

## GDV's response on

### European Commission's Better Regulation Consultation on the Corporate Sustainability Reporting Directive (CSRD)

14<sup>th</sup> July 2021

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The GDV highly welcomes the EU Commission's legislative proposal for the CSRD as an important foundation for sustainable finance. Indeed, **the new CSRD – if aligned – can be a real game-changer for the sustainability agenda** if it enhances market transparency, availability and quality of sustainability information.

Regarding the CSRD's main goal, market transparency on sustainability information is critical to establish fair competition, prevent greenwashing, and secure the integrity of Financial Market Participants (FMPs). Consequently, **investors will have comparable and reliable sustainability information to make better and more sustainable investment decisions**. At the same time, **the collection, preparation, and assurance of ESG information will be a major challenge for preparers**. Another challenge is applying the CSRD while simultaneously developing it further towards an efficient and comprehensive framework.

To meet these challenges, the GDV makes various concrete proposals to drive the sustainability agenda forward. Most importantly, the **GDV welcomes the ambitious timetable of the CSRD** – with the first application for the reference period 2023 and publication of the report in 2024. However, in order to achieve the timeline but also to focus on the feasibility of the CSRD, pragmatic solutions are needed.

- **Timeline:** The GDV advocates a **best-effort approach**. It is crucial that companies start reporting on sustainability aspects as soon as possible and gradually improve the quality of the information over time.
- **Feasibility:** New requirements should be introduced gradually (**phase-in approaches**), esp. regarding content, reporting format and external assurance. It is vital that phasing-in is consistent with the information needs of investors and other stakeholders.
- **Focus:** The **GDV highly welcomes that the information needs of FMPs are given a high priority**. Investors have a key role in delivering on the policy objectives under the European Green Deal. Investees subject to the CSRD will provide FMPs with the required data.
- **Addressing the target groups:** Beyond the FMPs' information needs, companies should be allowed to **customise their sustainability statements** and to decide how to present information in a way that is most relevant to diverging target groups.

In this way, **the high pace to reform sustainability reporting can be maintained**. At the same time, companies can improve progressively by applying the comprehensive reporting requirements.

Another significant aspect is developing **proportionate solutions** for SMEs and companies not oriented towards the capital market. For example, are small insurers in Germany that are no investees due to their legal form and do not report to investors (e. g. mutuals). According to the

definition used, **even these small insurers with about 50 employees can currently count as "large companies"** and would thus be fully subject to the CSRD. Hence, the GDV highlights that these SME insurers should also be able to use proportionate sustainability reporting schemes. The added value of "more sustainability reporting" regardless of capital market orientation and information needs of the relevant stakeholders is questionable. Instead, **the guiding principle of the CSRD should be to create a framework for better (relevant, comparable, reliable) sustainability reporting.**

**Overall, the development of a consistent legal framework for sustainable finance is critical.** The greatest challenge is aligning the different EU regulatory initiatives (esp. Taxonomy Reg., SFDR, ESAP) and global initiatives (IFRS Foundation). Only aligned, a more effective and efficient corporate reporting can be achieved that serves the growing information needs of sustainable investors operating globally.

## **Statement**

**of the German Insurance Association (GDV)**

**on the European Commission's legislative proposal on the**

**Corporate Sustainability Reporting Directive**

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## **1 The GDV's key messages on the European Commission's legislative proposal for the Corporate Sustainability Reporting Directive (CSRD)<sup>1</sup>**

The GDV highly welcomes the European Commission's legislative proposal for the CSRD. In our view, the EU is the leader in sustainable finance, and the new CSRD will further promote this leading position. In the past, the GDV has provided constructive feedback to drive the sustainability agenda forward. Hence, we are glad to see that our ideas and input are widely reflected in the European Commission's proposal.

### **1.1 Market transparency on ESG information is essential to make finance a stronger driver for sustainable transformation.**

The finance system is already driving the sustainable transformation forward by increasing capital allocation to sustainable business models. However, enhanced market transparency on ESG information can further strengthen this vital function. Indeed, **the new CSRD – if aligned (see 1.6) – can be a real game-changer for sustainable finance** if it provides free digital access to standardised and comparable "ready-to-use" ESG data for investors. To achieve this goal, the CSRD should be as simple as possible, proportional, and focus on the information needs of investors and other stakeholders.

