

To the European Commission

February 11th, 2022

To whom it may concern

We (Danish Confederation of Industry, Danish Chamber of Commerce, Finance Denmark, Insurance & Pension Denmark and FSR - Danish Auditors) wish to make the European Commission aware of the following regarding the consultation "*Corporate reporting – improving its quality and enforcement*".

Our overall remarks to the consultation

- We believe the consultation should also take note of the very important fourth pillar, being the entire reporting framework comprising of both financial regulation and reporting standards and the sustainability reporting standards and legislation. With the CSRD, the EU is in process of transforming the landscape of reporting similar to the change in 2001, when the EU adopted the IAS-standards. We fully support this transition, but we would like to emphasise the fact that this has to be a success and that other initiatives should not take focus away from this daunting exercise.

Therefore, while we agree with the Commission that the quality and reliability of corporate reporting also depends on the quality of the three other interdependent pillars mentioned in the consultation document: Corporate governance; Audit, and Supervision of corporate reporting/audit, the significant changes in the fourth interconnected pillar – the reporting framework – needs to take priority.

- The below mentioned opinions reflect our view of the current **situation in Denmark** with respect to the quality and enforcement of corporate reporting for the three pillars mentioned in the consultation.
- Before deciding on any reform on this subject matter, we urge the Commission to carefully analyse legislative needs, and if any breaches or needs are identified; take the most targeted approach to address identified problems. Thus, quality problems in one or some EU member states must not result in general EU actions affecting all member states. Rather actions should be taken by the first mentioned member state(s).

Further, we urge the Commission to show restraint with respect to new initiatives as the legislative and administrative burdens are already high with respect to corporate reporting. Both for companies and auditors alike.

- Furthermore, new legislation has been introduced in recent years, and new regulation has already been proposed, e.g., the amended Shareholder Rights Directive (directive (EU) 2017/828) and the above-mentioned CSRD (Corporate Sustainability Reporting Directive). We encourage the Commission to give such new legislative initiatives sufficient time before being evaluated.

The present quality of corporate reporting in the EU and Denmark

The basis for this consultation is the ESMA 2020-report on corporate reporting¹. ESMA found errors in 265 out of 689 (i.e., 38 per cent) listed companies' IFRS-reporting. Errors which all required the national supervisory authorities (NSA's) to intervene.

What is not mentioned in the Commission's consultation paper is, however, that in only *nine* out of 365 cases did the NSAs require a new reporting from the involved companies. Seven of the nine companies were from the same EU member state. None of the nine companies were Danish. In Denmark only 4 examinations resulted in corrections in future financial statements, and only 3 examinations resulted in a public corrective note – which shall be seen in the context of 207 Danish issuers filing both annual and semi-annual reports.

Furthermore, it is important to note that the companies selected in the ESMA 2020-analysis were selected based on a risk-based approach (i.e., where NSAs have an increased expectation of identifying errors) combined with an

¹ https://www.esma.europa.eu/sites/default/files/library/esma32-63-1101_enforcers_2020_activity_report.pdf.

approach where companies were either selected randomly and/or based on some sort of rotation principle. Thus, the companies in the aggregate sample were *not* selected randomly. This indicates that the ESMA survey is very likely to have identified a disproportionately large proportion of listed companies' erroneous financial reports.

Hence, we are not convinced that there is a general problem in Europe regarding the credibility and quality of the listed companies' financial reporting and we are very confident that it is not the case in Denmark.

Also, the European Commission itself states in another report from April 2021² on corporate reporting in general (both listed and unlisted companies) that:

“Overall, the EU framework for corporate reporting achieves the immediate objectives to a great extent. In particular, the IAS Regulation appears to be the most effective instrument in ensuring high-quality and comparable public financial information across the EU.”

Regarding listed companies, the following was stated:

“The reliability of financial information disclosed by listed companies was found to be overall good, due to the cascade of requirements of collective board responsibility for the true and fair view of financial statements, to the mandatory statutory audit for all listed companies, and securities market supervision.”

In our view, the above-mentioned support the view that the quality of companies' (including listed companies') reporting is good. We fully acknowledge that there have been unfortunate individual cases, which should be addressed, but we all agree that this should be dealt with at member state level.

