Consultation response

Corporate reporting – improving its quality and enforcement

American Chamber of Commerce to the European Union

Speaking for American business in Europe

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Introduction

The American Chamber of Commerce to the EU (AmCham EU) is a longstanding advocate of an open, well functioning and appropriately regulated transatlantic capital marketplace. We believe it is a crucial driver of long-term economic growth and competitiveness in Europe and the US. We share the European Commission's objectives of improving the depth and attractiveness of the Capital Markets Union for European and international investors and issuers.

As a general comment on the initiative, we invite the Commission to better identify the underlying problem it aims to address. From the recent Fitness Check on corporate reporting, it has emerged that the quality and reliability of corporate reporting is considered good by investors and stakeholders. The problems identified concerned a lack of coordination of national authorities and a lack of independence of the authorities in charge.[1] We, therefore, question whether corporate reporting is, in fact, the reason why European capital markets are still underdeveloped compared to company financing structures in other advanced economies. We refer to our position paper on Capital Markets Union 2.0[2] for our recommended priorities to address the fragmentation of EU capital markets, including consistent and coherent supervision aligned with international practices.

Please find below our comments regarding the three areas examined in the consultation, as well as on the horizontal topic of sustainability reporting.

Corporate Governance

- We invite the Commission to consider well established international frameworks and standards for risk management and internal control systems which have proven effective in the US and globally in protecting investors by ensuring the integrity of corporate information. The Committee on Sponsoring Organisations (COSO) framework[3] provides a well-established reference and a principle-based model for effective internal control systems.

- Any changes in relation to corporate governance should be aligned with international frameworks and standards such as the OECD/G20 principles and not constitute a barrier to access to EU capital markets for international issuers.

- The exercise by the audit committee of the oversight function over the internal controls is a key component of international frameworks and several national jurisdictions, and it may be better aligned at the EU level to ensure a level playing field in the single market and internationally.

Audit

- Harmonising and streamlining applicable rules and supervisory procedures related to auditing across the single market would reduce listing costs and increase the flexibility of the IPO process, also in line with the objectives of the upcoming EU Listing Act.

- Reducing inconsistencies in the interpretation of audit standards would also be important for harmonising and streamlining procedures for companies. In order to create a level playing field and achieve better comparability across the EU, timely adoption of international auditing and quality standards as foreseen in Article 26 of the Audit Directive should be given priority.

[1] See COM(2021)199 final, Fitness Check on the EU framework for public reporting by companies and ESMA letter to EC on next steps following Wirecard

[2] AmCham EU '[Capital Markets Union 2.0: priority actions for functioning eco-systems]'

[3] See [COSO, Internal Control – Integrated framework (executive summary)]

- The harmonisation and simplification of procedures related to the registration and supervision of third-country audit firms would be welcome to make group audits of international companies listed in the EU more efficient. In this regard, we stress the importance that any change in supervisory arrangements takes due account of the need to cooperate smoothly with audit oversight authorities in third countries where parent companies of EU subsidiaries are based.

- A joint audit requirement would make EU capital markets diverge from international practices and create additional costs and barriers to raising capital in EU regulated markets. Combined with mandatory firm rotation, joint audits may also drastically limit the choice of suppliers for listed companies. EU legislation already allows member states to mandate or incentivise joint audits. Expanding this obligation would imply negative effects on costs and risks for quality, as well as legal uncertainty, without evidence of concrete benefits in terms of added value for investors nor increased choice for suppliers.

- We find it particularly important for companies to remain able to procure certain assurance-related services from their statutory auditor. This is more efficient from the perspective of the audited company because the auditor is already familiar with its processes and provides a higher level of comfort for investors and stakeholders. This is even more important in light of the interconnectivity between financial and sustainability information introduced by the Corporate Sustainability Reporting Directive (CSRD).

Supervision

- With regard to possible changes to the supervisory framework for listed companies, we agree with the importance of enhancing regulatory consistency. Harmonised approaches and coordination of enforcement activities support the creation of a level playing field across the EU and the trust needed to ease the free flow of capital and investments across borders. The foreseen single supervisory rulebook is, in our view, the best way to further the progress on supervisory convergence.

- In the field of auditing, a stronger role for the Committee of European Auditing Oversight Bodies (CEAOB) could be envisaged in order to align its tasks, responsibilities, resources and independence with the other European Supervisory Authorities. An example of useful tasks for an enhanced EU audit authority could be a direct role in the registration and supervision of third-country audit firms (see also point above) and issuing guidelines and interpretations similarly to the other European Supervisory Authorities.

Further considerations: sustainability reporting

We support high quality interconnected financial and sustainability reporting, which provides a complete and reliable picture of the performance of a company. We invite the EC to adopt a holistic and comprehensive approach, looking at all the participants in the ecosystem and prioritising its objectives. The ambitious evolution of the system set by the CSRD proposal will require a high level of effort and commitment by all stakeholders, and we invite the EC to prioritise resources and attention in providing clear rules to the market and ensuring appropriate completion of the actions necessary for the sustainable finance agenda to succeed. We refer to our CSRD recommendations[4] for a proportionate approach to balance the growing demand of data from the investment community with the growing challenge companies face in gathering, preparing, assuring and reporting such data.

[4] AmCham EU 'CSRD recommendations'