Introduction

The Climate Disclosure Standards Board (CDSB) and CDP (formerly the Carbon Disclosure Project) support the European Commission legislative proposal COM(2013)207 in terms of reporting of non-financial information. CDSB and CDP welcome the proposed amendments as a significant step to increase corporate transparency, relevance, consistency and comparability of non-financial information of around 18,000 large enterprises across Europe. Noting that some aspects of the proposal could be improved as detailed below, CDSB and CDP believe that the proposed legislation, at a minimum, should be adopted in its current form.

Based on over a decade of experience in developing and operating a global system for environmental disclosure and action, CDSB and CDP are acutely aware of and have concrete suggestions for further work that could assist the European Commission to meet the objectives set out in the introduction to COM(2013) 207 16 April 2013. Further detail on our recommendations and suggested clarification are summarized below and additional supporting evidence and resources can be downloaded from www.cdsb.net/nfr.

CDSB and CDP call on the European Parliament and European Council to:

1. Include CDP and CDSB as recognised international frameworks for companies to rely on for reporting non-financial information.
   The Commission proposal is indicating a number of frameworks to be used for non-financial reporting. Currently, CDP has 65% more companies globally that report non-financial environmental information through its reporting platform than other listed schemes such as the Global Reporting Initiative whilst in 2011, 90% of requested Europe 300 companies responded to the 2012 CDP information request.\(^2\) CDP is the only global non-financial environmental reporting system with the highest level of comparability of data worldwide, thus should be recognised accordingly as a globally accepted environmental reporting practice. CDSB has the only global framework designed specifically for the inclusion of non-financial information into annual reports.

2. Take steps to align reporting requirement provisions across Europe, as different country approaches lead to fragmentation and inconsistency of information, decreasing its usefulness for investors and increasing the reporting burden for companies.

3. Add the requirement that an annual report needs to be presented to the shareholder for vote at the AGM to increase transparency, credibility and reliability of information reported.

4. Ensure that the European Commission develops and promotes guidance on the methodology and use of international standards and non-financial performance frameworks as referred to in article 46.1 no later than 18 months after the adoption of the Directive in order to assist companies in reporting.
5. Ensure **material information** relating to environmental and other matters is **integrated into the annual report rather than included in a separate financial statement.**

6. Include a statement requesting that **the risks of adverse impacts that may stem from the companies’ own activities linked to companies’ operations - products or services by a business relationship, including with their suppliers, clients, subcontractors or other business partners - should also be reported.**

**General Comments on explanatory memorandum and legislative proposal**

As early supporters of non-financial reporting with over 11 years of experience working globally with companies, investors and regulators, CDSB and CDP believe that in order to achieve the above stated objectives for the proposed legislation there needs to be meaningful discussion to clarify and address the following points:

**Differing approaches by Member States have led to fragmentation of legislative frameworks across the EU**

In 2011-12, CDSB worked with the OECD, UNCTAD and the GRI to review consistency of approach to climate change-related reporting to undertake groundwork for policy makers interested in determining where greater consistency of approach might be achieved for the benefits of companies and readers of corporate reports. The “**Consistency Report**” was welcomed by UNCTAD’s International Expert Working Group on Accounting and Reporting Standards (ISAR) and while focussed on climate change it was acknowledged that many of the findings were equally applicable to other areas of corporate activity and compliance including governance and CSR.

The report recognised the failing of existing provisions for reporting of non-financial information as being ineffective because of the lack of clarity on requirements which may in turn prejudice legal certainty and concluded the need for strengthening and clarifying existing requirements to ensure a level playing field, limit cost and deliver more widespread investor access to decision-useful information – comparable to the outcomes proposed by this revision in legislation.

The “**Consistency Report**” can be downloaded from [www.cdsb.net/consistency](http://www.cdsb.net/consistency).
A list of the reporting provisions can be downloaded from [www.cdsb.net/nfr](http://www.cdsb.net/nfr).

**Clear definition of CSR – define “responsibility” and “impacts”**

In its 2011 Communication, the European Commission previously defined CSR as “**a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.**” The proposed new definition of CSR is “**the responsibility of enterprises for their impacts on society.**” CDSB and CDP support the sentiment of the new definition of CSR but believe that careful definitions of both “responsibility” and “impact” will be required if the European Commission is to achieve its stated objectives for this policy revision. CDSB and CDP suggest that responsibility should be defined in the context of the public interest and note that the ICAEW’s publication “**Acting in the Public Interest – A Framework for Analysis**” would be a useful reference. The links between the proposed amendments to the Accounting Directives and the EU’s CSR agenda need to be more clearly articulated so that it is evident how the non-financial disclosure requirements support the CSR agenda so that it recognises non-financial transparency is a fundamental element of any CSR policy.
Address perceived lack of clarity: provision of guidance on companies policies and what is meant by impacts on society

The proposed amendments to the Directives require companies to describe the policy(ies) they pursue in relation to environmental, social, employee, human rights, anti-corruption and bribery matters. However, there is no indication in the proposed amendments as to what those policies should say or what the description should convey to the reader. There is no expectation that the policies should enable readers to understand the company’s “impacts on society” as noted in the above CSR definition. Similarly there is no indication that “the results of these policies” should show how they impact on society.

