

DECEMBER UPDATE (23/12/2022)

1. Open calls for feedback by the EU Commission

The following are the upcoming open feedback calls by the EU Commission with links.

[BEFIT -Business in Europe: Framework for Income Taxation](#) – **deadline for feedback is 26th January 2023**

The EU Commission is calling for feedback on new proposals on, corporate insolvency and company listing.

[Insolvency laws: increasing convergence of national laws to encourage cross-border investment](#) - **deadline for feedback is 14th February 2023**

[Listing Act – making public capital markets more attractive for EU companies and facilitating access to capital for SMEs](#) – **deadline for feedback is 14th February 2023**

EFB is reviewing these initiatives and will present ideas on what they mean for family businesses in our upcoming Management Committee and board meetings for discussion.

2. Important Development in Global Minimum Taxation

The European Commission has welcomed the agreement to tax multinationals in a unanimous decision.

The agreement was announced on the 13th of December 2022 by the Czech Presidency of the EU Council.

The aim of this Council directive is to:

- **Bring fairness, transparency and stability** to the international corporate tax framework,
- Include a **common set of rules on how to calculate the 15% effective minimum tax rate** so as to ensure that there is proper and consistent application across the EU.
- The minimum tax rate of 15% has been agreed at global level by 137 countries.

Who will it apply to?

- **The rules will apply to multinational enterprise groups and large-scale domestic groups in the EU, with combined financial revenues of more than €750 million a year.**
- Any large group, both domestic and international, with a parent company or a subsidiary situated in an EU Member State will have this applied to it.
- If the minimum effective rate is not imposed by the country where the subsidiary company is based, there are provisions for the Member State of the parent company to apply a "top-up" tax.
- Where the **parent company is situated outside the EU in a low-tax country which does not apply equivalent rules, this directive still seeks to ensure taxation.**

Deadline for application:

Member states are to implement these rules by the 31st December 2023.

For the full article visit: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7674

To find out more about the Commission's proposal for a directive to ensure a minimum effective tax rate for large multinational groups visit: https://taxation-customs.ec.europa.eu/system/files/2021-12/COM_2021_823_1_EN_ACT_part1_v11.pdf

3. Corporate Sustainability Reporting Directive (CSRD)

As you know the Corporate Sustainability Reporting Directive (CSRD) has now been approved which means its application is the next step.

Considering this, below is an explanation of the timeline for application depending on each company's size.

CSRD reporting timeline:

- reporting in 2025 on the financial year 2024 for companies already subject to the Non-Financial Reporting Directive (NFRD);
- reporting in 2026 on the financial year 2025 for large companies that are not currently subject to the NFRD;
- reporting in 2027 on the financial year 2026 for listed SMEs (except micro undertakings), small and non-complex credit institutions and captive insurance undertakings;
- reporting in 2029 on the financial year 2028 for third-country undertakings with net turnover above 150 million in the EU if they have at least one subsidiary or branch in the EU exceeding certain thresholds.

It ought to be noted that there is an 'opt-out' possibility for SMEs during the transitional period but only until 2028. **After 2028 all companies, irrespective of size, must apply the CSRD.**

If you would like more information on the application of the CSRD visit the following article by the European Council - [Council gives final green light to corporate sustainability reporting directive - Consilium \(europa.eu\)](#)

For the CSRD document [press here](#).

4. Corporate Sustainability Due Diligence (CSDD)

On Thursday 1st of December 2022 there was a Competitiveness Council meeting in which ministers reached a general approach on the directive on corporate sustainability due diligence.

The European Council restricted the extent of the value chain companies will have to cover in their due diligence obligations, by limiting the downstream activities, i.e., excluding the use and disposal of the product by consumers.

There are **still a plethora of discussions remain** on the topics of **scope, value chain and liability**.

NEXT STEPS:

- **23 March 2023:** Adoption of report in JURI
- **May 2023 (tbc):** Adoption in plenary
- **June / July 2023 (tbc):** Beginning of trilogues
- **Q4 2023 (tbc):** Adoption of the proposal

Press release from European Council: <https://www.consilium.europa.eu/en/press/press-releases/2022/12/01/council-adopts-position-on-due-diligence-rules-for-large-companies/>

European Council's general approach to the CSDD: <https://data.consilium.europa.eu/doc/document/ST-15024-2022-REV-1/en/pdf>

For further explanation of the CSDD developments visit the email sent by Mr Casado on the 2nd December 2022.

5. EU Legislative Priorities for 2023 and 2024 agreed

On the 15th of December 2022, the European Commission, Council and European Parliament have released the EU Legislative Priorities for 2023 and 2024.

