Dechert LLP

CSRD Factsheet:
What do I need to know?

On 5 January 2023, the European Union's ("**EU**") Corporate Sustainability Reporting Directive[1] (the "**CSRD**") entered into force. The CSRD requires a wide range of EU-based and EU-linked corporate entities to publish comprehensive and granular disclosures covering a range of sustainability topics in a dedicated section of their annual management reports. The CSRD builds on existing sustainability reporting requirements contained in the EU Non-Financial Reporting Directive (the "**NFRD**")[2], substantially increasing both the number of "in-scope" entities and the sustainability-related disclosure requirements applicable to such entities. The EU Commission has estimated that approximately 50,000 companies will be required to produce CSRD-compliant sustainability reports once the CSRD is fully implemented, compared to the approximately 12,000 companies currently reporting under the NFRD.

The overall aim of the CSRD is to increase accountability and transparency of corporate sustainability reporting and to enable investors to easily obtain comparable sustainability metrics upon which to base investment and engagement decisions.

Corporate groups and companies with operations or activities within the EU should read this factsheet and consider: (i) if they are in-scope for the CSRD and, if so, from when; (ii) what their sustainability report should contain in order to be CSRD-compliant; and (iii) what procedures and processes they may need to put in place in order to collate and present the data required to comply with the disclosure requirements set out in the CSRD.

[1] Directive (EU) 2022/2464.

[2] Directive (EU) 2014/95/EU.

Q1: Am I in-scope and what key dates should I be aware of?

The CSRD will apply progressively between 2024 and 2028, depending on the category of "undertaking"[3]. In summary, the relevant dates for issuing CSRD-compliant reports are as follows:

Category		Financial years to be covered by CSRD reporting	First report due in
A	Companies already subject to reporting under the NFRD, namely: ■ "Large"[4] companies incorporated in an EU Member State (including EU subsidiaries of non-EU companies) and parent companies incorporated in an EU Member State of "Large" groups[5] that: (i) are Public-Interest Entities[6]; **AND** (ii) have an average of more than 500 employees during the financial year; and ■ "Large" Issuers[7] and Issuers which are parent companies of "Large" groups that have an average of more than 500 employees during the financial year.	Beginning from 1 January 2024	2025
B	■ "Large" companies incorporated in an EU Member State (including EU subsidiaries of non-EU companies) and parent companies incorporated in an EU Member State of "Large" groups (which do not fall within category A above); and ■ "Large" Issuers and Issuers which are parent companies of "Large" groups (which do not fall within category A above).	Beginning from 1 January 2025	2026

[3] An "undertaking" is broadly defined by reference to a list of types of entity, primarily limited liability companies, although partnerships or limited partnerships who have limited liability members, among other entities, are also in scope. References to "companies" herein should be read as referring to "undertakings" as defined in the Accounting Directive (defined below) and related legal texts.

[4] A company is "**Large**" if it meets at least two of the following three criteria: (a) balance sheet total assets of more than €25 million; (b) net turnover of more than €50 million; and (c) an average of more than 250 employees during the financial year.

[5] "**Large groups**" are groups consisting of parent and subsidiary undertakings included in a consolidation and which, on a consolidated basis, meet at least two of the following three criteria: (a) balance sheet total assets of more than €25 million; (b) net turnover of more than €50 million; and (c) an average of more than 250 employees during the financial year.

[6] A "**Public-Interest Entity**" includes companies which are: (a) EU-incorporated and whose transferable securities are admitted to trading on an EU regulated market; (b) credit institutions; (c) insurance undertakings; or (d) designated as such by its Member State of incorporation due to its significant public relevance (*e.g.*, because of the nature of the business, its size or the number of employees).

[7] An "**Issuer**" is defined as a legal entity governed by private or public law, including, but not limited to, a Member State, whose securities are admitted to trading on an EU regulated market (the issuer being, in the case of depository receipts representing securities, the issuer of the securities represented by the depositary receipts). The entity does not have to be EU-incorporated to fall within the definition of "Issuer" (unlike entities classified as a Public-Interest Entity by virtue of having transferable securities admitted to trading on an EU regulated market). A "**Large Issuer**" is an Issuer that also satisfies the "**Large**" criteria referred to in note 3 above.

