

Advancing Sustainable Finance Through Law: Lessons from The EU'S Reporting Regime

John Quinn*

School of Law and Government, Dublin City University, Glasnevin, Dublin 9, Ireland

Abstract: Over the past decade, the European Union (EU) has introduced a range of new sustainability reporting rules designed, in part, to encourage sustainable finance and investment. However, over the past two years, a policy shift in the EU has resulted in removing many of these rules on the basis that they imposed too many regulatory burdens on companies and investors. While law clearly has the capacity to facilitate sustainable finance and investment, it also has the capacity to impose unnecessary constraints on businesses, investors and lenders which inhibit economic development and investment. Analysis of the EU's legal innovations in this area can provide a unique insight into the optimal legal framework to promote sustainable finance. Hence, this article aims to extract lessons from EU law reform around sustainable finance and reporting.

Keywords: Corporate sustainability, Sustainable finance, EU law.

INTRODUCTION

Over the past decade, the European Union (EU) has introduced a range of different legal measures designed to encourage sustainable finance and investment [1]. A main element of these measures were new rules on sustainability reporting. The first of these initiatives, introduced in 2014, was the Non-Financial Reporting Directive (NFRD) [2] which provided for certain companies to disclose sustainability related information such as their environmental and social impact. The European Green Deal [3] and the Action Plan on Financing Sustainable Growth [4] led to numerous other legal measures focused on enhancing sustainable finance through reporting. These include the 2019 Sustainable Finance Disclosure Regulation (SFDR) [5], the 2020 Regulation on Facilitating Sustainable Investment (the Taxonomy Regulation) [6], and the Corporate Sustainability Reporting Directive (CSRD) [7]. Together, these laws required companies and investors to gather and publish a raft of new information over and above traditional financial disclosures.

However, over the past two years, a policy shift in the EU has resulted in a rowing back on the legal requirements introduced by the above Regulations [8] and Directives [9]. The Letta [10] and Draghi [11] reports both identified a widening innovation gap between the EU and other global powers which threatened the EU's long-term prosperity. In response, the European Commission has placed "competitiveness" at the top of its policy agenda and has proposed several frameworks which aim to enable

the financing and scaling of businesses within the EU's Single Market [12]. Alongside these initiatives, the EU has also focused on "simplification" and reducing the regulatory burdens on European businesses. Omnibus I [13], which entered into force on March 18 2026, moves many companies outside the scope of the CSRD and lowers the requirements on companies that remain in scope. The Commission has also launched a proposal to simplify the SFDR and reduce the disclosure obligations on investors.

Amidst this shifting legal landscape, the EU retained the objective of advancing sustainable finance and investment through disclosures but decided that many of its legal measures, only recently introduced, had imposed too many burdens on companies and investors. While law clearly has the capacity to facilitate sustainable finance and investment, it also has the capacity to impose unnecessary constraints on businesses, investors and lenders which inhibit economic development and investment. Analysis of the EU's legal innovations, and their more recent simplification reforms, can provide a unique insight into the optimal legal framework to promote sustainable finance. Hence, this article aims to extract lessons from EU law reform around sustainable finance and reporting.

Part 1 briefly discusses European law rules on financial disclosures and how they provide for economic reliability. Part 2 explores the rationale for sustainability focused reporting. Section 3 analyses the EU legal landscape on sustainability disclosures, particularly focusing on the SFDR and CSRD. Part 4 examines the recent changes through Omnibus I and SFDR 2.0 and attempts to draw some lessons from the EU's approach to sustainable finance and disclosures.

*Address correspondence to this author at the School of Law and Government, Dublin City University, Glasnevin, Dublin 9, Ireland; E-mail: John.quinn@dcu.ie

1. The Importance of Mandatory Reporting

It is a truism to say that the disclosure of reliable information is a pre-requisite for investment. In a legal context, this principle is most clearly expressed through rules which require companies to disclose financial information through a public register managed by the state. While this obligation imposes costs on companies, it is necessary to allow parties dealing with companies to take informed decisions and protect themselves against potential losses [14]. As described in the *Anatomy of Corporate Law*, modern financial reporting regimes developed along two different tracks [15]. In 17th century continental Europe, disclosure laws emerged primarily to protect lenders [16]. Because a company has separate legal personality, the claims of lenders are generally limited to the company's assets and cannot be asserted against the personal assets of the company's shareholders or directors [17]. Hence, should a company enter insolvent liquidation [18] the creditor may not receive full satisfaction of their debt [19]. This risk of corporate insolvency increases the importance of corporate financial transparency which, assuming the information is reliable, allows a lender to make an informed decision on whether to advance credit to a company and if so, for what amount and at what rate of interest. In the Anglo-American tradition, financial disclosures developed along different lines, the principal objective being to offer transparency to investors and to enhance the capacity of existing shareholders to monitor their investments [20]. Despite having a different emphasis, financial reporting rules developed to offer protections to lenders, investors and shareholders; the costs imposed on individual companies being justified by the need to encourage investment through the provision of reliable information.

In an EU context, financial reporting rules have always been the corner stone of European company law. The very first company law Directive [21] introduced in 1968 required both private and public companies to disclose the company's capital, balance sheet and the profit and loss account [22]. The Directive also imposed an obligation on all Member States to open a central register where the information was to be filed and access was to be given to the public for a fee not exceeding the administrative cost [23]. The First Directive has since been amended multiple times [24] and the rules on financial disclosures have been consistently expanded. This process started with the Fourth company law Directive which set out how annual accounts should be maintained and disclosed [25] and was continued by the Seventh Directive which provided rules on consolidated accounts for corporate groups [26] and the Eighth Directive which regulated

the statutory audits of accounting documents [27]. These Directives, and more recent Directives [28], are now part of the EU Accounting Directive [29], introduced in 2013, which consolidated the various accounting, audit and financial disclosure rules.