Some general points are listed below.

Green Deal and Climate

- Further development and application of green deal principles to achieve climate neutrality by 2050.
- Accelerate the green and just transition as a key part of the solution to energy security and the high energy prices, as well as to food security concerns.
- Conclude work on the 'Fit for 55' package to achieve our 2030 reduction targets, coupled with an enhanced ambition to achieve the RePowerEU objectives of phasing out dependence on Russian fossil fuels and boost renewable energy in Europe.
- Reducing waste and its environmental impact.
- Achieve the digital transition and enhance the EU's resilience, focus on reducing the resource use and the environmental and climate impact, enhancing Europe's lead in pioneering technologies, our security of supply, competitiveness and resilience, supporting the relevant digital skills, and pursuing a human-centric approach.

Innovative technology and digitalisation

- Focus on artificial intelligence, data access and use, cyber resilience and cybersecurity, and the reinforcement of the defence industry.
- To ensure an adequate and diversified supply for the twin transition.
- Prioritise measures on critical raw materials and rare earths, as well as semiconductors.
- Encourage innovative technologies.

Single Market and Competitiveness

- Strengthen the single market, including by working on the Single Market Emergency Instrument and improving conditions in platform work.
- Work towards new efficient patent rules and support the SMEs in difficult times, including through revised rules on late payments.
- Boost competitiveness, secure growth and create employment opportunities for European citizens.
- Put forward an SMEs Relief package and to support and relieve businesses, including through easier access to capital and data, fast and innovative payment solutions, and streamlined rules on insolvency.
- Prioritise the implementation of the European Pillar of Social Rights and the Porto Summit declaration.
- Progress on the global tax reform.
- Support sustainable development globally, work towards swift agreement on the generalised scheme of tariff preferences, and a reformed customs code.
- Strengthen the EU's resilience and diversify supply chains, push for full ratification of trade agreements and strengthen our engagement with like-minded partners and allies.

Rule of Law and transparency

- To protect democracy and values from unprecedented threats, use all tools at our disposal to strengthen and defend the rule of law, equality and antidiscrimination, as well as media freedom and pluralism within the Union.

- Conclude work on the transparency and targeting of political advertising, the statute and funding of European political parties and foundations and the electoral rights of mobile Europeans in time for the next European Parliament elections.

To access the full Joint declaration of EU Legislative Priorities visit: <https://commission.europa.eu/system/files/2022-12/221213-Joint%20Declaration%202023-2024.pdf>

6. Provisional agreement on the conditional nature of Carbon Border Adjustment Mechanism (CBAM) has been reached.

- The **agreement needs to be confirmed by ambassadors of the EU member states**, and by the **European Parliament**, and adopted by both institutions before it is final.

The full article can be found here: <https://www.consilium.europa.eu/en/press/press-releases/2022/12/13/eu-climate-action-provisional-agreement-reached-on-carbon-border-adjustment-mechanism-cbam/>

7. AI Act and SMEs

Below are some of the comments put forth by MEP Cutajar and the Secretary General of DIGITAL SME Alliance in an article by [EURACTIV entitled: Making the AI Act work for SMEs: The EU tries to square the circle](#)

- The AI Act is to regulate Artificial Intelligence based on its potential to cause harm following the new legislative framework, a legislative approach designed for product legislation.
- MEP Josianne Cutajar, noted that since **AI is continuously evolving, policymakers should monitor the market and ensure smaller players are put in a position to reap its benefits.**
- **Sebastiano Toffaletti, secretary-general of the European DIGITAL SME Alliance, noted that “the impact assessment that was done by the Commission has largely underestimated the potential compliance costs.”**

8. Mr Breton answered questions on Single Market Emergency Instrument (SMEI) on behalf of the EU Commission

The **definition of a crisis is set according to Article 3 of the Commission's proposal for a regulation establishing a Single Market emergency instrument (SMEI).**

According to **Article 2 of the proposal, the measures set out in the proposal apply in relation to significant impacts of a crisis on the functioning of the single market and its supply chains.**

The **activation of the single market vigilance and single market emergency modes are based on specific criteria and dedicated procedures as laid out in the proposal.**

As regards the **right to strike, the proposal fully takes into account fundamental rights and the principles enshrined in the Charter of Fundamental Rights of the EU.**

The Commission's **proposal is subject to interinstitutional discussions** as part of the ordinary legislative procedure.

To find the questions asked to the European Commission on the SMEI visit:
<https://app.dodsinformation.com/ui/app/index.html#/document/view/a662d609a04746149acaa0c36a8bd0a6>