C	■ SMEs[8] incorporated in an EU Member State (including EU subsidiaries of non-EU companies) which are Public-Interest Entities (which are not Micro-undertakings)[9]; ■ small and non-complex institutions[10] (provided that they are Large companies or SMEs which are Public-Interest Entities); ■ captive insurance undertakings[11] or captive reinsurance undertakings[12] (provided that they are "Large" companies or SMEs which are Public-Interest Entities); ■ SMEs which are Issuers (and which are not Micro-undertakings); ■ small and non-complex institutions which are Issuers (provided that they are Large companies or SMEs which are Public-Interest Entities); and ■ Issuers which are captive insurance undertakings or captive reinsurance undertakings (provided that they are Large companies or SMEs which are Public-Interest Entities).	Beginning from 1 January 2026	2027
D	If owned by a non-EU parent company (which has generated a net turnover of more than €150 million in the EU in the preceding financial year for each of the last two consecutive financial years), an entity which is either: ■ an EU-established subsidiary that is either a "Large" subsidiary or an SME which is a Public-Interest Entity (which is not a Micro-undertaking); or ■ an EU branch with a net turnover of more than €40 million in the preceding financial year. *Note: CSRD reporting to extend to the whole consolidated group.*	Beginning from 1 January 2028	2029

As the CSRD is a directive, each EU Member State is required to transpose the CSRD into national law by 6 July 2024.

[8] "**SMEs**" are companies which fall within the definition of "small undertakings" or "medium-sized undertakings". Generally, small undertakings do not exceed the limits of at least two of the three following criteria: (a) balance sheet total assets of €5 million; (b) net turnover of €10 million; and (c) an average of 50 employees during the financial year, however, the thresholds set in (a) and (b) may vary depending on the relevant Member State (with limits on the total assets threshold set at €7.5 million and on net turnover set at €15 million). Medium-sized undertakings are undertakings which are not Micro-undertakings or small undertakings and which do not exceed the limits of at least two of the three following criteria: (a) balance sheet total assets of €25 million; (b) net turnover of €50 million; and (c) an average number of 250 employees during the financial year.

[9] "**Micro-undertakings**" are undertakings which do not exceed the limits of at least two of the three following criteria: (a) balance sheet total assets of €450,000; (b) net turnover of €900,000; and (c) an average number of ten employees during the financial year.

[10] A "**small and non-complex institution**" means an institution that meets all the following conditions: (a) it is not a large institution; (b) the total value of its assets on an individual or consolidated basis is, on average, equal to or less than €5 billion (which may be lowered by Member States) over the four-year period immediately preceding the current annual reporting period; (c) it is subject to no or simplified obligations, in relation to recovery and resolution planning; (d) its trading book business is classified as small; (e) the total value of its derivative positions held with trading intent does not exceed 2% of its total on- and off-balance-sheet assets and the total value of its overall derivative positions does not exceed 5%; (f) more than 75% of both the institution's consolidated total assets and liabilities (excluding intragroup exposures) relate to activities with counterparties located in the EEA; (g) the institution does not use internal models to meet prudential requirements except for subsidiaries using internal models developed at group level (provided that the group is subject to the relevant disclosure requirements); (h) the institution has not communicated (to the competent authority) an objection to being classified as a small and non-complex institution; and (i) the competent authority has not decided that the institution is not to be considered a small and non-complex institution on the basis of an analysis of its size, interconnectedness, complexity or risk profile.

[11] A "**captive insurance undertaking**" is an insurance undertaking, owned by either (a) a financial undertaking (other than an insurance or reinsurance undertaking or a group of insurance or reinsurance undertakings); or (b) a non-financial undertaking (the purpose of which is to provide insurance cover, exclusively for the risks of the undertaking(s) to which it belongs or of an undertaking(s) of the group of which it is a member).

[12] A "**captive reinsurance undertaking**" is a reinsurance undertaking, owned by either (a) a financial undertaking (other than an insurance or reinsurance undertaking or a group of insurance or reinsurance undertakings); or (b) a non-financial undertaking (the purpose of which is to provide insurance cover, exclusively for the risks of the undertaking(s) to which it belongs or of an undertaking(s) of the group of which it is a member).

Q2: Are any types of entities exempt?

Annexes I and II to the Accounting Directive[13], which is amended by the CSRD, sets out the type of undertakings to which the measures apply. These are broad in scope. In addition to amending the Accounting Directive, the CSRD amends the EU Transparency Directive[14], bringing additional non-EU issuers within the scope of the CSRD.

Alternative investment funds ("**AIF**s") and Undertakings for Collective Investments in Transferable Securities ("**UCITS**") are exempt from the requirement to include sustainability reporting in their management reports under the CSRD[15].

Q3: Are any types of securities exempt?