The Accounting Directive requires companies [30] to prepare annual financial statements which include, at a minimum, the balance sheet, the profit and loss account and supplementary notes [31]. The Directive also requires companies to prepare a management report which reviews the development and performance of the undertaking's business together with a description of the principal risks and uncertainties that it faces [32]. The guiding principle of the Directive is that the statements must present a true and fair view of the company's assets, liabilities, financial position and profit or loss [33]. True and fair view generally referring to accounts that are free from material misstatements, are factually correct and have been prepared in accordance with the relevant accounting standards [34]. Accordingly, the Directive includes detailed Annexes which outline what information must be included in both the balance sheets [35] and profit/loss accounts [36] while public-interest entities [37] and medium and large undertakings are required to have their financial statements audited by one or more statutory auditors [38].

This brief description of the EU financial reporting landscape demonstrates that a core aim of these rules is to ensure what Stefan Grundmann term 'economic reliability' [39]. Grundmann describes much of European company law as being focused on 'outsider reliability' – 'outsider' meaning lenders and investors – who often give large, long-term investments and need a reliable basis on which to form a productive relationship [40]. This reliability is upheld through professional accounting standards, auditing requirements and the harmonisation of rules across the EU's single market. However, Grundmann also notes that these elements, in and of themselves, are insufficient to provide reliability and legal measures must also allow for information to be located in one place and be presented in an understandable format [41]. Accordingly, Grundmann highlights the importance of the European Register system, originally created in the First company law Directive [42], where information can now be shared between Member States through the Business Registers Interconnection System (BRIS) [43]. The EU Commission's proposed 28th Regime or "EU Inc [44]." further promises to streamline the way in which disclosures are made and shared. The proposal allows for a completely digital registration that can be completed within 48 hours [45]

and a new digital interface [46] allowing for “once only” registration [47], the information being shared with national registers through BRIS. The EU are also embracing technology such as the European Single Access Point [48] introduced in 2023. The ESAP is a centralized, EU-wide digital platform designed to provide free, public access to financial, non-financial, and sustainability-related information about European companies and investment products. It aims to increase transparency, reduce information asymmetries but also streamlines the process of reporting for companies through the use of data platforms and dedicated collection bodies.

The above analysis shows the EU’s ongoing commitment not only to mandatory financial disclosures but also to the streamlining of the process involved. Reliability is important, but so too is ease of access, and reducing the compliance costs imposed on companies. The fundamental objective being for financial disclosures to facilitate and promote investment by reducing information asymmetries and providing accurate information to ensure ‘economic reliability’. While high profile corporate collapses [49] and the financial crisis [50] have demonstrated that legal rules on financial disclosures and mandatory auditing do not guarantee economic reliability, such measures still provide important protection for creditors, investors and shareholders.

2. Sustainability Reporting

Section 1 demonstrated that while financial disclosure rules impose burdens on companies, they are justified by their capacity to facilitate investment through the provision of accurate information. The debate around disclosures becomes more complex when it comes to the reporting of non-financial or sustainability information such as a company’s impact on human rights or the environment. Disclosures on such topics have long been viewed as an important aspect of developing more socially responsible business practices [51]. The rationale is that companies that want to disclose positive information and boost their reputation will take steps to reduce their negative impacts on the environment and improve their human rights practices [52]. Sustainability reporting also has a clear economic value by revealing sustainability related risks that have potential financial consequences [53] and by its capacity to influence the decisions of socially conscious shareholders, customers and investors [54]. Many companies voluntarily report information on such matters [55] to enhance their reputation within capital markets - particularly for Environmental, Social Governance (ESG) orientated investors [56] - and with customers and the public more generally. However, the difficulty

with voluntary disclosures of sustainability information is the incentives that exist for companies to report inaccurate or unreliable information. Companies may fail to gather important information or fail to report unfavourable information (cherry picking) [57], report false information (greenwashing) [58] or produce vacuous reports with non-material information (boiler plate reporting) [59].

A solution to this reliability problem is to apply the legal rules of financial reporting to sustainability reporting *i.e.* impose mandatory reporting rules to be produced in accordance with detailed standards and auditing procedures. If companies are required to produce standardised and independently verified reports, the potential for greenwashing and cherry picking is reduced and they will have to engage in an information gathering process on their external impact. Such mandatory rules have the potential to make companies more aware of their external impact, and force companies who want to avoid negatively affecting their reputation to reduce their negative impacts on the environment and human rights [60]. Such rules also have the capacity to improve the reliability of sustainability information for interested external parties such as ESG orientated investors.

Despite the potential of mandatory reporting rules on sustainability related information, legal jurisdictions have failed to introduce strong rules that are comparable to financial reporting. An early example of sustainability reporting was the UK’s Operating and Financial Review (OFR) [61] which was to function as part of the Enlightened Shareholder Value Framework [62]. The OFR was to include information about (a) the company’s impact on the environment, (b) the company’s employees, and (c) about social and community issues [63], was to be audited and prepared in accordance with a reporting standard created by the Accounting Standards Board [64]. However, the OFR was withdrawn [65] and replaced by a much less demanding ‘Business Review [66]’ that had no alignment to a reporting standard and led to unreliable information being reported [67]. Reporting requirements in the UK have since been amended and expanded [68], but these reforms do not seem to have resulted in any increase in the quality of reporting [69].

The first sustainability reporting measures from the EU followed a similar track, where reporting rules were primarily voluntary and fell far short of the requirements in the financial reporting context. The European Commission first began exploring non-financial reporting obligations in 2001 in a Green Paper on corporate social responsibility (CSR) [70]. The Paper noted that many multinational companies were producing ‘social responsibility’ reports but that the

content of such reports varied widely between companies. The Commission believed that to be useful the content and format of such reporting must be standardised and that there needed to be a reliable auditing procedure [71]. While no action was taken for a decade, the Commission returned to the issue in 2011 in a Communication on boosting growth [72]. The Communication emphasised the importance of sustainable development and investment as well as the need to protect the environment and recommended the development of a legislative proposal on the disclosure of social and environmental information [73]. This ultimately led to a proposed Directive on the disclosure of non-financial information in 2013 [74] which ultimately became the NFRD [75].