CDSB and CDP recognise that the EU takes a flexible and non-intrusive approach but predict that too much flexibility will perpetuate the problems of lack of clarity already acknowledged in the explanatory memorandum. CDSB and CDP therefore urge the European Commission to provide guidance on what the reader should be able to discern from reading a description of the policies and their results. In particular, readers of corporate reports should be able to determine the company’s impacts on society. This in turn will require some guidance on what is meant by “impacts on society” and whether or how they should be assessed by the reporting company or the reader.

Conflict between responsibility for impacts on society & duty to maximise shareholder value

CDSB and CDP encourage the European Commission to provide guidance on how a company should approach the disclosure requirements, given that they have been prompted by the CSR agenda, where there is a conflict between responsibility for impacts on society and the duty to maximise shareholder value. This might apply for example to enterprises operating in Europe with a parent or holding company outside Europe. There have been many reports and analyses on the tensions between shareholder primacy and a pluralist approach to stakeholders. For example a recent analysis of this debate may be found in the publication “Shareholder Primacy in UK Corporate Law: An Exploration of the Rationale and Evidence” published by ACCA and based on the UK experience. CDSB and CDP are not aware that these tensions between shareholder primacy, enlightened shareholder value and stakeholder theory have yet been fully resolved.

Comments on the multi-dimensional nature disclosures

Recommendation to recognise climate change-related reporting as a specialist component of environmental policy

The proposed amendments require disclosure of environmental (as well as other) policies. CDSB are acutely aware of the need for climate change to be treated as a specialist area of environmental reporting and activity having worked with multiple stakeholders over a period of eleven years to develop an international system for reporting and taking action on climate change. CDSB Consistency Project report mentioned above contains an inventory of international provisions that apply to climate change-related reporting and practice and an analysis of the way in which those provisions are applied. In practice, even where climate change-related reporting is mandated, enterprises are using a wide variety of guidelines, methodologies and frameworks for determining policy, communicating results and preparing disclosures.
Encourage consistency and enable comparability through preparation of an inventory of the Frameworks in use by European enterprises and addition of a requirement to state the approaches used for preparing disclosures

Although CDSB agrees with the statement that enterprises should be given the flexibility to innovate and develop appropriate disclosures, CDSB know from eleven years of capacity building at CDP that eventually more consistency and comparability will be demanded by both companies and investors, especially in relation to reporting and communicating progress. This is particularly likely to be the case if investors are to incorporate non-financial disclosures and progress in their analyses.

CDSB and CDP also note the statement that companies may use existing national or international reporting frameworks. In order to encourage consistency and comparability, CDSB suggest that the European Commission defines the characteristics of an appropriate policy and methodology for tracking progress against it. To achieve this CDSB and CDP encourage the European Commission to prepare an inventory of all main frameworks and practices currently in use by European enterprises. This would ensure that any disclosures are based on a full understanding of existing practice and that companies are given clear indication that the methodology for disclosing they are using complies with expected standards.

CDSB has a database of international mandatory and voluntary provisions on all aspects of corporate reporting in G20 countries including on financial accounting, corporate governance, environment, CSR and integrated reporting. Additionally, CDSB has a list of over 350 global reporting provisions linked to environmental reporting which could be shared up on request with the Commission. Please contact Mardi McBrien, CDSB Managing Director (mardi@cdsb.net), for further explanation.

Convergence of national approaches to non-financial reporting

In the same way that national accounting rules have largely been harmonised in the form of International Financial Reporting Standards, CDSB and CDP believe that national approaches to non-financial reporting must eventually converge and the earlier this happens, the fewer burdens will be placed on multinational companies. There are some territories in Europe that have already taken exemplary action on non-financial disclosure including France through the Grenelle II provisions. CDSB and CDP note however significant variation in approach between Member States. To ensure harmonisation, comparability and consistency of information, the European Commission could do much to limit this variation through this legislative proposal and associated guidance, as noted in our proposed amendments.

