Submission by Chambers Ireland to the European Commission regarding the European Sustainability Reporting Standards

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About Chambers Ireland

Chambers Ireland is an all-island business organisation with a unique geographical reach. Our members are the Chambers of Commerce in the cities and towns throughout the country – active in every constituency. Each of our member Chambers is central to their local business community and all seek to promote thriving local economies that can support sustainable cities and communities.

Our Network has pledged to advocate for and support the advancement of the United Nations Sustainable Development Goals (SDGs). Accordingly, we use the Goals as a framework to identify policy priorities and communicate our recommendations. We have a particular focus on five of the goals encompassing decent work and economic growth (SDG 8), sustainable cities and communities (SDG 11), Gender Equality (SDG 5), Industry, Innovation and Infrastructure (SDG 9) and climate action (SDG 13).[1]

In the context of the current consultation, Goal 8 is the most relevant. We previously submitted our views on the Corporate Sustainability Reporting Directive.[2] We emphasised that many firms reported that they have to participate in sustainability reporting if they want to be part of the supply chain of larger firms, NGOs, and state bodies (such as contracting bodies). A solution we proposed centred on developing a simplified standard for reporting on social and environmental information. Though supportive of initiatives to ensure sustainability reporting is integrated into corporate entities, we hold concerns on the burden this may place on businesses who do not have the capacity or resources to do so. We accordingly welcome the opportunity to share our updated views in relation to reporting requirements and their far-reaching effects again.

[1] The Chambers Ireland SDGs. Available at: https://www.chambers.ie/policy/sustainable-development-goals/chambers-ireland-sdgs/
[2] https://chambers.ie/wp-content/uploads/2023/02/Submission-by-Chambers-Ireland-to-the-Department-of-Enterprise-Trade-and-Employment-regarding-the-Corporate-Sustainability-Reporting-Directive-.pdf ; https://www.chambers.ie/wp-content/uploads/2021/08/Chambers-Irelands-Submission-on-Quality-Procurement-and-Sustainability-Requirements.pdf

Key Points

- Chambers Ireland supports the aims of the European Sustainability Reporting Standards in conjunction with the Corporate Sustainability Reporting Directive, to encourage companies to develop more responsible, sustainable approaches to business.
- The transitional phase will help businesses adapt to the new reporting framework.
- The proposal to make some reporting disclosures a voluntary rather than mandatory requirement for some data points will help ease the reporting burden on some businesses.
- With regard to the practicality of a business that is entering the supply chain of in-scope companies, it is vital that assistance is provided to businesses to help them meet their reporting requirements.
- We support the phasing-in of requirements that will help businesses adjust to the new reporting structure.
- Standardised templates should be made available to companies who are subject to reporting requirements.
- We are concerned that smaller firms in value chains may be unfairly affected by reporting requirements, even where the Corporate Sustainability Reporting Directive does not make specific reference to those firms, or where they are not classified as an in-scope undertaking.
- A lack of standardisation in relation to reporting means that larger firms will likely forego the services of smaller firms in favour of larger firms who have the resources to successfully meet their reporting requirements.
- We appreciate the efforts of the European Commission and the European Financial Reporting Advisory Group to establish a Voluntary SME standard.
- The cumulative requirements from other legislation such as the EU Taxonomy regulation and the Corporate Due Diligence Directive will constrain businesses ability to meet their reporting requirements.

General Comments regarding the European Sustainability Reporting Standards

We agree in principle with the aim of the 12 draft standards in bringing sustainability reporting on a par with financial reporting. Corporate sustainability reporting will enable the best decisions to be made by companies and financial institutions regarding sustainability in their investments. It will also provide transparency for consumers, communities and policymakers. This will be an essential framework to help businesses successfully transition towards net-zero by 2050, while tackling the systemic risks from inequality across their operations, value chains and portfolios.

Currently an extensive, adequate framework does not exist to ensure companies do not overlook impacts along their value chains, while many do not report the environmental, social and governance issues relating to their value chains. Similarly, it is important that stakeholders are furnished with information which is comparable, reliable and relevant to analyse the sustainability-related impacts of companies.

The new phasing-in of reporting requirements may help, however, the timeframe for the new standards to be implemented may not be conducive to proper implementation of the new standards within companies. This is especially true for those who may lack the resources to do so. Given the short timeframe for implementation, we have concerns that some businesses will not have time to develop new data-gathering processes, systems, and controls which are necessary to ensure they are compliant with new reporting requirements.