### **1.2 A phase-in approach is key to create an efficient and comprehensive sustainability reporting regulation.**

As the development of sustainability reporting regulation is such a complex task, it is essential to **advance step-by-step in a pragmatic way towards the final goal**. Setting standards in new areas requires time due to a wide range of different stakeholders and necessary feedback loops to ensure that the standards really fit for purpose. At the same time, the **implementation by companies is a huge challenge**. Many companies need to set up new processes and integrate them into their reporting system. Empirically, not until companies really start to apply the standards, many practical problems become visible.

In consequence, the GDV highly recommends phase-in approaches regarding the scope (see 2.1), the sustainability reporting standards (see 2.3), and external assurance (see 2.6). Furthermore, the GDV calls for prioritising the information needs of investors.

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<sup>1</sup> formerly: Non-Financial Reporting Directive; NFRD.

### **1.3 Information needs of investors should be a priority in the short run.**

As we share the ambition of the European Commission to make the financial system a robust and transformative catalyst for sustainability, **it is crucial to prioritise the information needs of investors in the short run.** Hence, the German insurers appreciate that according to article 19b CSRD the first set of the European Sustainability Reporting Standards (EU SRS) would focus on the information needs of financial market participants (FMPs). Regarding the first application for the financial year 2023, investors urgently need specific sustainability information of their investees to fulfil their own reporting obligations defined in the EU Taxonomy Regulation and the Sustainable Finance Disclosure Regulation (SFDR).

### **1.4 Proportionality is crucial for the efficiency of the sustainability reporting system**

Under the current NFRD, non-financial statements often lack the relevant information from an investor's perspective. These shortcomings were a critical reason for the review of the NFRD. Consequently, **the guiding idea of the new CSRD should be "less reporting, but better"**. Against this backdrop, we deem it necessary **that proportionality truly becomes a key principle** of the CSRD shaping the scope, the sustainability standards, and the obligations for the external assurance. As a case of point, small and medium-sized enterprises (SMEs) should not report as much as possible but about the needed information in the right format.

However, while the definition of SMEs is appropriate for the non-financial sectors, it is too low for the financial sector. Indeed, **even small insurers with about 50 employees would count as "large companies"**. Hence, the GDV highlight that SME insurers should also be able to use proportionate sustainability reporting schemes. In addition, companies that are not orientated towards the capital market (defined as "non-investees" in 2.1) should not be obliged to report sustainability information relevant to investors.

### **1.5 The materiality principle is key to ensure the focus on information needs of investors**

The **GDV welcomes the clarification of the principle of double materiality** because it enables companies to better tailor their sustainability reporting to the information needs of relevant stakeholders. However, to make sustainable investment decisions and fulfil their own reporting obli-

gations, investors and other stakeholders need comparable ESG information. Hence, a certain degree of standardised information in the sustainability statements is needed. Consequently, the German insurers stress that the **KPIs of the EU Taxonomy Regulation and the SFDR** must be disclosed irrespective of the materiality principle.

### **1.6 The alignment of the European regulative initiative is critical to ensure a consistent framework for sustainable finance.**

There are several European regulative initiatives simultaneously in the making (CSRD, SFDR, EU Taxonomy Regulation, and the European Single Access Point (ESAP)). Taken together, they shall create a consistent and efficient regulative framework for sustainable finance. However, in various areas, it is still unclear how these regulative initiatives interact and will be linked to each other. While these uncertainties will fade with increasing progress, **the constant alignment of the different initiatives is an ongoing task for the coming years.**

### **1.7 The harmonisation of international sustainability reporting standards is essential to foster market transparency on a global level.**

The GDV fully supports EFRAG in its endeavour to develop EU sustainability reporting standards. Short-term, EFRAG can achieve significant progress at the EU level to improve sustainability data quality and availability. However, data gaps will remain relevant with regard to the global investment universe. Hence, the international promotion of the EU sustainability reporting standards should be promoted from the outset. Indeed, the GDV fully supports the IFRS Foundation's initiative on sustainability reporting because **the medium-term goal is to create a global system for sustainability reporting.** The harmonisation of European and international regulation will facilitate a more effective and efficient corporate reporting and serve the growing information needs of sustainable investors operating globally.

