



EUROPEAN PARLIAMENT

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Committee on Industry, Research and Energy

2013/0110(COD)

2.12.2013

OPINION

of the Committee on Industry, Research and Energy

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups
(COM(2013)0207 – C7-0103/2013 – 2013/0110(COD))

Rapporteur: Bendt Bendtsen

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SHORT JUSTIFICATION

I. Introduction

CSR has over the years developed into a successful way of creating value that contributes both to business goals and society via companies' increased consideration of long term environmental and societal challenges. Europe is the region in the world where most companies have signed up for the UN Global Compact, for which companies submit annual reports on their CSR activities.

The rapporteur of the ITRE report is of the opinion that non-financial disclosure, such as companies' disclosure of CSR strategy shall remain business-driven. CSR efforts and CSR reporting shall be focused on issues that are key to company strategy, and complement company strategy rather than a bureaucratic exercise. Companies are different, and are themselves best placed to determine which issues and initiatives are the most relevant for their CSR activities.

The rapporteur welcomes the commission's proposal as a way of promoting transparency and addressing fragmentation and the different demands companies face in Europe when reporting on non-financial activities to stakeholders.

II. Explanation of amendments

1) Comply/explain

To address transparency and fragmentation issues for stakeholders regarding which frameworks companies use, what topics they report on and where stakeholders can find their reports, the rapporteur believes it is sufficient that reporting is applicable for companies that have CSR strategy, to disclose their CSR activities in the annual report. Furthermore, to keep CSR business driven and motivate companies to engage in CSR as an integrated part of their business strategy, a long a long list of politically chosen categories will represent administrative burden, which will not add value to companies (that do not necessarily operate in a sector where a given category is relevant) or stakeholders.

2) Regarding risks

The rapporteur suggest specifying the type of risks to principal risks to allow companies to focus and qualify their reporting on the relevant risks at hand, and not pad their report with generic, uninformative text on risks applicable to any company in any sector.

3) Regulatory framework

The rapporteur suggests deleting "national" framework as a way of addressing the issue of fragmentation and promote transparency for stakeholders reading and comparing reporting. Reporting should be done using established international and European framework

4) Diversity

The rapporteur is of the opinion that SMEs should explicitly be excluded from reporting on diversity, a requirement which apply to listed companies. The rapporteur is furthermore of the opinion that "reasoned" should be deleted, as a "clear" explanation should be sufficient.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) There evidence showing that disclosing non-financial information improves companies' social, environmental and human rights policies and management systems, thereby reducing the negative impacts caused by their activities. Evidence also shows that companies which properly analyse and disclose non-financial information increase their competitiveness, benefit from cost savings, easier access to capital, improved performance on financial markets and increased stability.

Amendment 2

Proposal for a directive Recital 6

Text proposed by the Commission

Amendment

(6) In order to enhance consistency and comparability of non-financial information disclosed throughout the Union, companies should be required to include in their annual report a non-financial statement containing information relating to at least environmental matters, social and employee-related matters, respect for

(6) In order to enhance consistency and comparability of non-financial information disclosed throughout the Union, companies should be required to include in their annual report a non-financial statement containing information relating to at least environmental matters, social and employee-related matters, respect for

human rights, anti-corruption **and** bribery matters. Such statement should include a description of the policies, results, and the risks related to those matters.

human rights, **and** anti-corruption, bribery, **and tax evasion** matters. Such **a** statement should include a description of the policies, results, and the risks related to those matters.

Amendment 3

Proposal for a directive Recital 7

Text proposed by the Commission

(7) In providing this information, companies may rely on **national frameworks**, EU-based frameworks such as the Eco-Management and Audit Scheme (EMAS), and international frameworks such as the United Nations (UN) Global Compact, the Guiding Principles on Business and Human Rights implementing the UN ‘Protect, Respect and Remedy’ Framework, **the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises**, the International Organisation for Standardisation (ISO) 26000, the International Labour Organization (ILO) Tripartite Declaration of principles concerning multinational enterprises and social policy, and the Global Reporting Initiative.