Regarding coherency with the EU legal framework, we support the modifications at a high level which have been made to ensure the reporting standards are better aligned. Namely, this is true for the Accounting Directive and the Transfer Register. It also appears that the revised standards are now better designed to align with the International Sustainability Standards Board (ISSB) and the Global Reporting Initiative (GRI) to ensure that they are interoperable.

Our position on sustainability reporting

As a business organisation with sustainability at the heart of our policy priorities, we support measures that aim to improve the flow of capital towards sustainable activities across the European Union. We welcome the attempt to ensure that investors and stakeholders have access to information that will help them assess investment risks arising from sustainability issues. They will also create a culture of transparency about the impact of companies on people and the environment.

In our previous submission regarding the Corporate Sustainability Reporting Directive, we took the position that the Directive was a positive revision of the EU's Non-Financial Reporting Directive, as it will encourage European companies to adopt more sustainable processes. At a broader level, we emphasised its ability to realise the potential of the European Union in its transition to a more sustainable economic and financial system, in accordance with the UN Sustainable Development Goals and the European Green Deal.

However, we still hold concerns that excessive reporting will have an adverse effect on smaller businesses, if action is not taken to support them in meeting their reporting requirements. The goal must be to achieve a regulatory framework that places as little burden as possible on entrepreneurs. We proposed actions so that the aims of the Directive can be achieved more equitably and effectively, and especially take into account the effect it will have on businesses that are technically not in its scope, but who will, in reality, be tied into the reporting requirements of those that are in-scope. Decisions taken by the European Commission regarding the design of the European Sustainability Reporting Standards should bear this in mind. Relatedly, we hope that this is considered in the sector-specific standards which are anticipated to be published in June of next year.

Cumulative effect with other EU legislative requirements

We hold the fear that not enough consideration has been given to the effect of cumulative requirements of numerous legislative frameworks on businesses. All businesses operating in the EU need a workable due diligence framework that is designed and implemented in a proportionate and balanced way. Coupled with the Corporate Sustainability Reporting Directive are the additional reporting requirements under the EU Taxonomy regulation. Additionally, businesses will be subject to extra requirements under the Corporate Due Diligence Directive, which lays down rules on obligations for companies regarding adverse impacts on human rights and the environment. Though supportive of their aims, we believe that requirements they place on businesses translate into a considerable reporting burden for businesses; especially for those that are not technically in their scope but will likely have to report nonetheless.

Smaller businesses in particular will be affected. The consequence may be that it would only be possible for large firms with dedicated reporting teams to compete on the market, as only they will have the resources to tailor their data to respond to the requirements of each of the client bodies. The European Single Access Point[3] will aid businesses in marking-up their sustainability reporting, and the voluntary requirement to report – rather than mandatory – will be helpful. However this will not substantially lessen the reporting burden on businesses. Variance across reporting regimes compounds the requirement to report and will constitute a massive undertaking for those businesses across the board.

Actions to lessen the burden on businesses

Supports should be available to ease the reporting burden for businesses, and in our submission to the Irish Department of Enterprise, Trade and Employment regarding the Corporate

[3] https://www.europarl.europa.eu/legislative-train/theme-an-economy-that-works-for-people/file-european-single-access-point#:~:text=The%20ESAP%20will%20offer%20a,up%20more%20sources%20of%20financing.

Sustainability Reporting Directive, we emphasised the view that the cumulative, additional reporting requirements will necessitate a Working Group to monitor the progress and challenges the Irish business sector will face in meeting their requirements. We hope that a similar platform will be available at EU level. In our opinion, this would enable affected businesses to voice their concerns and mitigate problems as they arise.

Through our collaboration with Eurochambres,[4] we actively advocated for non-mandatory reporting requirements for SMEs. In the new Directive, non-listed SMEs and micro-businesses will not be subject to mandatory reporting obligations, however in our view, not extending the voluntary reporting requirement to all SMEs is a mistake. We emphasised this in our submission mentioned previously. We welcome the fact that Member States are encouraged - in the recitals of the Directive - to consider measures to support voluntary reporting for businesses in accordance with the simplified standards prescribed by the Directive. However, the fact this does not extend to all SMEs means that they will be burdened with an extraordinary reporting workload which is disproportionate to what they can carry out in practice.

