

EUROPEAN POLICY NEWS

Quarterly Policy News Update - Articles, Research and Latest Developments

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Dear Readers,

Welcome to our latest edition of EAPSPI European Policy News. Following the recent European elections, we are closely monitoring changes and new developments in the EU policy landscape. This issue brings you up to date with the latest and most relevant policy updates and legislative changes.

You will find an overview of the Sustainability Due Diligence Obligations (CSDDD), where agreement has been reached on the Supply Chain Directive, and we explore the latest developments in the review of the Sustainable Finance Disclosure Regulation (SFDR). We also examine EIOPA's opinion on sustainability claims, which proposes four key principles, and the EU Parliament's position on the Financial Information Disclosure Act (FIDA). Finally, we bring you a summary of the latest Pension Adequacy Report, published in June.

Stay informed and engaged with us as we navigate these important policy developments together.

Best regards,

European Policy News Team

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SUSTAINABILITY DUE DILIGENCE OBLIGATIONS (CSDDD): EU SUPPLY CHAIN DIRECTIVE AGREED WITH SIGNIFICANT CHANGES – FINANCIAL SECTOR 'SOMEWHAT' COVERED, BUT STILL NOT RELEVANT FOR PENSION SCHEMES OR IORPs

After the provisional agreement on the EU Corporate Sustainability Due Diligence Directive (CSDDD = EU Supply Chain Directive) in January 2024 initially failed to be formally adopted due to resistance from Germany, there was an almost surprising agreement on 15 March 2024 on the basis of a [new compromise version of the CSDDD](#) in the Committee of Permanent Representatives of the Member States under the Belgian Council Presidency, which achieved a qualified majority even without Germany. On 24 April 2024, the EU Parliament also approved this version and the Council gave its final approval in May 2024. The legislative process is therefore complete and all that remains is for the CSDDD to be published in the Official Journal of the EU.

Key changes in the compromise version compared to the December 2023 version:

- **Scope:** The agreement now reached covers large EU companies with more than 1,000 employees (up from 500) and a global turnover of more than €450 million (up from €150 million). The financial sector, and therefore also IORPs if they are large enough, will remain formally covered, but without consideration of the insured parties and with extremely reduced requirements for capital investment.
- Other relevant changes relate to mitigation in the required climate transition plans, civil
- **Restrictions / special features** of the coverage of regulated financial undertakings: In summary, financial companies are covered as 'normal' companies (provided the size criteria are met) with corresponding due diligence obligations. The special features of financial companies are taken into account as follows:
 1. Provision of financial services / insurance services excluded (= downstream activities / value chain): The due diligence obligations of the CSDDD only extend to the upstream chain of activities, but not to the provision of financial services / insurance services, which means that the insured persons or recipients of financial services do not have to be checked (see para. 14 / Recital 19 / Art. 3a and g)
 2. Investment activities/capital investments - only exercise of shareholders' rights as part of the generally required engagement: It is somewhat difficult to find a clear answer to the question of what specific due diligence obligations the CSDDD imposes on financial companies in relation to investments. In general, the CSDDD requires companies to work towards the elimination or reduction of negative sustainability impacts (Art. 8) and to do so through "engagement" (Art. 8d). In this context, one of the few more specific statements is that financial companies should use the 'leverage' of their investment

liability and the general definition of the chain of activities (in particular for indirect business relationships in the chain of activities).

- Staggered introduction: Three years after the coming into force of the CSDDD, or for financial years beginning on or after 1 January 2028, the requirements will initially apply to companies with more than 5,000 employees and a worldwide turnover of more than €1.5 billion. After 4 years or 2029, the threshold will fall to 4,000 employees and €900 million. After 5 years, or from 2030, the limits of > 1000 employees and > EUR 450 million turnover will apply permanently (see Art. 30)

Concerning the financial sector:

- 'Regulated financial undertakings' listed in Art. 3 are also explicitly covered - including 'IORPs' (Art. 3 (1) a iv). 'Social security schemes under Directive 883' = 1st pillar pension schemes are no longer covered as such a regulated financial undertaking.

activities to eliminate negative sustainability impacts and influence companies using shareholder rights (see recital 36b). This can probably only be understood as a general indication, as depending on the allocation and implementation of the investment, shareholder engagement with invested companies may play little or no role.