Amendment

(7) In providing this information, companies may rely on **the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises or may rely on** EU-based frameworks such as the Eco-Management and Audit Scheme (EMAS), and international frameworks such as the United Nations (UN) Global Compact, the Guiding Principles on Business and Human Rights implementing the UN ‘Protect, Respect and Remedy’ Framework, the International Organisation for Standardisation (ISO) 26000, the International Labour Organization (ILO) Tripartite Declaration of principles concerning multinational enterprises and social policy, and the Global Reporting Initiative. **The Commission should consider the introduction of a harmonised European standard.**

Amendment 4

Proposal for a directive Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) Member States shall ensure that adequate and effective means exist to enforce full, accurate and credible

*disclosure of non-financial information
by companies in compliance with the
provisions of this Directive.*

Amendment 5

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The obligation to disclose their diversity policies for their administrative, management and supervisory bodies with regard to aspects such as age, gender, geographical diversity, educational and professional background should only apply to large listed companies. Therefore small and medium-sized companies that may be exempted from certain accounting obligations under article 27 of Directive 78/660/EEC should not be covered to by this obligation. Disclosure of the diversity policy should be part of the corporate governance statement, as laid down by Article 46a of Directive 78/660/EEC. Companies not having a such a diversity policy should not be obliged to put one in place, but they should clearly explain why this is the case.

Amendment

(16) The obligation to disclose their diversity policies for their administrative, management and supervisory bodies with regard to aspects such as age, gender, geographical diversity, ***integration of persons with disabilities and special needs***, educational and professional background, should only apply to large listed companies. Therefore small and medium-sized companies that may be exempted from certain accounting obligations under article 27 of Directive 78/660/EEC should not be covered to by this obligation. Disclosure of the diversity policy should be part of the corporate governance statement, as laid down by Article 46a of Directive 78/660/EEC. Companies not having a such a diversity policy should not be obliged to put one in place, but they should clearly explain why this is the case.

Amendment 6

Proposal for a directive

Article 1 – point 1 – point a

Directive 78/660/EEC

Article 46 – paragraph 1 – point a – paragraph 1

Text proposed by the Commission

'1. (a) The annual report shall include a fair review of the development and performance of the company's business and of its position, together with a description

Amendment

'1. (a) The annual report shall include a fair review of the development and performance of the company's business and of its position, together with a description

of the principal risks and uncertainties that it faces.

of the ***management of the*** principal risks and uncertainties that it faces.

Amendment 7

Proposal for a directive

Article 1 – point 1 – point a

Directive 78/660/EEC

Article 46 – paragraph 1 – point b – subparagraph 1 – introductory part

Text proposed by the Commission

For companies whose average number of employees during the financial year exceeds 500 and, on their balance sheet dates, exceed either a balance sheet total of EUR 20 million or a net turnover of EUR 40 million, ***the review shall also include a non-financial statement containing information*** relating to at least environmental, social and employee matters, respect for human rights, anti-corruption ***and*** bribery matters, including:

Amendment

For companies whose average number of employees during the financial year exceeds 500 and, on their balance sheet dates, exceed either a balance sheet total of EUR 20 million or a net turnover of EUR 40 million ***and which have adopted a policy*** relating to environmental, social and employee matters, respect for human rights, anti-corruption, bribery ***and fiscal fraud*** matters, ***the review shall also include a non-financial statement containing information*** including:

Amendment 8

Proposal for a directive

Article 1 – point 1 – point a

Directive 78/660/EEC

Article 46 – paragraph 1 – point b – subparagraph 1 – point (iii)

Text proposed by the Commission

(iii) the risks related to these matters and how the company manages those risks.

Amendment

(iii) the ***principal*** risks related to these matters and how the company manages those risks.

Amendment 9

Proposal for a directive

Article 1 – point 1 – point a

Directive 78/660/EEC

Article 46 – paragraph 1 – point b – subparagraph 2

Text proposed by the Commission

Amendment

Where a company does not pursue policies in relation to one or more of these matters, it shall provide an explanation for not doing so.

deleted

Amendment 10

Proposal for a directive

Article 1 – point 1 – point b

Directive 78/660/EEC

Article 46 – paragraph 4

Text proposed by the Commission

Amendment

'4. Where a company prepares a comprehensive report corresponding to the same financial year relying on ***national***, EU-based or international frameworks and which covers the information provided for in paragraph 1(b), it shall be exempt from the obligation to prepare the non-financial statement set out in paragraph 1(b), provided that such report is part of the annual report.'

