



ESBG's refined position paper on CSDDD

Executive summary

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Given the current developments of the political negotiations on the Corporate Sustainability Due Diligence Directive, ESBG has updated its position paper with five main recommendations.

ESBG'S POSITION

Reconsidering the scope(s)

First of all, ESBG welcomes the CSDDD as it strongly opposes any breaches of human rights or activities that harm the environment. ESBG supports lifting the employee threshold to 1000. Moreover, for competitiveness purposes, ESBG calls to narrow the gap between the suggested thresholds for EU and non-EU companies. ESBG has also concerns regarding the scope of the "adverse impact" listed in the annexes and ask to narrow it. Finally, ESBG strongly opposes the inclusion of the financial entities in the list of high-risk-sectors.

Tailoring the value chain to pivotal parts

ESBG insists on limiting the value chain to the direct customers receiving loans or credits only, not to their subsidiaries or business partners. Also, loans or credits provided to SMEs, natural persons and households should not be covered by the value chain and therefore explicitly excluded in Article 1.

The need to adopt a risk-based approach when conducting the due diligence for financial undertakings

ESBG proposes including a differentiation between simplified and enhanced due diligence rules depending on the risk profile of a customer. For instance, it could make sense to prioritize identification of entities established in countries/regions more likely to generate "high adverse impacts". Regarding the specific role of financial undertakings, ESBG strongly urges to keep the identification obligation limited to before providing loans or credits. Finally, ESBG stresses the need to consider the specific structure of mutualist banking groups.

A coherent frame that makes the rules work

ESBG requests the deletion of Article 15 asking for a transition plan since it is already required by the CSRD. Overall, ESBG encourages the legislators to coordinate their progress with other current projects, such as the EU taxonomy, corporate sustainability reporting directive, deforestation regulation and conflict minerals regulation.

Ensuring legal certainty is key

ESBG discourages the inclusion of specific provisions related to civil liability under the proposed CSDDD, notably because it could lead to a permanent litigation risk as well as the directors' duty of care. ESBG also recommends that the substantiation of concerns is eliminated.