## **2. GDV's response on selected aspects of the European Commission's legislative proposal on the Corporate Sustainability Reporting Directive (CSRD)**

### **2.1 Scope: Extension of the scope to all large undertakings and listed SMEs**

The GDV supports the suggested **extension of the scope as it will improve the data availability for investors** and helps for better integrating sustainability information in investors' decision-making. Hence, if the finance sector shall drive sustainability, the data availability of investees must have a high priority.

At the same time, the **implementation of the new reporting obligations will be a massive challenge for smaller companies**. While the threshold for "large companies" seems appropriate for the non-financial sector, it is too low for the financial sector. Indeed, even small insurers with about 50 employees can count as "large companies" and would thus be fully subject to reporting requirements. We expect many SME insurers will want to report under the voluntary simpler standards that will be designed for SMEs.

In order to improve the data availability for investors as well as to support FMPs to fulfil their own disclosure obligations under the SFDR and EU taxonomy, **the focus of the extension of the scope in the first place should be on investees**. For this purpose, an appropriate threshold of e. g. 50 or 100 million EUR refinancing volume could be implemented. In this way, the CSRD will provide investors with ESG data from a considerably larger investment universe that includes companies with securities listed in EU regulated markets and more illiquid asset classes such as private equity, real estate, or infrastructure companies.

The implementation of the **new reporting obligations will also be a big challenge for non-listed companies that are no investees (hereafter defined as "non-investees")**. Accordingly, non-investees require proportionate reporting (see 2.3) and should not be obliged to report sustainability information that is only relevant to satisfy the information needs of investors.

## 2.2 Location: Obligation to publish the sustainability information in the management report

In general, the GDV supports the clear location of sustainability information in the management report because it equates financial with sustainability information and promotes their interconnection.

Nevertheless, widening the focus of the management report has disadvantages that need to be addressed via transitional measures.

There is a high risk of **operational overload** from the preparer's view because incorporating sustainability information in the management report requires new processes that need to be integrated. In fact, the preparation of the management report is already very complex as it involves gathering information, ensuring its quality, and conducting an external assurance. Furthermore, the time frame is very tight, as the companies must publish their report four months after the start of the following financial year. In addition, compared to non-financial companies, the time frame for insurance undertakings is even tighter as they face additional strict reporting requirements under Solvency II. In the end, excessive demands on companies may foster a **tick-boxing mentality**, which would clearly undermine the goal to embed sustainability in companies' daily operations and decision-making.

From the user's view, companies subject to the CSRD have lost the flexibility, where to locate the sustainability statement, in order to address the company's most relevant stakeholder. With the sustainability statements located in the management report, both professional and non-professional stakeholders will have to search for the needed sustainability information. In the end, there is a **high risk of information overload** of investors, policyholders, and other stakeholders.

Against this backdrop, the **GDV highly recommends maintaining the flexible location of the sustainability information for a transitional period**. Currently, companies can include their non-financial statements in their annual management reports or publish them separately, e. g. on the company's website, up to six months after the balance sheet date.

In addition, **we highly welcome the exemption of subsidiary companies from the reporting requirements of the CSRD** as long its parent company publishes a consolidated sustainability statement. This rule prevents double reporting and fosters the efficiency of the future corporate reporting system. Furthermore, we welcome that the CSRD covers EU subsidiaries of non-EU companies and any non-EU companies listed on



an EU-regulated market. It is important to ensure one level playing field and fair competition. Consequently, the harmonisation of international SRS is an important mid-term goal to create a level playing field.

As to the publication language for subsidiaries, we believe that only English should be required. There should be no Member State option to require the publication of the consolidated management report of the parent undertaking in an official language of the Member State. It could be discussed whether via the ESAP technology could be implemented for an automatic translation. Furthermore, from a timing perspective, the exempted subsidiary should only be required to publish the consolidated management report once the parent undertaking has published it.

### **2.3 Mandatory European Sustainability Reporting Standards (EU SRS)**

**The GDV highly welcomes that the European Financial Reporting Advisory Group (EFRAG) will provide the draft SRS for the European Commission.** The new Article 19b of the CSRD requires the European Commission to take account of the technical advice of EFRAG when preparing EU SRS.