- Review of financial sector coverage after 2 years: A possible future more extensive inclusion of the financial sector (regarding the provision of financial services and investment activities) is to be reviewed on the basis of an impact assessment (para. 15 / recital 70 / Art. 29). However, the planned political declaration on the need to further develop sustainability-related due diligence obligations for the financial sector is no longer included in the CSDD (para. 10 - bottom).

SFDR REVIEW - EU COMMISSION PUBLISHES SUMMARY OF COMMENTS RECEIVED, BUT NO CLEAR DIRECTION FOR SFDR'S DEVELOPMENT

The EU Commission has published a report on the 324 responses to the consultation on the review of the SFDR in 2023 (see also EAPSPI Newsletter 02/2023). Comments on some key issues are presented below:

- 1) Divided opinion on the relevance of SFDR disclosures at the entity level. There is no clear view on the usefulness of company-level disclosures on remuneration policy (39% agree, 26% disagree) and adverse sustainability impacts (31% agree, 31% disagree). However, responses to disclosures on the management of sustainability risks show some support for requirements (49 per cent in favour, 15 per cent against). However, the vast majority of respondents called for at least a simplification of these disclosure requirements in conjunction with other EU regulations, in particular the CSRD.
- 2) While there is strong support for a voluntary EU-wide categorization system, the vast majority of respondents believe that EU sustainability categories would be helpful in addressing investors' sustainability preferences (69%), combating greenwashing (64%) and improving

Interaction between SFDR Level I and Level II revision (RTS) - what happens next? It is still unclear when the Commission will present a concrete approach for the revision of the SFDR (Level I); initially, the EU Platform for Sustainable Finance is expected to present further work on the product categories by the end of June 2024. Independently of the report, however, the EU Commission has emphasized with regard to the revision of the Implementing Provisions / Regulatory Technical Standards of the Disclosure Regulation (in short: Level II review) that the revision of the RTS (Level II review) and the Disclosure Regulation itself (Level I review) remain two independent strands of action, even if this may lead to additional work (i.e. the adjustments to the Level II standards to which companies would have to adapt could become obsolete depending on the scope of the changes at Level I level).

The final Level II amendments to the RTS are not expected until after the European Parliament elections in early June 2024. It is therefore planned to give companies a preparation period of 9 to 12 months between the effective date of the amendments and their initial application. For institutions offering or planning to offer the PAI

understanding of products' sustainability strategies and objectives. Over 70% of respondents believe that disclosure alone is not sufficient to achieve these goals.

- 3) Differences on which specific categorization approach is appropriate: Opinions are divided on whether product categories should be based on new criteria or whether Articles 8 and 9 SFDR should be transformed into formal product categories. However, there is broad agreement among respondents on common principles for the categories (in particular: product categories that are easier for retail investors to understand; compatibility of the EU approach in an international context; strong support for a separate category of "transformation finance"; criteria must apply to all asset classes and financial products).

declaration under Article 4 and/or a sustainable product under Article 8 of the Disclosure Regulation, this means that the current Level II requirements are expected to remain in place until mid-2025. (Specifically for the PAI declaration: the PAI declarations as of 30 June of each year will therefore have to be fulfilled in 2024 and probably also in 2025 in accordance with the current requirements / list of indicators - but not guaranteed).

EIOPA OPINION ON SUSTAINABILITY CLAIMS PROPOSES 4 PRINCIPLES - AND WHAT IT HAS (NOT) TO DO WITH PENSION SCHEMES

EIOPA published a [Consultation Paper](#) at the end of 2023 and the final [opinion on sustainability claims and greenwashing in the insurance and pensions sector](#) on 4 June 2024. The aim of the opinion is to standardize the approach of national supervisors when dealing with misleading sustainability claims. EIOPA derives the scope of IORPs from specific articles of the IORP Directive (Articles 36 and 41 of Directive (EU) 2016/23419 (IORP II)) and, in principle, by reference to the SFDR. The opinion develops and elaborates on 4 principles that sustainability claims must meet (see below). Examples (bad practice; good practice) are also provided. EIOPA gives national supervisors 24 months to implement the opinion. As a result, national supervisors should then review markets for "misleading sustainability claims" and take "further supervisory action" if necessary.