Introduction of an annual review process to ensure that non-financial disclosures are meeting the stated objectives of the proposed amendments

CDP and CDSB have undertaken various analyses of the way in which financial institutions use climate change-related information\textsuperscript{[6]}. Although CDSB saw increasing trends for financial institutions to read climate change-related information, there was little evidence of capital allocation decisions being based on such information. CDSB and CDP wish to draw your attention to Volume 5, Issue 2 of the Rotman International Journal of Pension Management\textsuperscript{[7]} (autumn 2012) which discusses some of the issues faced by pension funds and others in applying responsible investment criteria, standards or codes. Of interest to these proposed amendments are the measures already taken by governments around the world to encourage investors to take non-financial information into account, such as the Australian Council of Superannuation Investors’ guidance for superannuation trustees and fund managers on the integration of ESG matters into decision-making.
Consider development of instruments or similar that support investors to capture the value of CSR activity

Our understanding is that investors have difficulty in “capturing” the value of non-financial performance in their assessments and models. CDSB recommend that the European Commission considers the development of or support for instruments or models that allow the value of non-financial performance to be invested in or captured, possibly along the lines of the instruments being developed by the Climate Bonds Initiative.

Assurance

Noting that assurance is not relevant at this stage in the development of the environmental non-financial reporting provisions (except that the auditor must provide an opinion on the consistency or otherwise of non-financial information with information contained in the annual report), CDSB and CDP suggest that the European Commission bears in mind that corporate disclosures on non-financial information might at some point be the subject of assurance activity. Any provisions recommended in the proposals must therefore represent “suitable criteria” against which assurance activities may be conducted. CDSB’s Reporting Framework has for example been developed with suitable criteria for assurance incorporated.

Additional Information

CDSB and CDP are active members of the Corporate Social Responsibility Coalition representing financial institutions, NGO’s and investors who called for the development of an international framework on non-financial reporting at the Rio summit in June 2013. CDSB are working with UNEP and the Government’s of the Group of Friends of Paragraph 47 established at that summit to prepare materials to support further outreach and adoption of non-financial corporate reporting globally.

Country by country financial reporting

CDP and CDSB acknowledge and are following with interest the discussions around country by country tax reporting which are taking place in the context of these amendments. Both issues are of extreme importance and will have serious implications for the efficiency and stability of the Single Market. As our expertise and experience focus on non-financial reporting we have decided not to make comments on this particular topic.

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CDSB & CDP position & commentary on proposals to amend Council Directives

Article 46 of the Fourth and Article 36 of the Seventh Directive as regards disclosures of non-financial information by certain large companies.

### About CDSB

The Climate Disclosure Standards Board (CDSB) is an international consortium chaired by the World Economic Forum of business, investor and environmental organizations committed to the integration of climate change-related information into mainstream corporate reporting. CDSB’s Climate Change Reporting Framework helps companies include climate change information into financial reports in a way that is of most use to investors by harmonizing existing financial and non-financial reporting standards. CDSB’s aim is to promote aligned reporting practices to reduce reporting burden and provide comparable information to capital markets. CDSB’s Framework is listed as a method for compliance for mandatory Greenhouse Gas reporting in the United Kingdom.

Download CDSB’s Framework for the inclusion of non-financial information in annual reports at cdsb.net/Framework.

www.cdsb.net

### About CDP

CDP is an international, not-for-profit organization providing the only global system for companies and cities to measure, disclose, manage and share vital environmental information. CDP works with market forces, including 722 institutional investors with assets of US$87 trillion, to motivate companies to disclose their impacts on the environment and natural resources and take action to reduce them. CDP now holds the largest collection globally of primary climate change, water and forest risk commodities information and puts these insights at the heart of strategic business, investment and policy decisions.

www.cdp.net

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1 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups


3 CD for the last 5 years has ran a very successful supply chain program, started at the request of Wal-Mart attempting to calculate their climate change impact of their supply chain and has since evolved to include supply chains of over 65 large global companies representing collective spending power of more than $1 trillion. The program supports companies building resilient supply chains and aids companies to effectively mitigate environmental risk in their supply chains.

iv http://www.cdsb.net/priorities/consistency-project


vi As noted on page 2 of the explanatory memorandum


viii Consistency project is available at: http://www.cdsb.net/priorities/consistency-project

ix Research undertaken in 2011, commissioned by DEFRA’s Secretary of State in the UK to support the government’s decision to introduce mandatory GHG reporting in the Companies Act considering examining investors use GHG information in their capital allocation decisions http://www.cdsb.net/get-involved/cdsb-investor-engagement-program

x http://www.rijpm.com/admin/article_files/Table_of_Contents_Changing_Status_Quo.pdf

xi http://www.climatebonds.net/standards/

More about the Coalition and what it is seeking from the EU can be found at http://www.aviva.com/media/news/item/the-eu-in-2013-embedding-corporate-sustainability-reporting-15615/