

## EFB December Monthly Update

### 1. Corporate Sustainability Due Diligence Directive (CSDDD)

The European Commission published a proposal for a Directive on Corporate Sustainability Due Diligence (CSDDD) on the 23<sup>rd</sup> of February 2022. According to the European Commission, the proposal aims to "... foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies' operations and corporate governance."

On the **22<sup>nd</sup> of November 2023**, the **fourth trilogue on the CSDDD** was held in Strasbourg.

On the **29<sup>th</sup> of November 2023**, according to Dods monitoring, the European Parliament's JURI Committee was briefed on the state of play of the CSDDD trilogues. The most recent trilogue has resulted in the following outcomes:

- Significant progress made regarding the process companies must follow.
- The European Parliament advocated for an ambitious penalties regime, including fines for non-compliance up to at least 5% of turnover.

#### Scope

- On the scope of companies to be included, and of human rights and environmental harm, or the extent to which companies should look at their value chains, **some progress was reached but more work remains to be done to achieve an agreement.**

#### Duty of Care for directors

- This provision was met with near-total opposition from Member States.

#### Harmonization

- For the EPP, the issue of the level of harmonization still needs to be further discussed.

Member States continue to push to exclude the financial sector.

#### Next trilogue is due to take place in mid-December.

For more information on the CSDDD, visit the file's legislative observatory [here](#).

### 2. Anti-money laundering Authority (AMLA)

The **draft proposal for a regulation establishing a new EU AML/CFT Authority (AMLA)**, was previously adopted by MEPs in the Committee on Economic and Monetary Affairs (ECON) and Committee on Civil Liberties, Justice and Home Affairs (LIBE) on 28<sup>th</sup> of March 2023.

The **next trilogue** (interinstitutional negotiations taking place between the European Parliament, European Commission, and the Council) for this proposal will take place on the **7<sup>th</sup> of December 2023**.

Although we do not have specific information on what is being discussed within the trilogues, we will continue to follow their progress.

### **3. Proposal for a Council Directive on Business in Europe: Framework for Income Taxation (BEFIT)**

On the 12<sup>th</sup> of September 2023, the European Commission adopted a package of initiatives to reduce tax compliance costs for large cross-border businesses in the EU.

On the **4<sup>th</sup> of December 2023**, the European Parliament's ECON Committee discussed the draft BEFIT report.

The rapporteur for the file proposed:

- reducing the turnover threshold for companies that would have to comply with this legislation to 40 million euro rather than the Commission's original proposal of 750 million.
- It was noted that BEFIT must play a key role in reducing the administrative burden and red tape for companies.
- During the discussion, some called for the legislation to be in alignment with the Pillar 2 Directive.
- There were also calls for more information to be given by the Commission on the BEFIT teams which would be established through this proposal.

For more information on the file, visit its legislative observatory [here](#).

#### 4. Trilogues over the last two weeks

Over the last couple of weeks, there were many trilogues ( interinstitutional negotiations between the European Parliament, Council and European Commission) on topics relevant to EFB. These include:

- CSDDD (Recent trilogue on 13th December 2023)
- Anti-Money Laundering Package (Recent trilogue on 12th December 2023)
- Net Zero Industry Act (Recent trilogue on 13th December 2023)
- Listing Act Package (Recent trilogue on 14th December 2023)
- Multiple vote share structures (Recent trilogue on 14th December 2023)
- Anti-Money Laundering Authority (AMLA) seat procedure (18<sup>th</sup> December 2023)

#### 5. Corporate Sustainability Due Diligence Directive (CSDDD) - Provisional agreement reached.

The European Commission published a proposal for a Directive on Corporate Sustainability Due Diligence (CSDDD) on the 23<sup>rd</sup> of February 2022. According to the European Commission, the proposal aims to "... foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies' operations and corporate governance."

**After months of negotiations a provisional agreement by EU co-legislators on the CSDDD was reached on 14<sup>th</sup> December 2023.**

#### What we know so far

##### **The legislation will apply to:**

- EU companies and parent companies over 500 employees and a worldwide turnover higher than 150 million euro.
- Companies with over 250 employees and with a turnover of more than 40 million euro if at least 20 million are generated in one of the following sectors:
  - manufacture and wholesale trade of textiles,
  - clothing and footwear,
  - agriculture including forestry and fisheries,
  - manufacture of food and trade of raw agricultural materials,
  - extraction and wholesale trade of mineral resources or manufacture of related products and construction.
- Non-EU companies and parent companies with equivalent turnover in the EU.

In a press conference delivered on the day, it was made clear that **SMEs are not in the scope of the CSDDD. However, since they are found throughout value chains of large companies, they will have to take part in the process.** There will be support to help SMEs with this.

### **Companies will need to:**

- integrate due diligence into their policies and risk-management systems.
- adopt a plan to ensure their business model complies with limiting global warming to 1.5°C.
- meaningfully engage with those affected by their actions, introduce a complaints mechanism, communicate on their due diligence policies and regularly monitor its effectiveness.

### **Member States will have to:**

- Create practical portals, dedicated to companies' due diligence obligations. This will provide information on content and criteria.
- Each designate a supervisory authority to monitor whether firms are complying with these obligations.
- These supervisory authorities will exchange best practices and cooperate at EU level within the European Network of Supervisory Authorities established by the Commission.

### **The Supervisory Authorities that each Member States will appoint will be able to:**

- Launch inspections and investigations,
- Impose penalties on non-compliant companies, including "naming and shaming" and fines of up to 5% of their net worldwide turnover.

Moreover, companies will be liable for breaching their due diligence obligations and their victims will have the right to be compensated for damages. To motivate companies, compliance with due diligence obligations can be used as part of the award criteria for public and concession contracts.

### **Next steps**

- Formal approval of the draft law is required by the JURI Committee and the European Parliament as a whole, and the Council before it can enter into force.

**For more information visit the [JURI Committee press release](#).**

## **6. Anti-money laundering Authority (AMLA)**

The Anti-Money Laundering Authority proposal is only one part of the European Commission's Anti-Money Laundering legislative package which was presented on 20<sup>th</sup> July 2021. The other parts of the AML legislative package include a new Regulation establishing a single rulebook for AML/CFT, and a 6<sup>th</sup> AML/CFT Directive (AMLD6). Both the Regulation and Directive are still in trilogue negotiations.

On Wednesday 13<sup>th</sup> December, it was announced that the European Parliament and Council of the EU negotiating teams had reached a deal on the competences and powers that the Anti-Money Laundering Authority (AMLA) will have.

The agency's seat will likely be selected in 2024, although the discussions regarding the seat procedure begun on the 18<sup>th</sup> December 2023.

Now, the provisional agreement needs to be finalised and presented to Member States' representatives and the European Parliament. Only once approved by the Council and Parliament will the texts be formally adopted.

More information on what the provisional AMLA agreement entails can be found [here](#).