The NFRD applied to 'large' companies [76] or parent companies of a large corporate group with an average number of 500 employees during the financial year [77]. These companies were to report, to the extent necessary for an understanding of its development, performance, position and impact, information relating to environmental, social and employee matters, respect for human rights and anti-corruption matters [78]. In producing the information, the company was to provide a) a brief description of the undertaking's business model; (b) a description of the policies pursued by the undertaking on the listed matters (c) the outcome of those policies; (d) the principal risks related to the listed matters and how the undertaking manages those risks; (e) non-financial key performance indicators relevant to the particular business [79]. The NFRD followed a 'comply or explain model [80]' such that if the undertaking did not pursue policies in relation to the listed matters, it was to provide 'a clear and reasoned explanation for not doing so' [81] and it did not have any auditing requirement or have any standard for what information was to be included or how it was to be presented. The Commission did publish non-mandatory guidelines in 2017 [82], which included a detailed outline of what information should be included under the various headings [83]. However, the guidelines remained non-binding and could simply be ignored in the preparation of reports.

The NFRD's potential impact was undermined by its comply or explain model, the lack of any auditing procedure and the non-binding nature of the Guidelines [84]. At the time, Szábo and Sorensen argued that the NFRD without 'detailed rules and standards on the collection and processing information, is not likely to have a significant effect' [85]. Their analysis has been borne out and a 2021 Commission report on the NFRD [86] showed that many companies were failing to disclose material information while simultaneously

reporting significant amounts of immaterial information making it harder for users to find the information sought [87]. The report also noted a lack of consistency in both the content and presentation of information [88] and that there was little evidence that the Commission's guidelines had addressed these issues given their voluntary nature [89]. The ultimate conclusion of the Report was that the NFRD was not 'fit for purpose' [90]. In other words, the NFRD failed to create a framework which produced reliable information.

3. Mandatory Sustainability Reporting and Sustainable Finance

The commitments set out in the European Green Deal, and the limitations of the NFRD, meant that new rules on sustainability disclosures became a priority for the EU. The first reforms were introduced in 2019 by the SFDR [91]. The SFDR aimed to harness private funding to facilitate the shift to net-zero by increasing transparency regarding the sustainability of financial products [92] and to allow ESG orientated investors select companies and projects which support sustainability focused activities [93]. The SFDR applies to 'financial market participants' which includes credit institutions, investment firms providing portfolio management and financial advisers [94]. The SFDR required these market participants to disclose their policies on 'sustainability risks' defined as 'an environmental, social or governance event or condition that, if it occurs, could cause a negative material impact on the value of the investment' [95]. It also required financial market participants to publish and maintain on their websites principal adverse impact statements and their due diligence policies [96]. The SFDR also introduced a legal definition for "sustainable investment" providing that investee companies follow good governance practices and the precautionary principle of 'do no significant harm' is followed such that neither the environmental nor the social objective is significantly harmed [97]. In 2022, the European Commission enacted a delegated Regulation on regulatory technical standards which specifies the details of the content, methodologies, and presentation of these disclosures [98].

The next development was the Taxonomy Regulation [99] introduced in 2020 which creates a classification system for 'environmentally sustainable' economic activities. The Taxonomy Regulation applies to certain high impact sectors [100] and is based around six objectives: (1) climate change mitigation, (2) climate change adaptation, (3) the sustainable use and protection of water and marine resources, (4) the transition to a circular economy, (5) pollution prevention and control, and (6) the protection and restoration of biodiversity and ecosystems [101]. To

qualify as ‘environmentally sustainable’ an economic activity must: substantially contribute to one or more of these objectives while not doing significant harm to the other objectives. The rules are mandatory and financial market participants must disclose how much of their activities are aligned with the Taxonomy.

The next development was the CSRD which was proposed in 2021 [102], enacted in 2022 [103] and entered into effect in January 2024. The CSRD amended the NFRD and follows a similar format by requiring certain companies to disclose information related to their impacts on environmental and human rights issues. The CSRD replaces the term ‘non-financial information’ used in the NFRD with ‘sustainability information’ in recognition of the fact that sustainability information can be financially material, through, for example, environmental risks that could create financial liabilities [104]. The CSRD’s aim is to make public sustainability information that is of interest to investors, citizens, customers and civil society actors [105]. This aim was based on a belief that high quality sustainability reporting could improve companies reputation, access to capital and help companies identify and manage their sustainability risks [106].

The scope of the CSRD was to expand over time in three waves. For the financial year 2024, it applies to the same companies as the NFRD, namely large [107] companies and parents of large groups [108] with an average number of over 500 employees during the year (wave 1) [109]. For the financial year 2025, the CSRD was to apply to large companies and parent companies with an average number of over 250 employees during the year (wave 2) [110]. For the financial year 2026, the CSRD was to expand to include small [111] and medium-sized undertakings [112] with securities listed on an EU regulated market (wave 3)[113]. From 2028, the Directive was to apply to companies registered outside the EU who generate more than EUR 150 million in net income per year inside the Union and that has at least one subsidiary company that exceeds income of €40 million or a subsidiary that qualifies as a large, medium or a small company listed on an EU regulated Market [114]. The expansion in scope would have resulted in an increase in reporting from approximately 11,700 companies under the NFRD to approximately 50,000 companies [115].