- Principle 1: A supplier's sustainability claims should be accurate and precise and adequately reflect the supplier's profile and/or the profile of its products.
- Principle 2: Sustainability claims should be supported by clear arguments, facts and processes.

- Principle 3: Sustainability claims and their justification should be accessible to the relevant stakeholders.
- Principle 4: Sustainability disclosures should be kept up to date and any material changes should be disclosed in a timely manner with a clear rationale.
- From the perspective of many pension schemes with clearly regulated access to occupational pension schemes, some fundamental questions arise: The objective of combating greenwashing (i.e. advertising with unsubstantiated claims about the ESG characteristics of products or institutions in the financial sector) is certainly to be welcomed. However, it should be noted that pension schemes do not offer 'products' on an open market and that their 'clients' are usually the sponsoring companies, so the situation is not comparable to that of third pillar providers. As a result, there are basically no incentives for pension schemes to engage in greenwashing.

FIDA - EU PARLIAMENT: COVERING IORPs ONLY IF THEY ARE 'OPENLY ACCESSIBLE TO ALL CONSUMERS'

The EAPSPI Newsletter 02/2023 reported on 'FIDA', the planned EU framework for access to financial data, which aims to regulate access to consumer data with customers' consent. The compromise text of the EU Parliament's rapporteur for FIDA has severely restricted the scope of institutions for occupational retirement provision (IORPs):

According to the text, IORPs should only be covered if they are "openly accessible to all consumers", which amounts to a broad exemption for many IORPs. The exclusion of certain health-related data is also under discussion. The Council and Member States are also discussing similar aspects of the FIDA.

PENSION ADEQUACY REPORT 2024

The [2024 Pension Adequacy Report](#), prepared by the Social Protection Committee (SPC) and the European Commission (DG EMPL) was released on 20 June 2024. It highlights the current and future state of pension systems in the EU, focusing on ensuring adequate income for retirees. The report reflects recent challenges such as the COVID-19 pandemic, high inflation, and energy costs due to geopolitical tensions, alongside long-standing issues such as demographic change.

Key findings include:

- **Rising Poverty Risks:** Over 20% of EU seniors face poverty or social exclusion, with older women at higher risk.
- **Income Disparities:** Older people's incomes are on average below 90% of those of working age, with notable gender and country differences.
- **Life Expectancy Trends:** Life expectancy growth has slowed, exacerbated by the pandemic, but healthy life years remain stable.
- **Retirement Duration:** Europeans typically spend 21 years in retirement, although this varies significantly across countries.
- **Health and Long-term Care:** Increasing care needs heighten poverty risk, particularly for women, emphasizing the need for robust social protection systems.

The report also notes efforts by member states to enhance pension adequacy, though future pressures persist. Pension replacement rates are projected to decline, and persistent inequalities, particularly between men and women, remain a challenge for pension policies.

Despite recent crises, European pension systems have shown resilience, with measures in place to protect pensions against inflation and economic downturns. Continuous efforts are needed to address inequalities and ensure sustainable social protection for an ageing population.

The SPC and the Commission emphasize the importance of robust labour markets, gender equality, and comprehensive care systems to maintain high living standards for the elderly. A coordinated approach to monitoring pension adequacy and ageing-related expenditures is crucial for future policy development. The next comprehensive report is scheduled for 2027.

LATEST REPORTS FROM THE EU COMMISSION AND BEYOND

19.06.2024

[2004-2024, Twenty years after the big enlargement: Integration within the single market](#)

MEMBERS NEWS

- 26.04.2024 [Keva's Interim Report 1 January – 31 March 2024: Healthy start to the year for Keva](#)
- 12.05.2024 [Préfon 2024: the first PER in France, committed to public servants](#)
- 16.05.2024 [KLP delivers a solid return on pension assets](#)
- 01.06.2024 [VALIDA VORSORGEKASSE again honoured with OEGUT Gold Certificate](#)
- 24.06.2024 [Region Skåne is growing with green money](#)
- 04.07.2024 [KPA Pension acquires office property in central Stockholm](#)

NEXT EVENTS

- 12.-13.9.2024 EAPSPI Meet & Greet and PPC, Edinburgh, Scotland
- 07.-09.11.2024 EAPSPI AGM & Conference, Paris
- 06.12.2024 PPC Meeting (remote)

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