EUROPEAN
COMMISSION

Brussels, 17.10.2023
COM(2023) 596 final

2023/0368 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2013/34/EU as regards the time limits for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In its Communication on 'Long-term competitiveness of the EU: looking beyond 2030', the Commission has stressed the importance of a regulatory system that ensures that objectives are reached at minimum costs. It has committed therefore to a fresh push to rationalise and simplify reporting requirements, with the ultimate aim to reduce such burdens by 25%, without undermining the related policy objectives.

Reporting requirements play a key role in ensuring correct enforcement and proper monitoring of legislation. Their costs are overall largely offset by the benefit they bring, in particular in monitoring and ensuring compliance with key policy measures. Reporting requirements can however also impose disproportionate burdens on stakeholders, particularly affecting SMEs and micro-companies. Companies therefore should be given sufficient time to prepare for any new reporting requirements. The cumulation of reporting requirements over time can result in redundant, duplicating or obsolete obligations, inefficient frequency and timing, or inadequate methods of collection.

Streamlining reporting obligations and reducing administrative burdens is therefore a priority. In this context, the proposal will rationalise reporting obligations by postponing the adoption deadline for sustainability reporting standards for certain sectors and for certain third country undertakings.

The Accounting Directive (2013/34/EU)[1] as amended by the Corporate Sustainability Reporting Directive (CSRD - 2022/2464)[2] requires large companies and listed small and medium-sized companies (SMEs), as well as parent companies of large groups, to include in a dedicated section of their management report the information necessary to understand the company's impacts on sustainability matters, and the information necessary to understand how sustainability matters affect the company's development, performance and position.[3]

This sustainability information must be reported in accordance with European Sustainability Reporting Standards (ESRS), to be adopted by the Commission by means of delegated acts, taking into consideration the technical advice provided by EFRAG[4]. These ESRS must specify the content and, where relevant, the structure to be used to present that information.[5]

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[1] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

[2] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15).

[3] The sustainability reporting requirements for large undertakings and listed SMEs are set out in Articles 19a and 29a of the Accounting Directive, and apply from financial year 2024 depending on the category of undertaking. Article 40a of the Accounting Directive also requires certain non-EU companies carrying out business in the territory of the Union to make public certain sustainability information from financial year 2028.

[4] Article 49(3b) Accounting Directive. EFRAG was previously called the European Financial Reporting Advisory Group. In 2022 it changed its name to simply EFRAG.

[5] Article 29b(1) of the Accounting Directive mandates the Commission to adopt via delegated acts the ESRS to be used by large undertakings and listed SMEs, while Article 40b mandates the Commission to adopt the ESRS for the sustainability report of certain non-EU companies.

A first set of ESRS was adopted by the Commission on 31 July 2023 and is now subject to the scrutiny of the European Parliament and of the Council. The ESRS in this first set are sector-agnostic, meaning that they apply to all undertakings under the scope of the CSRD, regardless of which sector or sectors the undertaking operates in.

Article 29b(1), third subparagraph, of the Accounting Directive sets the adoption date of the sector specific ESRS by 30 June 2024. These ESRS are to specify the information that undertakings should report about sustainability matters and reporting areas specific to the sector in which an undertaking operates.

The Commission is putting forward concrete proposals to reduce the reporting burden for financial market participants. One of them is to propose a 2-year delay of the date of adoption of the sector-specific ESRS, currently required in 2024. This also responds to a demand from the corporate sector.

Postponing the adoption date by 2 years is relevant for companies in the scope of the CSRD, including listed SMEs, required to carry out sustainability reporting. This will allow these companies to focus on the implementation of the first set of ESRS adopted on 31 July 2023, ensure that EFRAG has time to develop sector specific ESRS that are efficient, and limit the reporting requirements to the minimum necessary.

In addition, Article 40b of the Accounting Directive sets the adoption date for the ESRS to be used by certain non-EU companies with business in the Union by 30 June 2024. Considering that the reporting requirements for these non-EU companies only applies from financial year 2028, and considering the 2-year postponement of the deadline for adopting the sector-specific ESRS, the adoption deadline for these standards should also be postponed by 2 years. This will allow more resources to be dedicated to the development of effective and proportionate sector-specific ESRS, while still giving enough time for these non-EU companies to prepare ahead of financial year 2028.

- **Consistency with existing policy provisions in the policy area**

The proposal is part of a first package of measures to rationalise reporting requirements. This is a step in a process looking comprehensively at existing reporting requirements, with a view to assess their continued relevance and to make them more efficient. The rationalisation introduced by this measure will not negatively affect the achievement of the objectives in the area of sustainability reporting. The proposal is also consistent with the SME Relief Package.[6]

- **Consistency with other Union policies**

N/A

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 50 TFEU has been determined to be the appropriate legal basis for this initiative since it amends an existing Directive, which is based on that Article.