The information required by the CSRD includes:

- a description of the company’s business model and strategy, particularly for sustainability matters [116];
- a description of time-bound sustainability-related targets, including potential GHG emission

reductions, a description of progress made to achieve these targets [117];

- a description of the role of administrative, management, and supervisory bodies in sustainability matters and their expertise and skills to these to fulfil this role; [118]
- a description of the company’s sustainability-related policies [119];
- a description of the due diligence processes [120], the principal actual or potential adverse impacts in the company’s own operations and ‘value chain,’ actions taken to identify and track these impacts, and actions to mitigate these adverse impacts [121];
- a description of sustainability-related risks and how these risks are managed [122];

The CSRD further provides that reports include information regarding environmental factors such as: climate change mitigation; [123] resource use; pollution; and biodiversity [124] and human rights factors including measures against violence and harassment in the workplace [125]. However, most detail is provided by accompanying standard to which the CSRD delegates the details of what must be reported [126].

Unlike the NFRD, the CSRD must be prepared accompanied by a reporting standard known as the European Sustainability Reporting Standards (ESRS) [127]. The ESRS are divided across 12 sections, starting with ESRS 1 and 2 which set out general, cross cutting reporting requirements followed by 10 specific standards on ESG matters [128]. Under each of the headings, the ESRS provides a detailed account of what companies must report, subject to a double materiality test based on financial materiality and impact materiality [129]. A sustainability matter is material from a financial perspective if it triggers or could reasonably be expected to trigger material financial effects on the undertaking *i.e.* where the matter generates risks or opportunities that have a material influence, or could reasonably be expected to have a material influence, on the company’s development, financial position or performance, cash flows, access to finance or cost of capital over the short-, medium- or long-term [130]. A sustainability matter is material from an impact perspective when it pertains to the company’s material actual or potential, positive or negative impacts on people or the environment over the short, medium- or long-term including from it upstream and downstream value chain, through its products and services, as well as through its

business relationships that are not limited to direct contractual relationships [131]. It is this 'double materiality' standard that is the core metric for companies to determine what information should be disclosed and once a 'matter' meets the test, it is mandatory to disclose it. The CSRD requires the reports to be audited to ensure its compliance with the ESRS [132].

This brief description of the SFDR, the Taxonomy Regulation, the CSRD and ESRS demonstrates that over the past five years, the EU made a concerted effort to raise the standards of sustainability reporting in line with those that exist in financial reporting. The EU did this by making sustainability disclosures mandatory for certain companies and investors, requiring the reports to be detailed, standardised and independently verified. During this process, the EU repeatedly emphasised that the measures were not only designed to create more sustainable business practices but also to facilitate sustainable finance by creating a reliable reporting framework.

4. Omnibus I, SFDR 2.0 and Lessons from the EU's Sustainability Reporting Regime

The SFDR, the Taxonomy Regulation, the CSRD and ESRS created the most comprehensive legal framework in existence and had the potential to significantly increase the breadth and reliability of sustainability reporting. However, in 2024, the EU signalled a policy reversal, moving away from sustainability focused regulation, based on the Green Deal, toward fostering "competitiveness". The basis for this policy reversal lay in the reports by Enrico Letta and Mario Draghi which emphasised the need for Europe to create a regulatory landscape that facilitated the competitiveness and resilience of European Business. The Draghi report particularly emphasised that the regulatory burden on European companies is high compared to other jurisdictions [133] and expressed concerns at the 'innovation gap' between Europe and China and the United States [134]. In response, the European Council called for "a simplification revolution, ensuring a clear, simple and smart regulatory framework for businesses and drastically reducing administrative, regulatory and reporting burdens" [135]. This was followed by the European Commission's Competitiveness Compass [136] which also emphasised the importance of "simplifying the regulatory environment, reducing burdens and favouring speed and flexibility" [137].

The first piece of legislation introduced under this simplification agenda was Omnibus I [138] which entered into force on March 18 2026. The most significant amendment introduced by Omnibus I is to

raise the CSRD's thresholds such that it will now only apply to EU companies with more than a €450 million net turnover and 1,000 employees [139]. This increase in threshold will take approximately 80% companies outside the scope of the CSRD, and now all small and medium sized companies fall under a new voluntary reporting framework [140]. Recital 20 of Omnibus I provides that the EU will also introduce a new delegated legislation to revise the ESRS in order to simplify its structure and presentation. More specifically, the Recital provides that the new ESRS will: remove several data points; further distinguish between mandatory and voluntary datapoints; clarify the materiality principle to ensure that undertakings are only required to report material information; and improve consistency with other pieces of legislation, including financial services legislation. The EU has published a draft of the new delegated legislation and the new ESRS [141] which proposes to reduce mandatory reporting data points by approximately 60% and total data points by approximately 70% [142]. Alongside these changes to the CSRD, on November 20 2025 the Commission proposed a set of changes to the SFDR, again with the aim of simplification and reducing the burdens on companies. The proposed changes include the removal of the requirement to publish a principal adverse impact statement and removes the definition of "sustainable investment" [143].

This overview of the main changes introduced to the CSRD and SFDR serve to demonstrate the shift in the EU's approach to sustainability reporting [144]. Between 2020 and 2024, the EU was on track to raise the standard of sustainability reporting to close to the level of financial reporting in the sense that it was mandatory for a high number of companies and investors as well as being detailed, standardised and independently verified. Yet, in the last two years, the EU has deregulated this area, exempting many companies from mandatory sustainability reporting and reintroduced voluntary reporting for SMEs and is lowering the standard for companies still subject to the CSRD through a revised ESRS. This will impact both the breadth and the reliability of the sustainability reporting under EU law. While this can be explained by reference to the new focus on competitiveness, and the EU's perceived need to reduce the regulatory burden on EU businesses, it is perhaps not the only reason for the rowing back on mandatory sustainability reporting.