Though non-mandatory reporting may in theory exclude some businesses from the scope of reporting requirements, the ever-increasing focus of investors on sustainability impact will nonetheless impact such businesses. The evidence that those with positive sustainability attributes are likely to outperform their peers means that such businesses will likely find themselves motivated for strategic reasons to carry out voluntary reporting. Standardised templates for reporting will be essential to ensure they are as equipped as they possibly can be to do so. The small business community in particular need assurances that larger businesses accept templates as part of their supply chain relationship management. The usefulness of templates, estimates, and other tools prepared by the Commission should therefore be prioritised. This is consistent with our request as part of the Eurochambres network to mitigate

[4] https://www.eurochambres.eu/wp-content/uploads/2021/07/ECH-Position-Paper-on-CSRD-proposal-Final.pdf

the pressure on SME suppliers involved in large companies' supply chains, by ordering the use of simplified standards.[5]

Finally, larger businesses are already carrying out environmental, social and governance reporting as part of their annual filings, with the consequence that smaller businesses who deal with such businesses are in reality already a part of their reporting chain. Smaller businesses are hence burdened with the same reporting requirements as in-scope businesses. They would not normally be accustomed to producing large volumes of such detailed reporting and may be disproportionally affected in terms of cost and administrative workflows. Consistent with our previous comment, we hope the European Commission prioritises standardised reporting templates; this would help ease this reporting burden for those affected businesses.

[5] Ibid.

Specific comments on the main text of the draft delegated act and Annex I

Materiality

The materiality aspect of the Standards framework is a welcome step in ensuring balance is kept between the burden placed on businesses and adequate reporting. The fact that all disclosures and data points within each standard will be subject to a self-determined materiality assessment by reporting entities will significantly reduce the reporting burden for businesses. The exception for ESRS 1 and ESRS 2 (defined as 'General Requirements' and 'General Disclosures' Standards) appears a reasonable balance to strike. However, in our view, the climate Standard (ESRS E1) ought to be kept as a mandatory requirement for all reporting entities that are in scope.

One of the proposals by the European Financial Reporting Advisory Group, centred on making it a mandatory reporting requirement for entities with more than 250 employees to make disclosures regarding their own workforce. This proposal has been shelved, and we anticipate that this will significantly reduce the burden for reporting entities making disclosures under the Corporate Sustainability Reporting Directive.

Voluntary disclosures

We are supportive of the benefits that come with extensive sustainability reporting. However, there needs to be a reasonable burden - not an unachievable nor impractical burden - on businesses to carry out that reporting. If there is not an appreciation of what businesses can practically carry out, subject to their available resources and staffing capacities, then the reporting structures fail.

Making certain disclosures voluntary, therefore, is a welcome modification by the Commission to the reporting framework. It is a reasonable ask of businesses to provide an explanation of why they may consider a particular sustainability topic to not be material to their business. In the first draft there was a mandatory reporting requirement in place for many of the disclosures and data points. In our view, this would have made the reporting framework a superficial legislative structure; in its original form, it would have made it completely impossible for many businesses to meet their reporting requirements. It is also noteworthy that there are businesses who are willing to report on a voluntary basis about their sustainable activities - but the existing framework is complicated to navigate. Accordingly, we highly appreciate the efforts of the European Commission and European Financial Reporting Advisory Group to establish a Voluntary SME standard.

However, though voluntary reporting has now been included, the concern still exists that although there exists on the face of it a voluntary requirement to report, businesses that are not in-scope may still be forced to report. This weakens the gains which would have been made in terms of lessening the reporting burden off non-in-scope businesses.

Flexibilities in disclosures

The European Commission and the European Financial Reporting Advisory Group proposed a phasing-in of requirements that will help businesses adjust to the new reporting structure. This will be helpful for in-scope undertakings, especially those that would be subject to such reporting requirements for the first time. It appears reasonable that all reporting entities in the first year of applying the standards may omit certain data points relating to their own workforce, as this data would be difficult to collate and submit at short notice. Regarding other flexibilities, we particularly welcome the fact the Commission has introduced flexibility disclosures regarding the methodologies that may be used for the materiality assessment process.

Comments on Annex II

Chambers Ireland do not have any comments to make regarding the acronyms and terms mentioned in Annex II.