An EU Sustainable Reporting Framework for a Sustainable European Economy

A Eurelectric position paper

November 2021

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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WG Financial Regulation & Market Integrity
WG Social Sustainability

Contact:
Vittoria CHEN, Trainee, vchen@eurelectric.org
Stella BENFATTO, Wholesale Market Advisor – Investment Lead, sbenfatto@eurelectric.org

A Corporate Sustainable Reporting Directive fit for a sustainable European economy

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KEY MESSAGES

- **Consistency and coherence with existing EU acquis and the development of the EU Sustainable Finance framework must be ensured, including** 1) the review of the Renewable Energy Directive RED II(I), 2) the EU Taxonomy framework, in particular the reporting requirements (Art. 8 Delegated Act), 3) the EU Strategy for financing the transition to a sustainable economy. Also, coherence with the work carried out by the European Financial Reporting Advisory Group (EFRAG) must be ensured.

- **The implementation timeline for the CSRD reporting requirements should consider, and be calibrated with, other regulatory initiatives**.

- We **encourage applying a phase-in approach** together with a comply-or-explain procedure for data where it can be justified not to follow setup in full.

- **Content-wise, reporting requirements should not lead to disproportionate obligations for companies, particularly if the requested level of detail does not create added value for data users.**

- **The CSRD should strive for a level playing field regarding reporting requirements**. Such requirements should apply to listed and non-listed companies identically. Specific considerations for SMEs could be considered, but it should not become the general rule. **We welcome clarification on the principle of materiality in the Commission's CSRD proposal**. Nevertheless, some challenges could arise during implementation due to the increase in EU sustainable finance obligations. Particularly regarding adaption to climate risks, it is important to avoid using a disproportionate level of scenarios for assessment and mitigation process.

- Regarding the proposed regulations on carrying out the assurance of sustainability reporting, we support **the proposed third-party assurance** to ensure a level playing field for companies and improve the quality and disclosure of information**. We also support reasonable assurance**. However, it has taken time and resources to develop the necessary internal controls and data quality for financial data. Mature handling of ESG data will also take time to develop. Thus, **a phasing-in period is required to allow new requirements for reporting and assurance practices for sustainability information to reach a higher degree of maturity. This means establishing a step-by-step focusing on the essential requirements and, in future,**

expanding it. Moreover, the assurance level should be reviewed after one or two reporting cycles based on global or EU standards.

- **Information on intangibles is a particularly sensitive issue**. Although intangibles play an increasingly significant role in modern business, they are difficult to identify and measure. Thus, **at this stage, regulating the issue of intangibles is premature**. At best, regulation of intangibles should be considered in the coming years to allow time to explore the topic.

- In terms of publication**,** in the long term, we support the idea of including sustainable information in the management report and it should be mandatory to publish financial and non-financial documents jointly and with the same digital method (as prescribed by the new Art. 30 of the Accounting Directive). However, as for now, **we encourage a phase-in approach such that undertakings can benefit from some flexibility in implementing the new reporting rules.** A similar phase-in approach should apply to assurance procedures. More information on this below.

- **We support a new single electronic reporting format (Art. 19d). Nevertheless, Eurelectric recommends considering:**
    - An **exemption regime for the consolidated financial reporting requirements (Art. 23) of the Accounting Directive. This simplifies the reporting process at parent company level for subsidiaries;**
    - **The implementation of a single reporting platform should only occur after the full establishment of the necessary prerequisites** and **still offer some flexibility** in the choice and timing of publication as it allows companies to better reflect their path towards a sustainable agenda**.**

- **An 'equivalence principle' should apply** when assessing non-EU activities reported according to EU publication requirements. An EU company must be able to report non-EU activity (e.g. a US wind park) to be considered sustainable. Vice versa, third-country companies can report EU activities according to their national reporting standards, but this will only be considered sustainable by the EU if the activity is subject to equivalent rules. For this to work, it takes **proper alignment and reciprocity rules concerning taxonomy regulations between the EU and third countries**.

- **It is important to ensure international convergence.** The CSRD proposal states that the EU should take account of any sustainability reporting standards developed under the auspices of International Financial Reporting Standards Foundation (IFRS). However, IFRS has started restricting their activities to climate change while CSRD has a broader sense beyond climate issues. In this case, ensuring consistency of sustainability reporting (the same level of requirements) across the EU and globally should be a priority.

- **Overall, we support the development of EU Reporting Standards. Nevertheless, the following elements should be considered:**
    - The development and implementation of a standard should be pragmatic and realistic. The timeline should fit other ongoing EU (sustainable finance) legislative activity and process, ensuring that relevant stakeholders' perspectives are considered.
    - Enough timebetween the adoption and the implementation should be given.
    - It is crucial to consider alignment and coherence with existing global standards largely used by companies.