'4. Where a company prepares a comprehensive report corresponding to the same financial year relying on EU-based or international frameworks and which covers the information provided for in paragraph 1(b), it shall be exempt from the obligation to prepare the non-financial statement set out in paragraph 1(b), provided that such report is part of the annual report, ***published together with it or referenced in it.***

Amendment 11

Proposal for a directive

Article 1 – point 2 – point a

Directive 78/660/ECC

Art 46a – paragraph 1 – point g

Text proposed by the Commission

Amendment

'(g) a description of the company's diversity policy for its administrative, management and supervisory bodies with regard to aspects such as age, gender, geographical diversity, educational and professional background, the objectives of this diversity policy, how it has been implemented and the results in the

'(g) a description of the company's diversity policy for its administrative, management and supervisory bodies with regard to aspects such as age, gender, geographical diversity, ***integration of persons with disabilities and special needs***, educational and professional background, the objectives of this diversity

reporting period. If the company has no such policy, the statement shall contain a clear ***and reasoned*** explanation as to why this is the case.

policy, how it has been implemented and the results in the reporting period. If the company has no such policy, the statement shall contain a clear explanation as to why this is the case.

Amendment 12

Proposal for a directive

Article 1 – point 2 – point b

Directive 78/660/EEC

Article 46a – paragraph 4

Text proposed by the Commission

'4. Point (g) of paragraph 1 does not apply to companies within the meaning of Article 27.'

Amendment

'4. Point (g) of paragraph 1 does not apply to companies within the meaning of Article 27 ***and to micro, small and medium-sized enterprises as defined in Commission recommendation 2003/361*** *.

* ***Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124 20.5.2003, p. 36).***

Amendment 13

Proposal for a directive

Article 1 – point 3

Directive 78/660/EEC

Article 53a – subparagraphs 1a and 1b(new)

Text proposed by the Commission

Amendment

Member States shall ensure that effective and adequate mechanisms are in place in order to ensure correct disclosure of non-financial information by companies, in accordance with the provisions of this Directive.

Member States shall ensure that effective

national procedures are in place to enforce compliance with the obligations of this Directive and that these procedures are available for all persons and legal entities having a legitimate interest in ensuring that the provisions of this Directive are respected.

Justification

Specific mechanisms need to be set up in the Member States to ensure that the directive is correctly implemented and complied with. In order to take into account very different national situations, flexibility should be given to Member States as regards the functioning of these mechanisms.

Amendment 14

Proposal for a directive

Article 2 – point 1 – point a

Directive 83/349/EEC

Article 36 – paragraph 1 – subparagraph 1

Text proposed by the Commission

'1. The consolidated annual report shall include a fair review of the development and performance of the business and of the position of the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face.

Amendment

'1. The consolidated annual report shall include a fair review of the development and performance of the business and of the position of the undertakings included in the consolidation taken as a whole, together with a description of the *management of the* principal risks and uncertainties that they face.

Amendment 15

Proposal for a directive

Article 2 – point 1 – point a

Directive 83/349/EEC

Article 36 – paragraph 1 – subparagraph 3 – introductory part

Text proposed by the Commission

For parent undertakings of undertakings to be consolidated that together exceed an average number of 500 employees during the financial year, and, on their balance sheet dates, exceed either a balance sheet total of EUR 20 million or a net turnover of EUR 40 million, ***the review shall also include a non-financial statement containing information*** relating to at least environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, ***including the following:***

Amendment

For parent undertakings of undertakings to be consolidated that together exceed an average number of 500 employees during the financial year, and, on their balance sheet dates, exceed either a balance sheet total of EUR 20 million or a net turnover of EUR 40 million, ***and which have adopted a policy*** relating to at least environmental, social and employee matters, respect for human rights, anti-corruption and bribery ***and fiscal fraud*** matters, ***the review shall also include a nonfinancial statement containing information including:***

Amendment 16

Proposal for a directive

Article 2 – point 1 – point a

Directive 83/349/EEC

Article 36 – paragraph 1 – subparagraph 3 – point (iii)

Text proposed by the Commission

(iii) the risks related to these matters and how the company manages those risks.