While rules ensuring the reliability of sustainability reporting is undoubtedly important to prevent cherry picking, greenwashing, and boiler plate reporting, so too is not overburdening companies with unnecessary, unclear or excessively costly regulation. One failure of

the EU's sustainability reporting model that it was too disjointed leading to complexity. Instead of introducing a single directive covering sustainability reporting and finance, the EU introduced the Taxonomy and the SFDR, while the CSRD made a vast number of amendments to the NFRD. These pieces of legislation also included further cross references to further pieces of legislation, such as the ESRS and the Accounting Directive. The result was a highly complex framework that lacked an integrated approach that could be simply understood by investors and companies [145]. Somewhat ironically, the more recent changes introduced by the EU fails to address this fundamental problem and instead introduces a raft of new amendments adding further complexity, especially for those who had invested in compliance for the CSRD and SFDR. The other difficulty sustainability reporting model was the introduction of many new legal concepts, such as "double materiality" in the ESRS and "sustainable investment" in the SFDR, which introduced uncertainty. While novel concepts and definitions are clearly necessary to develop new mandatory rules, it also creates extensive uncertainty around compliance which in turn increases the compliance burden. This point demonstrates the difficulty in moving from voluntary standards to mandatory legal frameworks [146]. In some cases, such as double materiality, the EU is attempting to clarify its meaning. However, in others, the EU has chosen to deregulate by moving approximately 80% outside the CSRD's scope and by proposing to remove the definition of "sustainable investment" from the SFDR.

Based on the above analysis, it seems clear that the EU could have introduced mandatory, standardised and independently verified reporting rules without imposing such complexity on businesses. Further, it is not clear that the most recent changes introduced by the EU through Omnibus I and SFDR 2.0 will in fact simplify the framework. While this may sound critical, the EU is the first jurisdiction to attempt to develop a comprehensive mandatory legal framework for sustainability disclosures – it is understandable that the end result was not a streamlined, integrated model. Yet the lesson for future jurisdictions examining this area must be that while ensuring the reliability of sustainability disclosures is important, it must be introduced in as simple and straightforward way as possible.

It is here where Regulatory Technology and dedicated ESG data platforms emerge as vital mechanisms to mitigate compliance burdens. As mentioned above, the EU is already using regulatory technology via its European Single Access Point, it is

perhaps surprising that greater digitalisation did not feature as part of Omnibus I to alleviate the complexity caused by the various EU reporting laws. For example, the complexity could have been reduced by providing a framework for data ingestion and algorithmic mapping to translate raw corporate data into standardised, compliant disclosures. Ultimately, while lawmakers struggle to find a simple regulatory equilibrium, regulatory technology could provide a pragmatic bridge - lowering the compliance costs for companies while simultaneously ensuring reliable disclosures.

CONCLUSION

It is undoubtedly a difficult task to find the appropriate balance between creating a regulatory landscape that encourages and facilitates reliable sustainability disclosures and sustainable finance while also not imposing undue burdens on businesses. The EU has been the first jurisdiction to attempt to do this, and is continuing to try and find the right balance through a series of recent amendments. Certain lessons can be drawn from the EU's efforts, including the methods through which sustainability disclosures can be made reliable and the importance of reducing the complexity of the legislative measures. However, the main lesson may be that technology may provide the solution in the attempt at finding this balance. Future regulatory frameworks should look to regulatory technology solutions to maintain reliability while also minimising compliance burdens.

REFERENCES

- [1] The EU defines sustainable finance as the process of taking environmental, social and governance (ESG) considerations into account when making investment decisions in the financial sector, leading to more long-term investments in sustainable economic activities and projects. See https://finance.ec.europa.eu/sustainable-finance/overview-sustainable-finance_en.
- [2] Directive 2014/95/EU.
- [3] European Commission Communication on the European Green Deal (2019) see https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.
- [4] European Commission, Action Plan: Financing Sustainable Growth available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0097>.
- [5] Regulation (EU) 2019/2088.
- [6] Regulation 2020/852.
- [7] Directive 2022/2464.
- [8] Regulations in EU law are directly binding on all Member States.
- [9] Directives in EU law are binding on all Member States in relation to the result to be achieved but leave the methods by which to achieve them to be decided by Member States. See Article 288 of the Treaty on the Functioning of the European Union.
- [10] E. Letta, 'Much More than A Market' (2024) available at <https://www.consiliium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>.