  - It is crucial to keep in mind the ongoing development of the EU Taxonomy framework and the interlinkages between such framework and the CSRD.

Electronic reporting format should be implemented subsequently to the definition of the content requirements. It is key to outline the content first and then set up a standardised format and provide enough time to adapt to this new reporting standards.

- **We welcome a mandatory but simplified reporting standard for SMEs defined in Art. 19d of the Accounting Directive.** As such, implementation and compliance processes should also be facilitated for SMEs. It shall generally be recommended to consider any simplified and less burdensome requirement to be the general rule, i.e. not only for SMEs.

Further elaboration:

A Phase-in approach:

We **encourage applying a phase-in approach together with a comply-or-explain procedure for data**, especially when the timeline suggested by the EC is too tight to be realistic. Commonly, the implementation of the directive is two years after the publishing of the eventual directive. As a result, if the directive would be agreed upon in 2022, the first year with the new reporting obligations would be 2024 and the first CSRD report would be given in 2025. It is worth mentioning that the directive is now under negotiations, there is no certainty when the final directive will be agreed upon.
Additionally, the comply-or-explain procedure for data where it can be justified to not follow setup in full must be maintained.

Proportionate obligations regarding reporting requirements:

Content-wise reporting requirements should not lead to disproportionate obligations for companies, particularly if the level of detail does not create added value for data users. For example, as required in Art. 19a/2)e)ii, information regarding the value chain should be included in management reports. However, it could trigger an administrative burden if one company has a myriad of suppliers. Therefore, we propose to verify only suppliers above a certain number of employees. To further elaborate on the distinction between burdensome and reasonable requirements, we suggest the usage of proxies and de minimis measures. Detailed examples can be found as follows:

- **Usage of proxies:** Energy generation may imply a shift of fuel during a day of production. One possible measure to calculate electricity or heat is to use proxies or allocation keys. This could avoid burdensome and potentially costly metering that will not significantly impact the result. However, using proxies only bears the risk of material adjustment in the following year’s annual report. Since some information may not be available in time for the current year’s annual report (e.g. certain environmental data for December can only be estimated), an adjustment will be needed if the ex-post deviation is material.
- **De minimis:**
    - <u>Forward-looking information</u>: the obligation to report forward-looking information is very limited in financial reporting requirements. An obligation to report detailed forward-looking information with regard to sustainability matters especially with medium and long-term horizons would be disproportionate compared to financial reporting requirements.
    - <u>Description of sustainability targets</u>: the obligation to report targets should be limited to the most material sustainability matters identified by the company. As for non-financial targets, it will be disproportionate to require exhaustive reporting as for financial targets.
    - <u>Conservative principle (defined by Article 6 of Accounting Directive)</u>: For example, if something lays within the ratio of 3-5%, resources should not be excessively spent on finding the precise/exact value (e.g. 4,2%). Instead, 5% can be used directly in the relevant assessment. In this way, a burdensome thorough assessment is avoided by using the ‘worse case’ outcome of the justified range (or using the lower end of the range if the conservative approach demands it).
    - <u>Equivalence principle for third country activities</u>: It is important that an ‘equivalence principle’ applies when it comes to the assessment of non-EU activities being reported according to EU publication requirements. Hence, it is

essential that an EU company can use non-EU activity to be seen as sustainable – e.g. a US wind park – if the activity is subject to equivalent rules. In this example, it means that an EU company – in terms of the KPIs – could generally treat a US wind park in the same way manner as an EU based wind park without applying the toughest rules of both jurisdictions founded on an equivalence principle (i.e. similar but not 1:1 the identical rules).

Elaboration on certain definition:

Elaboration on the definition of certain requirements is needed. For example, under article 19b of Directive 2013/34, point 2 "The sustainability reporting standards referred to in paragraph 1 shall require that the information to be reported is understandable, relevant, representative, verifiable, comparable, and is represented in a faithful manner." It should define what is understandable, relevant, and representative information and whether the relevant and representative information is connected with the double materiality. In addition, instructions should be given regarding the implementation of double materiality.

A Level Playing field:

The CSRD should strive for a level playing field. Such requirements should apply to listed and non-listed companies identically. Specific considerations for SMEs can be considered, but it should not become the general rule. Instead, it shall generally be recommended to consider any simplified and less burdensome requirement to be the general rule, i.e. not only for SMEs.

Furthermore, for the following reasons, we support maintaining the status quo: 1) No changes are foreseen in the Commission's proposal article 3 of the Accounting Directive regarding the definition of Small and Medium Enterprises (SMEs), 2) Well-function of the definition SMEs in the past.