Amendment

(iii) the ***principal*** risks related to these matters and how the company manages those risks.

Amendment 17

Proposal for a directive

Article 2 – point 1 – point a

Directive 83/349/EEC

Article 36 – paragraph 1 – subparagraph 4

Text proposed by the Commission

Where the undertakings included in the consolidation taken as a whole do not pursue policies in relation to one or more of these matters, the company shall provide an explanation for not doing so.

Amendment

deleted

Amendment 18

Proposal for a directive

Article 2 – point 1 – point a

Directive 83/349/EEC

Article 36 – paragraph 1 – subparagraph 5

Text proposed by the Commission

In providing such information the consolidated annual report may rely on ***national***, EU-based or international frameworks and if so, shall specify which frameworks it has relied upon.

Amendment

In providing such information the consolidated annual report may rely on EU-based or international frameworks and if so, shall specify which frameworks it has relied upon.

Amendment 19

Proposal for a directive

Article 2 – point 1 – point b

Directive 83/349/EEC

Article 36 – paragraph 4

Text proposed by the Commission

'4. Where a parent undertaking prepares a comprehensive report corresponding to the same financial year, referring to the whole group of consolidated undertakings, relying on ***national***, EU-based or international frameworks and covering the information provided for in the third subparagraph of paragraph 1, the parent undertaking shall be exempt from the obligation to prepare the non-financial statement set out in the third subparagraph of paragraph 1, provided that such comprehensive report is part of the consolidated annual report.'

Amendment

'4. Where a parent undertaking prepares a comprehensive report corresponding to the same financial year, referring to the whole group of consolidated undertakings, relying on EU-based or international frameworks and covering the information provided for in the third subparagraph of paragraph 1, the parent undertaking shall be exempt from the obligation to prepare the non-financial statement set out in the third subparagraph of paragraph 1, provided that such comprehensive report is part of the consolidated annual report, ***published together with it or referenced in it.***

PROCEDURE

Title	Disclosure of non-financial and diversity information by certain large companies and groups
References	COM(2013)0207 – C7-0103/2013 – 2013/0110(COD)
Committee responsible Date announced in plenary	JURI 21.5.2013
Opinion by Date announced in plenary	ITRE 21.5.2013
Rapporteur Date appointed	Bendt Bendtsen 12.6.2013
Discussed in committee	25.9.2013
Date adopted	28.11.2013
Result of final vote	+: 34 –: 15 0: 2
Members present for the final vote	Josefa Andrés Barea, Jean-Pierre Audy, Ivo Belet, Jan Březina, Giles Chichester, Jürgen Creutzmann, Pilar del Castillo Vera, Christian Ehler, Vicky Ford, Adam Gierek, Norbert Glante, Fiona Hall, Kent Johansson, Romana Jordan, Krišjānis Kariņš, Philippe Lamberts, Bogdan Kazimierz Marcinkiewicz, Jaroslav Paška, Vittorio Prodi, Miloslav Ransdorf, Herbert Reul, Teresa Riera Madurell, Jens Rohde, Paul Rübig, Salvador Sedó i Alabart, Francisco Sosa Wagner, Konrad Szymański, Patrizia Toia, Evžen Tošenovský, Catherine Trautmann, Ioannis A. Tsoukalas, Claude Turmes, Marita Ulvskog, Vladimir Urutchev, Adina-Ioana Vălean, Alejo Vidal-Quadras
Substitute(s) present for the final vote	Rachida Dati, Ioan Enciu, Roger Helmer, Jolanta Emilia Hibner, Gunnar Hökmark, Ivailo Kalfin, Seán Kelly, Holger Krahmer, Werner Langen, Zofija Mazej Kukovič, Alajos Mészáros, Markus Pieper, Vladimír Remek, Silvia-Adriana Ţicău
Substitute(s) under Rule 187(2) present for the final vote	Carl Schlyter