UPDATE ON THE EU CORPORATE SUSTAINABILITY REPORTING DIRECTIVE: EUROPEAN PARLIAMENT APPROVES TWO-YEAR DELAY FOR SECTOR-SPECIFIC REQUIREMENTS AND REPORTING BY NON-EU COMPANIES

Last week, the European Parliament announced that its Legal Affairs Committee, by a vote of 21-2, had approved a proposal to delay by two years two elements of the Corporate Sustainability Reporting Directive (CSRD). The first of the two key elements are the sector-specific sustainability disclosures included among the European Sustainability Reporting Standards (ESRSs) being prepared by the European Financial Reporting Advisory Group (EFRAG). The second are the overall reporting obligations for companies outside the European Union that are within the scope of the CSRD by reason of the extra-territorial reach of the CSRD, which also are to be covered by ESRSs. Both elements have been delayed from June 30, 2024 to June 30, 2026.

The proposal to delay had been made by the European Commission this past October, as part of a 26-point 2024 work program to reduce regulatory burdens – an objective first set out by EU Commission President Ursula von der Leyen in March 2023 (*see also* Long-term competitiveness). For additional information on the CSRD, *see* my briefing note from August 2023, and for additional information on the ESRSs, *see* EFRAG update. As part of the 2024 work program, back in October, the reporting thresholds for SMEs were increased.

The proposed delay must now be approved by the European Parliament in plenary session and the Council. It is possible that member states could propose amendments during the Council approval process.

The CSRD reporting obligations became effective January 1, 2024. The CSRD is underpinned by a series of ESRSs, the first two of which were adopted in June 2023. These two ESRSs are sector-agnostic and apply as of January 1, 2024. Reporting under the CSRD on the basis of these two ESRSs is unaffected by the delay.

The eight sector-specific ESRSs were to be in place by June 2024, and this element of the CSRD has been pushed out two more years. The sector-specific ESRSs are intended to provide roadmaps for how and to what extent reporting companies in particular sectors should disclose, in the words of the Legal Affairs Committee "their impact on people and the planet, including on decarbonization, biodiversity or human rights, since methods and impacts differ depending on the sector."

Similarly, the ESRSs for large non-EU companies operating in the European Union were to be in place by June 2024, and they too have been pushed out two years. That said, as a practical matter this should not impact the timetable for such reporting as the transposition requirements for third country obligations (Article 5(2) of the CSRD) call for reporting for financial years beginning on or after January 1, 2028. To be clear, non-EU companies within scope do not today have reporting obligations, and will only be required to report beginning in 2028.

The Legal Affairs Committee did call for the publication of the standards as soon as they are ready, notwithstanding the delayed deadline. The stated rationale for the delay is to give reporting companies within scope time to focus on the implementation of the two general, sector-agnostic ESRSs. The Legal Affairs Committee rapporteur Alex Voss noted that the delay gives EFRAG more time to develop the sector-specific standards and gives reporting companies more time to get comfortable with those new standards.

Concluding Thoughts

Notwithstanding the headwinds that climate and broader ESG disclosure has encountered, particularly in the United States, I would not characterize the delays as a setback for sustainability disclosure. This year also marks the first year of reporting for companies embracing the new ISSB standards – IFRS-S1 and IFRS-S2 (*see* my briefing note from June 2023). Once published and effective, the delayed ESRSs will have had the benefit of greater attention to detail and will likely be more comprehensive.

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