

Brussels, October 16, 2023

Subject: Ensuring effective financial sector inclusion in the Corporate Sustainability Due Diligence Directive

To the Permanent Representations of Member States to the EU,

As civil society representatives working and focused on the outcomes of the Corporate Sustainability Due Diligence Directive (CSDDD), we are closely following this week's ongoing discussions in the European Council's Working Party on Company Law. As Member States advance their collective position on the CSDDD, we urge you to **support the Spanish presidency's constructive approach and uphold due diligence requirements that cover financial institutions' core activities, including lending, investing, and insurance**. The presidency's compromises present options for a comprehensive and balanced way forward that ensures competitiveness across European markets alongside meaningful human rights and environmental due diligence.

Meaningful diligence obligations will help financial institutions efficiently identify and manage their financial risks, bring their activities in line with the expectations of their clients and beneficiaries, and ensure a level playing-field for sustainable due diligence across the EU. As the presidency suggests, meaningful and robust due diligence obligations can be integrated in a way that reflects financial institution's specific operations and services.

The CSDDD will support and enable responsible investment and financing practices. It will help financiers assess how their holdings and counterparties are managing sustainability impacts. Due diligence is an important and necessary part of a responsible investor's toolkit, supporting sustainability assessments, risk analysis and investee engagement. Many investors are already undertaking sustainability due diligence as a fundamental component of their risk management activities and **have publicly stated their support of the CSDDD**.ⁱ In its proposed compromises, the Spanish presidency offers viable ways of incorporating investors in the CSDDD while seeking to uphold the European Union's commitment to sustainability.

The European Commission also considered financial institutions in its own impact assessment for the proposed legislation, acknowledging that undue "short-term pressures on corporations from the financial sector" lead companies to prioritise near-term interests over sustainability and long-term prosperity.ⁱⁱ Financial institutions must be able to identify whether their assets, the companies they support, or the services they provide will negatively impact people or the planet and take measures to prevent and mitigate that impact.

The CSDDD provides an unprecedented opportunity to fill the regulatory gap in the EU's Action Plan on Financing Sustainable Growth and the European Green Deal. These plans seek to integrate sustainability issues into financial risk management, but existing measures largely focus on disclosure and voluntary adherence. These measures alone will not lead to the transformational behavioural changes needed for the financial sector to address sustainability challenges.

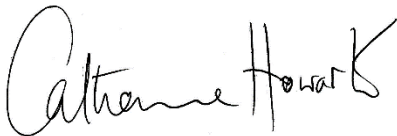
Lastly, for **the CSDDD to align with international business and human rights frameworks, it must include all financial institutions in scope**. Exempting key financial activities runs counter to the UN High Commissioner for Human Rights' and the UN Working Group on Business and Human Rights' positions.ⁱⁱⁱ The Working Group recently warned against carve outs for specific sectors. It stated that "*all financial*

institutions, of every type, have the same responsibility to respect human rights, and creating carveouts or presumptions for the financial sector in the draft Corporate Sustainability Due Diligence Directive would be inconsistent with international standards on business and human rights”.^{iv}

Financial institutions have an unparalleled ability to influence companies and incentivise positive corporate behaviour - and they want to be part of the solution. We therefore urge you to consider the merits of **maintaining meaningful due diligence obligations that would apply to key financial sector activities** within the CSDDD, therefore **enabling a level playing field** for sustainable due diligence across the EU.

Sincerely,

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Johan Frijns
Executive Director
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Jurei Yada
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ⁱ Principles for Responsible Investment, 'Case Studies' <https://shorturl.at/krzRW>; Eurosif News, Joint statement of support by responsible investors' organisations for the Corporate Sustainability Due Diligence Directive (CSDDD), 24 Nov. 2022, <https://shorturl.at/bAGHP>

ⁱⁱ European Commission, 'Inception Impact Assessment', 30 July 2020, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance_en, p. 5

ⁱⁱⁱ Office of the High Commissioner for Human Rights, 'Financial Sector', <https://www.ohchr.org/en/business-and-human-rights/financial-sector>; United Nations Working Group on Business and Human Rights, 'Financial Sector and the European Union Corporate Sustainability Due Diligence Directive Statement', 12 July 2023, [Statement-Financial-Sector-WG-business-12July2023.pdf](https://www.ohchr.org/en/business-and-human-rights/financial-sector/Statement-Financial-Sector-WG-business-12July2023.pdf) (ohchr.org)

^{iv} UN Working Group on Business and Human Rights, 12 July 2023