- [11] M. Draghi, 'The Future of European Competitiveness' (2024) available at https://commission.europa.eu/topics/eu-competitiveness/dra-ghi-report_en#paragraph_47059.
- [12] For example, the proposal for the 28th regime of EU company law (or "EU Inc."), the launch of a Scaleup Europe Fund and a Savings and Investments Union.
- [13] Directive (EU) 2026/470 available at <https://eur-lex.europa.eu/eli/dir/2026/470/oj>. See European Commission, Omnibus I (2025) available at https://commission.europa.eu/publications/omnibus-i_en. The Omnibus is a proposal only and, at the time of writing, is going through the EU legislative process.
- [14] See P. Davies and S. Worthington, *Gower's Principles of Modern Company Law* 10th edn. (Sweet and Maxwell, 2016), 689-691 and C. Leuz and P. Wysocki, 'The Economics of Disclosure and Financial Reporting Regulation: Evidence and Suggestions for Future Research' (2016) 54(2) *Journal of Accounting Research* 525. <https://doi.org/10.1111/1475-679X.12115>
- [15] R. Kraakman et al, *The Anatomy of Corporate Law: A Comparative and Functional Approach* 3rd edn. (Oxford University Press, 2017), 249 - 254.
- [16] Ibid, 252 but also to enable corporate taxation.
- [17] Certain legislative provisions do allow creditors take claims against company officers for harming the interests of creditors. One such example is 'Wrongful Trading' under s.214 of the UK Insolvency Act 1986. For a broader discussion of the law's response to this issue see J. Quinn and P. Gavin, 'The Creditor Duty Post Sequana: Lessons for Legislative Reform' (2023) 23(1) *Journal of Corporate Law Studies* 271. <https://doi.org/10.1080/14735970.2023.2226802>
- [18] Meaning the company has insufficient assets to discharge all of its debts.
- [19] This would depend on the degree of insolvency and level of security held by the creditor.
- [20] See R. Kraakman et al, *The Anatomy of Corporate Law* (n 32), 338-39. The authors note that periodic disclosure of financial information allows shareholders to determine whether they wish to invest further in the company or exit and also provides mechanisms to limit agency costs through, for example, disclosure requirements on third party transactions and where directors must disclose details of transactions to gain approval from shareholders.
- [21] Directive 68/151/EEC.
- [22] Ibid Article 2(e) and 2(f).
- [23] Ibid, Article 3.
- [24] First in 2003 by Directive 2003/58/EC which provided for the disclosure of information by electronic means.
- [25] Directive 78/660/EEC. For example, Article 2(3) provided that the annual accounts shall give a true and fair view of the company's assets, liabilities, financial position and profit or loss.
- [26] Directive 83/349/EEC.
- [27] Directive 84/253/EEC.
- [28] For example, the Statutory Audit Directive 2006/43/EC.
- [29] Directive 2013/34/EU.
- [30] Ibid, Article 3 divides undertakings into small medium and large and imposes different regulatory burdens on each type of undertaking.
- [31] Ibid, Article 4 (1). The notes are to provide additional context to the accounts.
- [32] Ibid, Article 19.
- [33] Ibid, Article 4.
- [34] N. De Luca, *European Company Law* 2nd edn. (CUP 2021), 230-232. <https://doi.org/10.1017/9781108918992>
- [35] Ibid, Annex III and IV allowing Member States to select either vertical or horizontal formats.
- [36] Ibid, Annex V and VI.
- [37] Directive 2013/34/EU defined by Article 2 as all listed companies, credit institutions, insurance undertakings and other companies designated by Member States because of their activities, size or number of employees
- [38] Ibid, Article 34.
- [39] S. Grundmann, 'European Company Law in Transformation—Striving for Participation and Sustainability' (2023) 42 *Yearbook of European Law* 210, 215. <https://doi.org/10.1093/yel/yead002>
- [40] Ibid, 211.
- [41] Ibid, 213.
- [42] Directive 68/151/EEC, Article 3(1).
- [43] BRIS connects the business registers of each Member State to a 'European Central Platform' to widen accessibility of the disclosed information. See <https://ec.europa.eu/digital-building-blocks/sites/pages/viewpage.action?pageId=533365899>.
- [44] Available at [https://commission.europa.eu/document/download/3e9822a-a-8cef-40a1-904e-a53fc68e7265_en?filename=Proposal%20for%20an%20EU%20inc%20corporate%20legal%20frame-work.pdf](https://commission.europa.eu/document/download/3e9822a-a-8cef-40a1-904e-a53fc68e7265_en?filename=Proposal%20for%20an%20EU%20inc%20corporate%20legal%20framework.pdf).
- [45] Ibid Art 15.
- [46] Ibid Art. 17.
- [47] Ibid Art. 20.
- [48] Regulation EU 2023/2859.
- [49] Most famously Enron, see J. Coffee, 'Understanding Enron: It's about the Gatekeepers, Stupid' (2001) 57 *Business Law* 1403 and S. Deakin and S. Konzelmann, 'Learning from Enron' (2004) 12(2) *Corporate Governance: An International Review* 134. <https://doi.org/10.1111/j.1467-8683.2004.00352.x>
- [50] The underlying rationale for BRIS stemmed from the financial crisis and the EU's resultant belief that up-to-date, trustworthy information on companies would encourage greater confidence in the single market. See <https://ec.europa.eu/digital-building-blocks/sites/pages/viewpage.action?pageId=533365899>.
- [51] See C. Stone, *Where the Law Ends: The Social Control of Corporate Behaviour* (1975 Harper & Row). <https://doi.org/10.2307/1228316>
- [52] See C. Hill, 'Marshalling Reputation to Minimize Problematic Business Conduct' (2019) 99 *Boston University Law Review* 1193, 1208-1211 noting that the mere fact that companies go to significant effort to engage in greenwashing suggests that they are concerned with public perceptions.
- [53] For example, a contingent environmental liability.
- [54] As demonstrated by the rise of ESG investing. See D. Esty and Q. Karpilow, 'Harnessing Investor Interest in Sustainability' (2019) 36 *Yale Journal on Regulation* 625 and Macey, 'ESG Investing' (n 13).
- [55] Nearly all of the world's top 250 companies report on sustainability related issues and the number of companies producing sustainability reports is rising. See KPMG, 'Key Global Trends in Sustainability Reporting' (2022) available at <https://kpmg.com/xx/en/our-insights/esg/survey-of-sustainability-reporting-2022/global-trends.html>.
- [56] See M. Barzuza, Q. Curtis and D. Webber, 'Shareholder Value(s): Index Fund ESG Activism and the New Millennial Corporate Governance' (2020) 93 *Southern California Law Review* 1243 and J. Macey, 'ESG Investing: Why Here? Why Now?' (2022) 19 *Berkeley Business Law Journal* 258.
- [57] See D. Ahern, 'Turning Up the Heat? EU Sustainability Goals and the Role of Reporting under the Non-Financial Reporting Directive' (2016) 4 *European Company and Financial Law Review* 599 noting that companies, left to their own devices, are inclined 'to report favourable aspects than less favourable aspects of their activities and policies.' <https://doi.org/10.1515/ecfr-2016-5007>
- [58] See E. Yu, B. Lu, and C. Chen, 'Greenwashing in Environmental, Social and Governance Disclosures' (2020) 52 *Research in International Business and Finance* 1. <https://doi.org/10.1016/j.ribaf.2020.101192>