Where an issuer falls within the CSRD's scope only as a result of it (or its subsidiaries) having equity or debt admitted to trading on an EU regulated market, an exemption may be available where the listed securities are wholesale debt only. This exemption applies to entities who issue debt exclusively with minimum denominations of €100,000 (or equivalent), or €50,000 (or equivalent) for debt securities admitted to trading before 31 December 2010.

Q4: Do all in-scope entities within a group need to report?

"In-scope" subsidiary companies are exempt from sustainability reporting under the CSRD if: (i) they are included in the consolidated management report of their parent company or of the ultimate parent company at group level; and (ii) such exempted subsidiary includes in its management report:

- the name and registered office of the parent company that is reporting sustainability information at group level;
- the weblinks to the consolidated sustainability report of such parent company; and
- reference to the fact that they are exempted from sustainability reporting.

If the parent company of the group is established outside of the EU, its consolidated sustainability reporting and assurance opinion (see below) must be published in accordance with the publication requirements set out in the Accounting Directive[16], and in accordance with the law of the EU country by which its exempted subsidiary is governed[17].

This exemption does not apply to Large companies, which are Public-Interest Entities.

As noted above, for financial periods beginning on or after 1 January 2028, consolidated CSRD reporting will be required for groups with a non-EU parent company where they have certain sized subsidiaries and/or branches in the EU. A subsidiary or branch that falls within category D above will be responsible for preparing a sustainability report for such non-EU parent company at the consolidated group level. If the non-EU parent company does not provide all the necessary information or an assurance opinion, the subsidiary or branch must issue a statement to this effect in its sustainability report. In addition, such subsidiaries and branches may be required to disclose to their governing EU Member State information about the net turnover generated by the ultimate non-EU company, both within that EU Member State and the EU more generally.

Even if a company is not "in scope" itself, if it is part of a group where the parent company is required to prepare a consolidated CSRD-compliant report, such company will likely be required by their parent company to assist in the collection and compilation of data to enable the parent company to produce its report on a consolidated basis.

[13] Directive 2013/34/EU (the "**Accounting Directive**").

[14] Directive 2004/109/EC.

[15] These types of products may, however, be subject to alternative reporting in their annual reports under the provisions of the EU Sustainable Finance Disclosure Regulation.

[16] Directive 2013/34/EU.

[17] Disclosures in respect of exempt subsidiaries should comply (to the extent applicable) with article 8 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (the Taxonomy Regulation).

Q5: What should my report contain in order to be CSRD-compliant?

The CSRD requires in-scope entities to include in a dedicated section of the management report information necessary to understand both: (i) the company's impact on sustainability matters; and (ii) how sustainability matters affect the company's development, performance and position (the "double materiality principle").

Such information will generally[18] be required to cover:

- a brief description of the company's business model and strategy, including: (i) the resilience of the company (or group)'s business model and strategy in relation to risks related to sustainability matters; (ii) the opportunities for the company/group related to sustainability matters; (iii) the plans of the company/group, including implementing actions and related financial and investment plans, to ensure that its business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5°C in line with the Paris Agreement and the objective of achieving climate neutrality by 2050 and, where relevant, the exposure of the company/group to coal-, oil- and gas-related activities; (iv) how the company/group's business model and strategy take account of the interests of the company/group's stakeholders and of the impacts of the group on sustainability matters; and (v) how the company/group's strategy has been implemented with regard to sustainability matters;
- a description of the timebound targets related to sustainability matters set by the company/group, including, where appropriate, absolute greenhouse gas emission reduction targets at least for 2030 and 2050, a description of the progress the company/group has made towards achieving those targets, and a statement of whether the company's/group's targets related to environmental factors are based on conclusive scientific evidence;
- a description of the role of the company's/group's administrative, management and supervisory bodies with regard to sustainability matters, and of their expertise and skills in relation to fulfilling that role or the access such bodies have to such expertise and skills;
- a description of the company's/group's policies in relation to sustainability matters;
- information about the existence of incentive schemes linked to sustainability matters, which are offered to members of the administrative, management and supervisory bodies;
- a description of: (i) the due diligence process implemented by the group with regard to sustainability matters (where applicable, in line with EU requirements); (ii) the principal actual or potential adverse impacts connected with the company's/group's own operations and with its value chain, including its products and services, its business relationships and its supply chain, actions taken to identify and monitor those impacts, and other adverse impacts which the company/parent company is required to identify pursuant to other EU requirements; and (iii) any actions taken by the company/group to prevent, mitigate, remediate or bring an end to actual or potential adverse impacts and the result of such actions;
- a description of the principal risks to the company/group related to sustainability matters, including the company's/group's principal dependencies on those matters, and how the company/group manages those risks; and
- indicators relevant to the disclosures referred to above.