Assurance:

- Justified level of assurance: **Eurelectric fully supports the requirement for third-party assurance.** We believe that the different types of sustainable information to be published do not need the same level of assurance. Thus, it is adequate to have reasonable assurance e.g., scope 1 and 2 GHG emissions while it is sufficient with limited assurance for the rest of the sustainability reporting.

- Timeline: **Eurelectric supports reasonable assurance as the must-have option when certain prerequisites are met**. However, it has taken many resources and years to develop the necessary internal controls and data quality for financial data. Mature handling of ESG data will take time to develop too. Thus, a **phasing-in period is necessary** to allow new requirements for reporting and assurance practices for sustainability information to reach a higher degree of maturity.
  In this regard, it shall be noted that applying different assurance levels for different types of sustainability information in the management report can be challenging in practice. Hence, **Eurelectric shall recommend a split where data justified to be part of the annual report is subject to reasonable assurance**. While other sustainable data that is not matured (yet) or justified to be part of the annual report should only be subject to limited assurance.

- Forward-looking data: Regarding information on sustainability's targets and forward-looking **information, it could involve** confidential strategic positioning **of the company** since the degree of detail of that information may vary. Finally, if the **forward-looking information**

implies information on the scenario analysis**,** this will **raise problems of assurance** when the assumptions on which the prospective information is based is not clear.

- Avoid disproportionate basis for assurance: **Content-wise assurance should not lead to disproportionate obligations for companies, particularly if the level of details assured does not create added value for data users**. In practice, similar approaches such as acknowledging principles and practices such as “usage of proxies” and “de minimis” mentioned in the reporting requirements of this position paper could be a choice.

- Group-based assurance: **We support the Commission’s proposal aiming at simplifying the assurance process at parent company level for subsidiary companies.**

- Knowledge: To ensure the quality of corporate reporting, it is important to have appropriate professionals with relevant experience in the assurance of sustainability information. This will help the accomplishment of the previous point.

Intangibles:

Information on intangibles is a particularly sensitive issue since it is quite difficult to identify and measure them because there are no commonly acknowledged methodologies. **Requiring companies to report on intangibles will lead to an additional and excessive burden for them**. Such an obligation will have a very significant financial impact for companies as it will require significant changes in the process of data collection and processing. This is especially true in the case of large capital groups with many subsidiaries. For this reason, at this stage, regulating intangibles could be premature. At best, they could be considered at a second stage of the Directive, in order to allow companies to explore the topic.

Publication:

Regarding the new Art. 30 of the Accounting Directive, companies shall publish sustainability information in the management report within 12 months**. In the long term, we support the idea of including sustainability information in the management report and publishing both at the same time. However, we encourage a phase-in approach so that undertakings have flexibility in implementing the new reporting rules.**
For example, the **Directive could make it mandatory to publish financial and non-financial documents jointly with the same digital method but allow a phase-in period for companies to report.** So that companies have time to adapt their strategy to better comply with the regulation.

In addition, a similar phase-in approach should apply to assurance procedure.

Digitalisation:

Digitalisation and reporting format are covered in the new Article 19d of Accounting Directive and requires companies to prepare their financial statements and their management report in a single electronic reporting format and to markup sustainability information as and when specified in that Regulation. **However, the electronic reporting format should be implemented subsequently to the definition of the content requirements. It is key to outline the content first and then set up a standardised format.**

Regarding information tagging, it should be noted that the requirement for management reports to be tagged according to Regulation 2019/815 (The single electronic reporting format regulation) proved to be quite costly and time demanding. At the same time, there was almost no interest from the public to open the tagged version (the common experience is that the majority of readers continue to open the regular PDF version without tagging). It is an administratively challenging and expensive bureaucratic requirement, which should therefore not be extended to the section of sustainable reporting until a substantive demand materialises.

Regarding the transparency and ability to find all information in one place, the most feasible solution would be to provide a single platform such as the European Single Access Point, where all sustainable reports and management reports would be uploaded and easily accessible and comparable by all stakeholders. However, this should not create an additive administration burden for companies. In other words, the switch to a single platform such as the European Single Access Point should only intervene when the platform is fully ready for use. Also, such a platform should not lead to duplicate the reporting and uploading work for companies. It should become the only platform where all information is uploaded.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

Union of the Electricity Industry - Eurelectric aisbl
Boulevard de l'Impératrice, 66 – bte 2 - 1000 Brussels, Belgium
Tel: + 32 2 515 10 00 - VAT: BE 0462 679 112 • www.eurelectric.org
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