is also the level at which sustainability policies and strategies are usually set. The CSRD proposal aims to allow consolidated level reporting through an exemption included in the new Article 19a, paragraph 7 of the Accounting Directive. However, Article 40 of the existing Accounting Directive excludes PIEs from any exemptions and, since insurers are PIEs, this would mean insurers would not be allowed to report only at consolidated level.

Proposed solution

Amend Article 1, paragraph 3 (Article 19a, new paragraph 8 of the Accounting Directive) and Article 1, paragraph 7 (Article 29a, new paragraph 8 of the Accounting Directive) by adding, for example: "The exemption of paragraph 7 shall also apply to public interest entities subject to the requirements of this Article.", as proposed by the Council presidency.

4 It is vital that any delays (such as those under discussion by co-legislators) do not apply to data needed to meet mandatory reporting requirements (eg SFDR and Taxonomy) — standards for this data are needed by 2023 so the data can be reported from 2024

The financial sector already faces a data gap of one year because it needs data from the CSRD, which is available from 2024 at the earliest, to comply with quantitative data reporting requirements under the SFDR, which start from 2023. It will have to rely on best efforts to collect/estimate the necessary data, which can create significant expense, difficulties and reduced data quality. Both the Council and Parliament are discussing potential delays to the EC's proposed timetable but it is vital that any such delays do not impact the standards relating to complying with mandatory reporting requirements.

Proposed solution

If delays are needed on the CSRD, then the current text should be changed to make clear that a multiphase approach is necessary, and priority should be given to standards relating to data needed for mandatory reporting. In this way, a) reporting of most, if not all, such core data should still start in line with the current timetable (ie, 2024) and b) more time could be given, for example, to developing and implementing other parts of the sustainability reporting standards or a phased approach could be foreseen for first-time adopters. More generally, the co-legislators should create a coherent sequence of timing necessary for the CSRD disclosures that would allow for compliance with the other regulatory and supervisory requirements of the financial sector. Full alignment should be considered, including on scope, content, application dates, reporting frequency and transition.

5 The timelines for mandatory reporting should be set relative to the availability of standards rather than fixed with a date in the Directive to allow for the possibility of delays in finalising the standards

Insurers support the EC's ambitious timeline and the need for rapid progress, not least because they require the data from companies in order to meet SFDR and EU Taxonomy reporting requirements. Nevertheless, insurers have seen from the EU Taxonomy and SFDR that delays are possible and, if it takes longer than planned to finalise certain standards, the mandatory reporting linked to those standards needs to also be adjusted to allow sufficient time for preparers to adapt systems and procedures and to produce data of reasonable quality.

Proposed solution

Keep the timeline for producing standards fixed in the Directive, but link the timeline for first mandatory reporting to a minimum of one year after the sustainability reporting standards have been adopted.

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