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6 COM(2023) 535 final.

- **Subsidiarity**

The deadlines for the adoption of the sustainability reporting standards are to be met by the Commission. Postponing these deadlines can only be done by way of an act of the co-legislators. No action at national level is required in this regard.

- **Proportionality**

This initiative has the primary objective of allowing companies to focus on the implementation of the first set of ESRS adopted on 31 July 2023, ensure that EFRAG has time to develop sectoral ESRS that are efficient, and limit the reporting requirements to the minimum necessary. Postponing the deadlines for the adoption by the Commission of the sustainability reporting standards for certain sectors - as well as for certain third-country companies - would achieve this objective while leaving sufficient time for companies to prepare for these additional reporting requirements.

- **Choice of the instrument**

Considering that the amendments only concern the postponement of time limits for the Commission to adopt delegated acts, therefore not requiring any transposition by the Member States, a Decision of the European Parliament and of the Council adopted in compliance with the procedure set out in Article 50(1) TFEU is deemed to be the most appropriate legal instrument. Indeed, this instrument is about the overall normative context within which Member States are called to approximate their laws through the Directive, as required by Article 50 TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

N/A

- **Collection and use of expertise**

N/A

- **Impact assessment**

N/A

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

This initiative has no budgetary implications.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

N/A

• Explanatory documents

No transposition by Member States is required since this initiative postpones by 2 years certain deadlines for the Commission to adopt delegated acts.

• Detailed explanation of the specific provisions of the proposal

Directive 2013/34/EU is amended as follows:

(1) The deadline for the Commission to adopt sector-specific ESRS by way of delegated acts under Article 29b(1), third subparagraph, is set by 30 June 2026 (instead of by 30 June 2024);

(2) The deadline for the Commission to adopt ESRS for non-EU companies meeting certain thresholds by way of delegated acts under Article 40b is set by 30 June 2026 (instead of by 30 June 2024).

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 50(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[7],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Sustainability reporting requirements play a key role in ensuring market transparency and in ensuring that undertakings are accountable for their impacts on people and the environment. However, it is important to streamline those requirements, in order to ensure that they fulfil the purpose for which they were intended and to limit the administrative burden.

(2) Article 29b(1), third subparagraph, of Directive 2013/34/EU of the European Parliament and of the Council[8] requires the Commission to provide for sustainability reporting standards by means of delegated acts by 30 June 2024 specifying the information that undertakings are to report with regard to sustainability matters and the reporting areas specific to the sector in which an undertaking operates, in addition to the information that undertakings are already to provide under Commission Delegated Regulation (EU) XX/XXX[9].

(3) To reduce the reporting burden on undertakings, as set out in the Commission Communication on 'Long-term competitiveness of the EU: looking beyond 2030'[10], undertakings should be allowed to focus first on the implementation of sustainability

7 OJ C […], […], p. […].

8 Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

9 [*Publications office, please insert the full reference to this Delegated Act, once published: COMMISSION DELEGATED REGULATION (EU) …/… of 31.7.2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards (C(2023) 5303 final)*].

10 COM(2023)168.

reporting requirements laid down in Delegated Regulation (EU) XX/XXX. For that reason, the time limit for the adoption of the delegated acts containing the complementary sustainability reporting requirements referred to in Article 29b(1), third subparagraph, of Directive 2013/34/EU should be postponed by 2 years.

(4) Article 40b of Directive 2013/34/EU also requires the Commission to adopt, by 30 June 2024, a delegated act to provide for sustainability reporting standards to be used for the disclosure of sustainability information concerning third-country undertakings with a net turnover above EUR 150 million and with either subsidiaries in the Union that are large undertakings or small and medium-sized undertakings with securities admitted to trading in the Union regulated markets, or with branches in the Union with a net turnover above EUR 40 million.

(5) The reporting requirements for certain third-country undertakings only apply as of financial year 2028. Since the time limit for the adoption of the delegated acts containing the complementary sustainability reporting obligations referred to in Article 29b(1), third subparagraph, of Directive 2013/34/EU will be postponed by 2 years, the time limit for the adoption of the sustainability reporting standards for certain third-country undertakings standards should also be postponed by 2 years.

(6) Directive 2013/34/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Directive 2013/34/EU

Directive 2013/34/EU is amended as follows:

(1) In Article 29b(1), third subparagraph, introductory wording, '30 June 2024' is replaced by '30 June 2026';

(2) in Article 40b, '30 June 2024' is replaced by '30 June 2026'.

Article 2

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*