Where applicable, the information included in the management report shall also include information about the company's/group's own operations and its value chain, including its products and services, its business relationships and its supply chain, as well as the process carried out to identify the information included in the management report.

Are there specific requirements for consolidated reports?

Where a reporting parent company identifies significant differences between the risks for, or impacts on, the group and the risks for, or impacts on, one or more of its subsidiaries, its consolidated sustainability report must provide an adequate understanding of those subsidiary-specific risks.

[18] SMEs, small and non-complex institutions, captive insurance undertakings and captive reinsurance undertakings may limit their sustainability reporting to the following: (a) a brief description of the undertaking's business model and strategy; (b) a description of the undertaking's policies in relation to sustainability matters; (c) the principal actual or potential adverse impacts of the undertaking on sustainability matters, and any actions taken to identify, monitor, prevent, mitigate or remediate such actual or potential adverse impacts; (d) the principal risks to the undertaking related to sustainability matters and how the undertaking manages those risks; and (e) key indicators necessary for the disclosures referred to in points (a) to (d).

The consolidated sustainability report should also indicate which of its subsidiaries are exempted from annual or consolidated sustainability reporting under the CSRD.

The consolidated sustainability reporting must be published in the language(s) of the EU countries in which the subsidiaries are active. If the translation is not certified, this should be clearly stated in the translation. In addition, if the reporting parent company is non-EU incorporated, the consolidated management report must be made in accordance with the ESRS (see Q6 below) or equivalent sustainability reporting standards.

Q6: Is there a standard for sustainability disclosures?

The CSRD requires companies to make disclosures using a detailed set of sustainability reporting standards prepared in accordance with the European Sustainability Reporting Standards ("**ESRS**"). The first set of ESRS[19] was adopted by way of an EU delegated act in July 2023, published in the Official Journal of the European Union, and coming into force in December 2023. As set out in the table above, the CSRD requires certain categories of undertaking to make ESRS-compliant disclosures for financial years beginning on or after 1 January 2024.

The ESRS are divided into three categories:

(i) cross-cutting standards (comprised of general principles and general disclosures, which cover points such as: (x) how an entity complies with the ESRS; (y) the way in which sustainability is embedded in an entity's business strategy and business model(s); and (z) how an entity identifies and manages its principal sustainability impacts, risks, and opportunities);

(ii) topical standards, relating to environmental, social and governance matters (each of which consists of sub-topics such as climate change and pollution); and

(iii) sector-specific standards.

The cross-cutting and topical standards are sector-agnostic and will apply to all in scope entities irrespective of the industry in which they are operating. Further sector-specific ESRS are expected to be developed and adopted by June 2026.

Only the general disclosures under the ESRS are mandatory. All other disclosures are subject to a materiality assessment. To determine if a sustainability matter is considered material, entities will be required to carry out impact and financial materiality assessments. The impact assessment determines the positive and negative sustainability-related impacts connected with the entity's business (on both an actual and potential basis). The financial assessment, in contrast, determines the entity's sustainability-related financial risks and opportunities, including those deriving from dependencies on natural, human and social resources. A sustainability matter is considered "material" if it meets either the impact assessment or the financial assessment.

Non-EU parent companies subject to the CSRD will be permitted to report on sustainability matters using equivalent standards to the ESRS. Guidelines as to which standards are "equivalent" for this purpose are expected to be developed by the European Commission and published in a delegated act in due course.

Q7: Is there a required format for the report?

Sustainability data must be submitted in a standardised electronic reporting format (as already applies to the financial statements of "in scope" entities), to allow for easier checking and comparison in the European single access point database.

[19] Commission Delegated Regulation (EU) 2023/2772.

Q8: Will my sustainability reporting be assessed?

The CSRD requires statutory auditors to express an opinion on the sustainability reporting. Initially, auditors must provide a "limited assurance" level of assessment, *i.e.*, a statement that no matter has been identified by the auditor to conclude that the CSRD disclosure is materially misstated.

The CSRD envisages the adoption of further delegated acts (currently, in 2028) to increase this auditing standard to a more onerous "reasonable assurance" basis. This would require the auditor to more extensively consider and test the internal controls of the reporting company.

Q9: Will I be sanctioned for non-compliance?

Yes. While sanctions for non-compliance are not specified in the text of the CSRD, EU Member States are required to put "dissuasive" punishments in place under relevant implementing national law.

Further Information

For further information please contact your usual Dechert contact.
This factsheet is intended to be a general guide and does not constitute legal advice.