For EFRAG to become an SRS drafter, EFRAG suggested creating a new sustainability reporting pillar alongside EFRAG's existing financial reporting pillar. The new pillar should have a robust governance structure and due process reflecting its role in developing standards. It should integrate a broader range of stakeholders than those traditionally involved in financial reporting, including a **balanced representation** of experts from national authorities, civil society, and the private sector.

Furthermore, the GDV highly welcomes the development of mandatory EU SRS. The EU SRS are urgently needed to provide investors with **comparable “ready-to-use” and reliable ESG data** to make sustainable investment decisions and fulfil their own reporting obligations.

However, as already mentioned, there is a high risk of **information overload**, complicating the data analysis for investors and imposing unnecessary costs on reporting companies. **Instead of expanding the reported information without a clear purpose, we need better sustainability reporting.** This idea of efficient reporting has strong implications for the design of the EU SRS regarding proportionality and the materiality principle (see 2.4).

**We highly welcome the development of proportionate reporting standards for listed SMEs.** At this point, we stress again that SME insurers should also be able to use proportional sustainability reporting schemes (see 2.1).

The voluntary use of proportionate SRS is an excellent opportunity for non-listed SMEs to show their contribution to the sustainable transformation, which likely improves access to the capital market and to well-conditioned insurance schemes. However, the EU Commission and EF-RAG must learn from other's mistakes, as there is a **high risk that proportionate SRS for SMEs become too extensive**. In the case of international financial accounting standards (IFRS), the development of proportionate IFRS for SMEs failed due to ever-expanding requirements.

The GDV highly recommends **focussing on the most relevant sustainability information** in the development of proportionate reporting standards for SMEs – as already mentioned, focusing on the information needs of FMPs.

The current CSRD proposal outlines a rather narrow understanding of proportionality with an exclusive focus on the size of companies. In addition, proportionate reporting should also consider who are the relevant stakeholders. In a nutshell, **companies should only be obligated to report sustainability information with a clear benefit for relevant stakeholders**. This point is particularly important for non-listed companies that are no relevant investees (as defined in 2.1). In our view, these companies shouldn't be obliged to report information exclusively relevant to investors because it creates unnecessary costs without providing clear benefits. Against this backdrop, the **GDV highly recommends shaping proportionate reporting standards for non-investees** that are no relevant investees to foster an efficient sustainability reporting system.

## **2.4 The clarification of the principle of the double materiality**

The **GDV welcomes the clarification** of the principle of double materiality. Under the CSRD, an undertaking will have to report information necessary to understand how sustainability factors affect the undertaking, and information necessary to understand the impacts of the undertaking itself on society and the environment. In order to enhance transparency within the sustainability statements, minimum standards should be developed within the EU SRS on how to conduct and disclose the individual materiality assessment.

In general, the principles-based approach is a particular strength of the NFRD that should be maintained in the CSRD. Under the current regula-

tion, the non-financial statements must only contain material information according to a company's individual materiality assessment. **This flexibility enables companies to better tailor their non-financial reporting to the information needs of their stakeholders** and prevents information overload.

However, given other European regulatory initiatives in sustainable finance, we deem it **essential that the sustainability reporting requirements at the EU level are streamlined**, as we currently face a misalignment regarding the disclosure requirements under the EU Taxonomy, the SFDR, and the CSRD. This means that a certain degree of standardised information in the sustainability statements is needed. In detail, the German insurers deem it necessary that the **KPIs of the SFDR and the EU Taxonomy Regulation** are disclosed irrespective of the materiality principle. These KPIs would have to be **covered by a sector-agnostic reporting level** as proposed by EFRAG.<sup>2</sup>

## **2.5 The digitalisation of the annual report and management report (xhtml format and tagging)**

The GDV supports the initiative of the EU Commission to drive forward sustainability reporting and digitalisation. From an investor's perspective, this will bring many advantages: data that is easily accessible and free of cost, in a standardised form, and allow for automated data feed and data analysis to ensure cost-efficient analysis via the ESAP. From a preparer's point of view, there will be mid- to long-term advantages when the ESAP is in place. In general, companies, as data providers, are burdened by frequent requests with different questionnaires to provide data to various stakeholder groups. With the ESAP in place, these data users can easily access published company data directly via the ESAP. **Overall, the GDV supports the ESAP as a comprehensive approach to centralise publicly available data of companies.**