Suggestions for further European harmonisation

Hence, we believe that the general need for further harmonisation in any of the three pillars is limited. However, we have selected a few areas, where we think that further pan-European action can be considered:

Supervision. In this regard, we wish to stress that further harmonisation in this field should not come at the expense of oversight quality, nor must it implicate that the virtues of the current Danish NSA approach to enforcement/supervision on corporate reporting and audit – dialogue, guidance, and knowledge amongst civil servants – is compromised. The Danish enforcement/supervision processes are in our opinion both reliable and effective.

Said that and taking the ESMA 2020-report into consideration (and the low level of errors in Denmark as mentioned in the Danish FSA's annual report³), we are positive towards further harmonisation with respect to enforcement/supervision of both company reporting and audit quality to ensure reliable and effective enforcement/supervision processes in all EU member states – if it reflects the high standards of enforcement/supervision in Denmark.

Consequently, we strongly oppose any future supervision regime that would cause a “tick-the-box”-compliance approach for companies and audit firms. A way to secure this is to make it mandatory that only highly educated and experienced personnel with the right competencies can lead the oversight of corporate reporting and audit.

Rules on mandatory rotation of the audit firms. It is important for us that the future maximum duration of the audit engagement of an audit firm continues to be ten years with a similar extension of the maximum duration following a mandatory retendering of the audit firm.

We believe that having the same audit firm performing the group audit is an important element in securing high audit quality as well as an efficient audit. However, the maximum duration of the audit engagement of an audit firm is not harmonized within the EU. Especially within international financial groups different rotation periods may occur as each subsidiary often qualifies as a PIE itself.

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021SC0081&from=EN> (page 6).

³ <https://www.finanstilsynet.dk/-/media/Tal-og-fakta/2021/Redegrelse-2020-endelig.pdf>

Therefore, we recommend that the duration of the audit engagement of an audit firm in a PIE subsidiary follow the firm rotation rules of the EU member state where the EU parent is domiciled and is harmonized to ten years and with similar extension, cf. above.

Exemptions in the EU PIE Audit Regulation for smaller EU PIEs. The administrative burdens that small PIEs face are unproportionally large. This is also the case in Denmark, even though we – like other Nordic countries - have chosen the narrowest definition of PIEs possible.

The categories of PIE prescribed by the EU capture all PIEs irrespective of size, such that small and medium-sized entities that have shares or debt admitted to trading on a regulated market as well as credit institutions and insurance undertakings will be caught. There are many entities within these categories which are either very small and/or have relatively non-complex operations.

There are a few exemptions in the present EU PIE regulation for smaller PIEs. We acknowledge these exemptions but call for further exemptions for smaller PIEs. For instance, we call for an exemption to the requirement to have an audit committee for both smaller insurance undertakings and credit institutions. Furthermore, we urge the Commission to consider exempting the smallest PIEs from the PIE-regulation all together.

Fee cap regulation. Presently, assurance opinions issued under national and international assurance standards, but not required by law, are categorized as non-audit services in the fee cap calculation. However, issuing audit and assurance opinions is the core purpose of auditors, and is the opposite to non-audit services. Hence, we recommend that assurance opinions issued under national and international assurance standards, but not required by law, are excluded from the fee cap calculation as set out in Article 4 in the EU Regulation.

An example reflecting our view above is an assurance opinion according to ISAE 3402 (concerning the state of a company's IT organisation decided in a specific contract between a company and its customer). Such an assurance opinion is not required by law and is part of the denominator for the fee cap for the company involved.

Joint audit

Studies conclude that joint audit increases complexity, and that joint audit does not benefit audit quality. In addition, we observe that the introduction of an EU joint audit regime would inevitably require the legislation to address a series of important preconditions, such as specific joint audit standards, a resolution mechanism for disputes between the joint auditors, professional liability, rotation, and supervision. As a result, we would not support the introduction or incentivisation of mandatory joint audit for Public Interest Entities.

Regarding the structure of the audit market, we would welcome more choice of audit firms for PIEs. We note that policymakers seem to focus solely on the demand side, while disregarding issues related to the supply side of the market. Increased regulatory complexity or exposure to liability could prevent audit firms from entering the PIE audit market or reduce their participation.

Yours Sincerely

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