

Strasbourg, 12 July 2023

Mairead McGuinness
Commissioner
Financial Services, Financial Stability and Capital Markets Union

Copy to: John Berrigan, Director General for Financial Stability, Financial Services and Capital Markets Union

Dear honourable Commissioner Mairead McGuinness,

Subject: European Commission Note on Gold Plating related to Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches

June 22, 2023 marked the transposition date for Member States to bring the directive on public country by country reporting, which was adopted 19 months ago, into force.

Members of the negotiation team in the Legal Affairs and the Economic Affairs Committees in the European Parliament have been informed about a Commission Information Letter regarding Gold Plating on the Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches.

It has come to our attention that the Commission proactively approached Member States with an information letter on gold plating - without informing the European Parliament. This information letter by the Commission conveys the impression of a potential constraint to curb the possible willingness of Member States to expand the scope of the directive. Particularly, it has the potential to limit the information Member States are willing to provide for the purposes of public country-by-country reporting.

Certainly, we understand the underlying concerns about a possible fragmentation of European markets if this directive is not properly transposed. However, we strongly believe that this market fragmentation will occur particularly if the future common templates and machine-readable formats to be used by companies under national legislation are not adequately enforced.

According to Article 288 of Treaty of the Functioning of the European Union (TFEU), a *directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.*

However, the *examples of areas where gold plating might arise*, as cited in the Commission's information letter, may suggest otherwise.

We therefore, respectfully request clarification on the need to proactively address the Council and its members on the issue of gold plating. Furthermore, we request you to duly inform us - the European Parliament - taking into account the review clause in Article 48h and to provide a detailed assessment of the possible consequences of levelling the objectives of this EU directive. Finally, we ask for an overview of the state of implementation in the 27 Member States.

Sincerely yours,




Evelyn REGNER
Member of the European Parliament
Co-Rapporteur on pCBCR



Ibán GARCIA DEL BLANCO
Member of the European Parliament
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