Furthermore, the **GDV welcomes developing sustainability reporting and a single electronic reporting format together from the outset**. Only if both initiatives are aligned it should make the application more manageable. The basis for such a transformation of reporting requirements depends on the development of digital taxonomies, long-term covering all published corporate reporting data. At the same time, **the digitalisation of company reporting is a serious challenge for reporting companies** that should not be underestimated. The GDV acknowledges that there are many benefits to applying the requirements of article

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<sup>2</sup> EFRAG's recommendations to the European Commission for the elaboration of possible EU sustainability reporting standards.

19d CSRD directly for the first year of application. However, as there is a rollout of the sets of the EU SRS over the years, the same should apply for rolling out the digital taxonomy. According to article 19b CSRD, the first set of the EU SRS would have to focus on the information needs of FMPs. In addition, the GDV recommends analysing the possibilities of proportionate measures and phase-in approaches for non-investees.

## **2.6 External third-party assurance: obligation for limited assurance**

Many insurance undertakings currently conduct voluntary assurance of the non-financial statement's content to strengthen their commitment towards sustainability and to increase their transparency efforts in their communication. In line with overall support for stronger assurance to improve the reliability of ESG information and to prevent greenwashing, **the German insurance industry supports a phase-in approach on limited assurance.** While investees should already be obliged from the beginning to provide sustainability statements with limited assurance, non-listed companies should be granted an appropriate transitional period in order to have sufficient time for preparers as well as auditors to prepare for these new requirements.

Furthermore, **there should be no decision now to move automatically to reasonable assurance.** Given the significant cost difference, an assessment should be made after the CSRD is up and running if such a change is needed. The current legislative proposal makes the change to reasonable assurance automatic if assurance standards for sustainability reporting are defined. However, the decision to change from limited assurance to reasonable assurance should be separated from the development of assurance standards for sustainability reporting. While the GDV acknowledges that there are benefits to conduct reasonable assurance from an investor's perspective, at this moment, the GDV considers **reasonable assurance to be too excessive from a cost-benefit point of view.** In particular, to non-investee insurance undertakings, reasonable assurance would not be appropriate from a proportionality perspective.

**Hence, the GDV would like to suggest another more proportionate approach for non-investee insurance undertakings.** The insurance industry already has high standards for good governance and robust compliance systems due to strict regulatory requirements in this highly regulated industry. Even for the smallest insurance undertakings, strict control functions under the Solvency II framework (risk management, actuarial function, compliance, internal audit) are already in place. Such internal comprehensive control functions that work independently and professionally can already guaranty a high degree of reliability, e. g. in sustainability

reporting. Frankly, an additional external third-party assurance of the sustainability statement would not add any additional value to the sustainability statements of insurance undertakings, compared to the non-financial sector where there is anything comparable.

In addition, the German insurers **highly welcome the option that member states can open the assurance market to independent assurance service providers**. Even conducting limited assurance is a challenge to the capacity and technical ability of the current market for assurance services. Also, the increased competition in sustainable reporting assurance should help avoid market concentration and lead to competitive pricing and better service. This decision could also help companies reduce the expected high costs, which the assurance requirements will add.

## **2.7 Extension and clarification of the sanction regime within the Accounting Directive (2013/34/EU)**

The GDV welcomes a proportional approach for penalties with graduated sanctions depending on the severity of infringements. This proportional approach ensures fair competition for sustainable business models and prevents greenwashing. At the same time, companies should not be afraid to make minor mistakes, as they will happen, especially in the initial phase of the application of the CSRD. Consequently, the public statement indicating the legal entity responsible for the infringement could be appropriate in cases of severe infringements to prevent negative reputation spillover for companies in the downstream value chain, such as insurance undertakings. Finally, a sanction regime should provide sufficient incentives for companies to establish a functional governance structure. Hence, whether public statements should include the natural person responsible for the infringement is questionable.

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