EU Member State Transposition of CSRD - status update

At a glance

- 27 EU Member States and 3 EEA countries have until July 6, 2024 to transpose the EU Corporate Sustainability Reporting Directive ("CSRD") into National law. However, we understand that several countries will miss the deadline and aim to finalise the transpose CSRD by the end of 2024.
- Jurisdictions have some discretion when transposing CSRD into national law.
- This creates a challenge for businesses to track the new requirements to assess changes to current compliance and reporting requirements, directors' duties and penalties applicable to their global operations during a time of rapid change, in an area where, as well as financial penalties, non-compliance carries significant reputational risk.
- CSRD compliance is also expected to align with local corporate reporting timelines and existing national legal frameworks, for example in relation to workforce, creating a logistical challenge for international groups.
- This flyer summarises the position as at October 1, 2024 and outlines the key areas of focus for businesses now.

Introduction:

The CSRD amends existing EU Regulations and Directives focused on non-financial reporting and came into force on January 5, 2023. For financial years beginning on or after January 1, 2024, approximately 50,000 companies will be required to report, including thousands of non-EU based multinationals and their EU subsidiaries. Following the Directive coming into force, each of the EU Member States are required to adopt national legislation pursuant to CSRD outlining specific reporting obligations - a process known as transposition. EU Member States will have until July 6, 2024 to transpose CSRD into National Law.

As well as the central requirements, which are mandatory for Member States to transpose, CSRD leaves some discretion of the EU Member States in a number of key areas which allows them to obligate companies to more stringent rules. For instance, this may include:

- extending the scope of entities, whether that be by thresholds or legal entity type;
- extending the requirements set out in the ESRS standards; or
- ensuring alignment for requirements for submission of the sustainability information with local statutory filing requirements.

It is therefore important to track the development of transposition of each EU member state, as companies are likely to have varying reporting obligations if they are based in multiple different EU Member States. This will ensure that companies are fulfilling their obligations under specific national laws in good time.

Companies should be aware of the implications of non compliance as these are far reaching. The CSRD allows for each Member State to adopt and enforce penalties under domestic law, which can extend beyond existing local sanctions for financial reporting, requiring companies to ensure they are aware of how each Member State has transposed the CSRD which could include regulatory fines for business and their directors. However, companies should be aware that it could also trigger auditors being unable to sign off the reports and considerations of commercial arrangements within the business' supply chain. Finally with the increasing scrutiny by regulators, business should also be aware of the negative impact on their reputational risk.

With these ranging implications and onerous obligations, companies should consider taking steps to ensure they are fully compliant, from assessing legal entity scoping requirements, to planning stakeholder engagement, to evaluating sustainability data, to performing a gap analysis, to updating the corporate governance and upskilling of the boards and management teams.

With the introduction of the EU's Corporate Sustainability Due Diligence Directive, businesses getting ready for CSRD should review the implications of the CSDDD on existing CSRD readiness / compliance activities.

At PwC, with our multidisciplinary team, we can help you at every step of the way to ensure you are ready to start collecting the right data to meet the compliance and reporting requirements.

Areas to focus on

Subsidiary exemption rules: The practicalities for claiming a consolidation exemption in each Member State differ (on the basis of current draft domestic legislation); it can be challenging to track which jurisdictions require a link or copy of the consolidated report, and how to manage translation requirements.

Assurance requirements: Where assurance is required of the information in the sustainability report, provisions can differ in terms of who can provide that assurance, and where the assurance statement must be included.

Employee consultations: An objective of CSRD is to increase dialogue and transparency on sustainability issues - so the Directive requires a company to inform its employees of how the sustainability information has been collected. It is within the discretion of Member States to extend this to a requirement to consult with employees. It will be important to track implementation to determine where this obligation may apply.

Inter-dependency on local corporate law and sustainability reporting: Transposition of CSRD is intended to align with local corporate and financial reporting requirements. This can create complexities in managing the different local filing processes and deadlines of entities, especially those consolidating their CSRD reporting.

Directors' duties: Member States have discretion to change or enhance directors' duties - for example, at the time of writing, France has introduced enhanced and specific duties for directors in relation to the sustainability report. It will be important for businesses and officers to track implementation for any further changes.

Penalties: Penalties for non-compliance may be imposed, either through existing corporate law and reporting frameworks, or new penalties specific to CSRD-presenting both a financial and reputational risk. At the time of writing, Spain's proposal introduces new sanctions specific to sustainability reporting.

Status of transposition and a snapshot of the changes

Country	Status	Summary: ✔ Changes to scope of entities	✔ Changes / Enhancements to directors duties	✔ Sanctions for non-compliance	✔ Additional Employee engagement requirements
National legislation in force					
Bulgaria	Final	✖	✖	✔	✖
Croatia	Final	✖	✖	✔	✖
Czech Republic	Partial Transposition	✖	✖	✔	✖
Denmark	Final	✔	✖	✔	✖
Finland	Final	✔	✔	✔	✖
France	Final	✔	✔	✔	✔
Hungary	Final	✖	✖	✔	✖
Ireland	Final	✔	✖	✔	✖
Italy	Final	✖	✖	✔	✖
Lichtenstein	Final	✔	✖	✔	✖
Lithuania	Final	✖	✖	✔	✖
Norway	Final	✖	✖	✔	✖
Romania	Final	✔	✖	✔	✔
Slovakia	Final	✖	✖	✔	✖
Sweden	Final	✔	✖	✔	✖
National legislation consultation/drafted					
Belgium	Draft under embargo		Outstanding		
Cyprus	Draft	✖	✖	✔	✖
Estonia	Draft	✖	✖	✔	✖
Greece	Consultation		Outstanding		
Germany	Draft	✖	✖	✔	✖
Latvia	Draft	✔		Outstanding	
Luxembourg	Draft	✖	✖	✔	✖
Netherlands	Draft	✖	✖	✔	✖
Poland	Draft	✖	✖	✔	✖
Slovenia	Draft	✖	✖	✔	✖
Spain	Draft	✖	✖	✔	✖
National legislation to be drafted					
Austria	No development	-			
Iceland	No development	-			
Malta	No development	-			
Portugal	No development	-			

Where consolidated reporting is applied, EU subsidiaries will be able to take a CSRD reporting exemption on the basis of a consolidated report higher up the group. However EU subsidiaries and their parent companies will still have local filing and statutory requirements dependent on the transposition of CSRD in the relevant member state, which need to be identified and planned for accordingly as part of the readiness programme. These can include, for example, extending the application criteria by lowering the thresholds and/or including additional legal entity types, governance requirements to meet statutory director duties under local company laws and mandated engagement with local works councils, as well as practical compliance considerations including specific disclosure requirements in relation to the subsidiary in the group report and translation requirements in order to file the group report with the local accounts.

Companies should ensure that they seek up to date legal advice on the implications of MS transposition on compliance and governance requirements for EU entities and their boards. All the information in this briefing is up to date as of May 1, 2024 (based on current information) and may be subject to change. Please get in touch if you would like to discuss the implications on your business further.

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