- [59] See D. Monciardini, 'Regulating Accounting for Sustainable Companies: Some Considerations on the Forthcoming Directive' (2014) 11(2) European Company Law 121. <https://doi.org/10.54648/EUCL2014024>
- [60] See D. Hess, 'Social Reporting: A Reflexive Law Approach to Corporate Social Responsiveness' (1999) 25 The Journal of Corporation Law 41.
- [61] UK Companies Act 1985 (Operating and Financial Review) Regulations 2005 Statutory Instrument No. 1011.
- [62] S.172(1) of the UK Companies Act 2006. This provides for company directors to have regard to a wide range of stakeholder interests, such as employees, the community and the environment. See A. Keay, *The Enlightened Shareholder Value Principle and Corporate Governance* (Routledge, 2012).
- [63] Operating and Financial Review Regulations 2005 Statutory Instrument No. 1011 Part 3 Schedule 7ZA (4).
- [64] *Ibid.*, Part 3 Schedule 7ZA (10).
- [65] See A. Johnston, 'After the OFR: Will UK Shareholder Value Still Be Enlightened?' (2006) 7 (4) European Business Organization Law Review 817. <https://doi.org/10.1017/S1566752906008172>
- [66] Introduced by section 417 of the UK Companies Act 2006.
- [67] For example, Davies has described the Business Review as providing scope to companies to produce a 'self-serving and vacuous narrative rather than analytical material which is of genuine use'. Paul Davies, *Gower and Davies Principles of Modern Company Law*, 8th edn. (Sweet and Maxwell, 2008), 740.
- [68] The most notable development is through section 54 of the Modern Slavery Act 2015 which requires companies to produce an annual 'slavery and human trafficking statement' setting out 'the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place'.
- [69] See A. Johnston, 'Market-Led Sustainability through Information Disclosure' in B. Sjøfjell and C. Bruner (eds), *The Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability* (2020, CUP). <https://doi.org/10.1017/9781108658386.021>
- [70] European Commission, Green Paper - Promoting a European Framework for Corporate Social Responsibility (2001) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52001DC0366>.
- [71] *Ibid.*, [66].
- [72] Commission Communication, "Single Market Act - Twelve levers to Boost Growth and Strengthen Confidence (2011) available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52011DC0206>.
- [73] *Ibid.*, 5.
- [74] Available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52013PC0207>.
- [75] Directive 2014/95/EU amending Directive 2013/34/EU.
- [76] Defined by Article 3(4) of Directive 2013/34/EU as meeting two of three following criteria: (a) balance sheet total: EUR 20 000 000; (b) net turnover: EUR 40 000 000; (c) average number of employees during the financial year: with over 250 employees.
- [77] *Ibid.*, Article 1.
- [78] *Ibid.*
- [79] *Ibid.*
- [80] For analysis of comply or explain regulation see A. Keay, 'Comply or Explain in Corporate Governance Codes: In Need of Greater Regulatory Oversight?' (2014) 34(2) Legal Studies 279. <https://doi.org/10.1111/lest.12014>
- [81] *Ibid.*
- [82] Commission Communication - Guidelines on Non-Financial Reporting available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0705\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0705(01)).
- [83] *Ibid.*, [4.1]- [4.5].
- [84] See J. Quinn and B. Connolly, 'The Non-Financial Information Directive: An Assessment of its Impact on Corporate Social Responsibility' (2017) 14(1) European Company Law 15. <https://doi.org/10.54648/EUCL2017003>
- [85] Szabó and Sorensen, 'New EU Directive on the Disclosure of Non-Financial Information' (n 23), 316.
- [86] European Commission, Report on the Review Clauses in Directives (n 23).
- [87] *Ibid.*, 17.
- [88] *Ibid.*
- [89] *Ibid.*, 20.
- [90] *Ibid.*, 19.
- [91] Regulation (EU) 2019/2088. For analysis see E. Partiti, 'Addressing the Flaws of the Sustainable Finance Disclosure Regulation: Moving from Disclosures to Labelling and Sustainability Due Diligence' (2024) 25 European Business Organization Law Review 299. <https://doi.org/10.1007/s40804-024-00317-6>
- [92] Defined as managed portfolios, alternative investment funds, undertakings for collective investment in transferable securities, insurance-based investment products, or pension products.
- [93] Regulation (EU) 2019/2088 Recital 9.
- [94] *Ibid.*, Article 1.
- [95] *Ibid.*, Article 3.
- [96] *Ibid.*, Article 4. These must take due account of their size, the nature and scale of their activities and the types of financial products they make available.
- [97] *Ibid.* Recital 17. The full definition can be found at Article 2(17).
- [98] Delegated Regulation (EU) 2022/1288.
- [99] Regulation 2020/852 (EU).
- [100] *Ibid.*, 9 including energy agriculture, transport, manufacturing
- [101] *Ibid.*, Article 9. Articles 10-15 provide greater depth on these objectives.
- [102] Proposal for a Corporate Sustainability Reporting Directive (CSRD) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0189>.
- [103] Directive 2022/2464/EU.
- [104] *Ibid.*, 17.
- [105] *Ibid.*, Recital 9.
- [106] *Ibid.*, Recital 12.
- [107] Defined by Article 3(4) of Directive 2013/34/EU as meeting two of three following criteria: (a) balance sheet total: EUR 20000000; (b) net turnover: EUR 40000000; (c) average number of employees during the financial year: with over 250 employees.
- [108] Defined by Article 3(7) of Directive 2013/34/EU as meeting, on a consolidated basis, two of the three following criteria: (a) balance sheet total: €20,000,000; (b) net turnover: €40,000,000; (c) average number of employees during the financial year: 250.
- [109] Directive 2022/2464/EU Article 5(2)(a).
- [110] Directive 2022/2464/EU Article 5(2)(b).
- [111] Defined by Article 3(2) of Directive 2013/34/EU as undertakings which meet two of the following criteria: balance sheet total: EUR 4,000,000; (b) net turnover: €8,000,000; (c) average number of employees during the financial year: 50.
- [112] Defined by Article 3(3) of Directive 2013/34/EU as undertakings which meet two of the three following criteria: (a) balance sheet total: EUR 20,000,000; (b) net turnover: €40,000,000; (c) average number of employees during the financial year: 250.

