ESG: DO GOOD AND TALK ABOUT IT – THE NEW SUSTAINABILITY REPORTING

I. WHAT DOES ESG MEAN?

"ESG" stands for "environment", "social" and "governance". These are the categories of sustainability factors that will be subject to new standards in the future as part of the new regulations on sustainability reporting.

Information that companies need to disclose about environmental factors includes climate protection, water and marine resources, resource utilisation and recycling, pollution, biodiversity and ecosystems. For social factors, companies must report on equality of opportunity for all, working conditions, respect for human rights, fundamental freedoms, and democratic principles and standards.

With regard to company management, for example, reports will need to be made on the role of the company's administrative, management and supervisory bodies, also with regard to sustainability aspects, and their composition as corporate ethics and corporate culture, including combating corruption and bribery, on the political commitment of the company, including its lobbying activities; on the management and quality of relationships with business partners, including payment practices and the company's internal control and risk management systems, also in connection with the company's accounting process.

II. THE "S" IN ESG – WHAT DOES THAT MEAN IN CONCRETE TERMS?

The new sustainability reporting not only provides for information that is necessary for business performance, business results and the situation of the company. Information is also envisaged for the "Social" area. This information is necessary for understanding the effects of the company's business activities with regard to environmental, social and employee concerns, respect for human rights and the fight against corruption and bribery.

According to these new regulations, companies are specifically obligated for the first time to report on the effects of various sustainability aspects on the company as well as on the effects of the company's activities on people and the environment.

In addition to the topics that have so far been implemented in many companies as "corporate social responsibility", such as the classic areas of occupational and health protection of employees, farther-reaching aspects must now be considered.
As part of the sustainability reporting, companies will have to publish on social factors – including information about equal opportunities for all. This obligation forces companies to deal with gender equality and wage equality.

There will also be reporting on training and skill development as well as the employment and inclusion of people with disabilities. The obligation to report on working conditions includes topics of safe and adaptable employment, wages, social dialogue, collective bargaining and the involvement of employees, the compatibility of work and private life, as well as a healthy, safe and appropriate work environment. In addition, there will need to be reporting on the respect of human rights, fundamental freedoms, and democratic principles and standards.

As part of sustainability reporting, companies will deal with a variety of social topics and address current developments. Areas such as work-life balance, abolition of the "glass ceiling" for women, inclusion and LGBTQ topics will also need to be addressed, as will the prevention of violence and abuse as well as measures to strengthen the mental health of employees.

The obligation to disclose with regard to all these aspects should, among other things, represent an incentive for placing women and men on an equal level in working life. Companies that offer the same opportunities to women and men, pay them equally, and otherwise have gender equality will have great benefits in sustainability reporting.

III. IS A SPECIFIC NEW REGULATION OF SUSTAINABILITY REPORTING ALREADY PLANNED?

Yes, there is a proposal for a new regulation – the proposal of the Directive amending Directives 2013/34/EU, 2004/109/EC and 2006/43/EC and Regulation (EU) No. 537/2014 regarding the sustainability reporting of companies.

IV. REGULATIONS ON SUSTAINABILITY REPORTING AT THE EU-LEVEL

What is put forward as a novelty in the proposal of the Directive amending Directives 2013/34/EU, 2004/109/EC and 2006/43/EC and Regulation (EU) No. 537/2014 regarding the sustainability reporting of companies?

This proposal consists of a directive that would amend four existing legal provisions. Initially, the **accounting directive** would be amended so as to revise existing regulations and add certain new regulations on sustainability reporting. In addition, the **audit directive** and the **audit regulation** would be amended to include the auditing of sustainability information in its scope of application. Finally, the **transparency directive** would be amended to extend the scope of sustainability reporting obligations to companies with securities listed on regulated markets and to specify the supervisory regulation for the sustainability reporting of these companies.

This initiative will change the requirements for some companies for public reporting on certain **non-financial information**, including information about the company's ecological and social performance and impact.

This is meant to ensure that investors, civil society organisations and other interested parties have access to the necessary information without excessive reporting obligations being imposed on the companies.

V. WHEN DO THESE NEW REGULATIONS COME INTO FORCE?

The proposal of this directive is currently being discussed (since November 2021) in the Council. It will then be addressed in the European Parliament.

The current plan is that the Member States will implement the directive as of 01/12/2022 in national law and that large companies will apply the standards for the first time in their reporting in 2024 for the 2023 financial year. New regulations should apply to SMEs starting in 2026.

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