

Consultation of the European Commission

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Initiative: Proposal for a regulation

Non-financial reporting by large companies (updated rules)

On 26 February 2020 the Accounting Standards Committee of Germany (ASCG) has submitted its feedback on the Inception Impact Assessment on the aforementioned Commission's initiative. Further information including the feedback given by other respondents can be obtained by following this link:

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

The ASCG's opinion were submitted electronically via the Commission's website using the text box provided and has the following content:

Generally, we believe that before deciding on the appropriate policy tool, any perceived shortcomings of the NFRD need to be assessed against whether those deficiencies can indeed be addressed appropriately by any of the three policy tools.

Taking into account the recent survey results by public interest law organisation Frank Bold presented in Brussels on February 17 (<https://en.frankbold.org/news/analysis-companies-failing-report-meaningful-information-about-their-impacts-society-and-enviro>), the evidence seems to suggest, inter alia, that:

- Company reports do not seem to have yielded results that stakeholders have hoped for (notwithstanding good reporting by some and on particular aspects);
- The quality of information is perceived too low to draw conclusions, even though, for some aspects, there is an upward trend in terms of both, quantity, and quality of information; and
- Firm size, location, and industry seem to play a role.

One may therefore ask whether the Directive's objective can indeed be met through company reporting alone and sufficiently quick enough. Our view is driven by the following two issues, which we suggest being considered when defining and selecting the policy options.

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Firstly, on standards: We believe that one needs to differentiate between setting standards on the one hand and requiring adherence to those and defining scope on the other: Setting standards may be better placed with those that are closer to where the information deficiencies exist and information is being sought. Conversely, public policy seems better placed to address the scope as to who should be subjected to such standards as well as to enforce the quality of those companies' reporting. So, with regard to setting non-financial reporting standards, we believe that market-led approaches are genuinely more suitable in contrast to public policy reporting requirements as the former are tailored more directly to address specific information needs. This would also contribute to avoiding creating compliance exercises and box-ticking approaches (which may also be a valid interpretation of the data yielded by the study mentioned above).

Secondly, we favour pursuing a global approach by considering internationally/globally accepted reporting standards that already exist or are under development. Whilst we concede that differing degrees of willingness to proceed with mandatory non-financial reporting exist around the globe, we do not share the view of those that believe Europe should be first, go regional and create its own non-financial reporting environment. The reporting requirements are primarily targeting companies that are sourcing, selling and doing business beyond Europe's borders; further, the areas to be reported on are not genuinely limited by Europe's territory, either – so what would be the perceived benefit of creating yet another non-financial framework to which only companies domiciled in Europe would be subjected? We admit that a European framework might bring consistency and comparability within that regional area; on the other hand, any regional approach bears the risk of creating competitive disadvantage to European companies vis-à-vis their non-European counterparts who would not be subject to these regional requirements.

In light of these considerations we do see little merit in pursuing option 1. Whilst we admit that the European Commission may revise their non-binding guidelines quickly, we do not believe that the development of guidelines is in line with our two points mentioned above.

Regarding the other options mentioned in the Inception Impact Assessment we think that both options 2 and 3 have merits; however, neither option can appropriately and fully address the issue, which is why we recommend a mix of the two along our preceding comments.