- [113] Directive 2022/2464/EU Article 5(2)(c). But not to 'micro undertakings' defined by Article 3(4) of Directive 2013/34/EU as undertakings which meet two of the three following criteria: (a) balance sheet total: €350,000; (b) net turnover: €700,000; (c) average number of employees during the financial year: 10.
- [114] Ibid, Recital 20.
- [115] See K. Hummel and D. Jobst, 'An Overview of Corporate Sustainability Reporting Legislation in the European Union' (2024) *Accounting in Europe* 1, 15. <https://doi.org/10.1080/17449480.2024.2312145>
- [116] Directive 2022/2464/EU amending Directive 2013/34/EU Article 29(2)(a).
- [117] Ibid Article 29a 1(4)(2)(b).
- [118] Ibid Article 29a (2)(a)(c)
- [119] Ibid Article 29a (1)(4).
- [120] Ibid, Recital 31, due diligence being defined as the process that undertakings carry out to identify, monitor, prevent, mitigate, remediate or bring an end to the principal actual and potential adverse impacts connected with their activities and the activities of their value chain.
- [121] Ibid, Article 29b (1)(4)(2)(f).
- [122] Ibid, Article 29b (1)(4)(g).
- [123] Ibid, including as regards scope 1, scope 2 and, where relevant, scope 3 greenhouse gas emissions.
- [124] Ibid, Article 29(b) 2(a).
- [125] Ibid, Article 29(b) 2(b).
- [126] Directive 2022/2464/EU, Recital 39.
- [127] European Commission Delegated Regulation (EU) supplementing directive 2013/34/EU and including European Sustainability Reporting Standards (ESRS) available at [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_CO M:C\(2023\)5303](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_CO M:C(2023)5303).
- [128] Ibid, Section 3. These are E1 Climate change; E2 Pollution; E3 Water and marine resources; E4 Biodiversity and ecosystems; E5 Resource use and circular economy; S1 Own workforce; S2 Workers in the value chain; S3 Affected communities; S4 Consumers and end-users; G1 Business conduct.
- [129] See Directive 2022/2464/EU, Recital 29. For a comprehensive analysis for what is likely to meet the double materiality see F. Mezzanotte, 'Corporate Sustainability Reporting (n 109) and F. Mezzanotte, 'Examining the Reasons for Impact Materiality in EU Corporate Sustainability Reporting' (2024) 35(7) *European Business Law Review* 925. <https://doi.org/10.54648/EULR2024048>
- [130] ESRS (n 126), s. 3.5.
- [131] Ibid, section 3.4.
- [132] Art. 3(2) Directive 2022/2464/EU.
- [133] *ibid* 69.
- [134] *ibid* 6.
- [135] Budapest Declaration on the New European Competitiveness Deal (2024) available at <https://www.consilium.europa.eu/en/press/press-releases/2024/11/08/the-budapest-declaration/>, [4]
- [136] European Commission, A Competitiveness Compass for the EU (2025) available at https://commission.europa.eu/document/download/10017eb1-4722-4333-add2-e0ed18105a34_en?filename=Communication_1.pdf
- [137] *Ibid*, [3].
- [138] Directive (EU) 2026/470 available at <https://eur-lex.europa.eu/eli/dir/2026/470/oj>.
- [139] This may threshold may be met on a consolidated basis in the case of corporate groups.
- [140] See EFRAG's Voluntary Standard for SMEs available at <https://www.efrag.org/en/smes-and-sustainability-reporting>.
- [141] See https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/16775-Revised-European-sustainability-reporting-standards_en.
- [142] See [https://www.traverssmith.com/knowledge/knowledge-contain er/eu-sustainability-reporting-less-is-more/#:~:text=The%20Commission%20has%20affirmed%20the,%22\)%20by%20over%2070%25](https://www.traverssmith.com/knowledge/knowledge-contain er/eu-sustainability-reporting-less-is-more/#:~:text=The%20Commission%20has%20affirmed%20the,%22)%20by%20over%2070%25).
- [143] See <https://www.arthurcox.com/insights/sfdr-reform-proposal-key-changes/#:~:text=The%20current%20Article%208%20and,Streamlined%20disclosures%20and%20reporting%3A>.
- [144] See generally, C. Malecki, "Sustainable Directors' Duties: European and French Perspectives in Light of the Omnibus I Simplification Package or the Dilemma of the Hare and the Tortoise" (2026) 23(1) *European Company and Financial Law Review* 72 and J. Quinn, *The Societal Company: Sustainability, Shareholder Value and European Company Law* (Hart, 2025). <https://doi.org/10.1515/ecfr-2026-0007>
- [145] As Mayer and Shift have noted, the weakness of EU's corporate Sustainability framework is its complexity. See C. Mayer, 'Success, Law and ESG' (2024) *European Corporate Governance Institute Working Paper* available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4939931, 14. See also analysis from Shift available at <https://shiftproject.org/the-european-commissions-omnibus-simplification-proposal-shifts-preliminary-reflections/>.
- [146] I develop this point further in J. Quinn and R. Condon, "Beyond the Individual-Company: From Corporate Social Responsibilities to Corporate Social Liability" (2025) 16 *Transnational Legal Theory* 226. <https://doi.org/10.1080/20414005.2025.2479318>

<https://doi.org/10.31875/2755-8398.2026.02.08>

© 2026 John Quinn

This is an open-access article licensed under the terms of the Creative Commons Attribution License (<http://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution, and reproduction in any medium, provided the work is properly cited.