



## **NOTE**

5. October 2020

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### **The Danish Government's response to the public consultation on a roadmap on sustainable corporate governance**

It is a key priority for the Danish Government to enable a green and sustainable transformation of the society and accordingly the Danish government has set an ambitious target to reduce CO2 emissions by 70 % in 2030. Private companies play a vital role in order to fulfil the ambitions of the Paris agreement, to fulfil the UN sustainable development goals, the purpose of the UN guiding principles for business and human rights and the OECD guidelines for responsible business conduct.

The Danish Government strongly supports the initiative of the Commission in the European Green Deal to address how private companies can be further encouraged to structure decisions in terms of sustainability. We appreciate the opportunity to comment on the Commission's roadmap consultation. Responsible business conduct is and must be part of the companies' core business strategy. Large companies in particular have a special responsibility to lift sustainability and human rights on a global level because they have a greater influence on conditions in their supply chains.

This initiative is closely linked to existing and parallel initiatives pursuant to the sustainable finance strategy. There will be a close link between the upcoming revision of the Non-Financial Reporting Directive (NFRD) and possible new disclosure requirements regarding due diligence processes as well as board and director's duties following this initiative. The Danish Government strongly urges the Commission to ensure a coordinated process for both initiatives that also allows for careful discussions with the Council and Parliament about what to disclose.

#### **Due diligence**

The Danish Government appreciates and strongly supports the Commission's intentions to address how companies can be encouraged to carry out due diligence processes in line with the international guidelines. The Danish Government finds that a harmonized EU approach to responsible business conduct including regulating due diligence processes is a necessary step in order to ensure that companies integrate their environmental and

human rights risks and impacts into their corporate strategies. A harmonized EU approach could also address the number of different national legislative initiatives that are already in place or on their way. The Danish Government believes that the regulation of due diligence processes to be best addressed at the EU level in order to ensure a level playing field.

While supporting the regulation of due diligence processes the Danish Government would also like to encourage the Commission to look at voluntary measures in order to find a 'smart mix' to address the current challenges since the issue of due diligence involves a range of complex legal and practical challenges.

The Danish Government also urges the Commissions to take into consideration when drafting the proposal, the question of proportionality and the leverage of businesses to prevent or mitigate adverse impact, which will differ depending on factors such as operational milieu and business size.

### **Sustainable corporate governance**

The Danish Government acknowledges with appreciation the Commission's intentions to address how companies can be encouraged to make corporate decisions with longer time horizons in order to foster a sustainable development for the society, companies, citizens and employees. In order to achieve e.g. the goals of the Paris agreement on climate change it is essential that business contribute to sustainable development. The Danish government believes that sustainability, growth and competitiveness must be aligned and not be contradictions.

The Danish Government agrees with the Commission that it is necessary to empower directors to further integrate a wider range of interests into corporate decision-making than just the interests of the shareholders in order to avoid a narrow focus on the short term. This includes but is not limited to the interests of employees and the environment.

The Danish Government acknowledges that a proposal to regulate directors' duties involves a number of complex legal challenges as member states' company legislation and corporate governance codes contain differences that reflect the differences in the individual member states, including the companies' ownership and management structures. It is important that the Commission considers this when drafting a proposal in order to identify a workable model. The Danish Government therefore finds that the Commission should make sure that all consequences and challenges are analyzed and studied before concrete proposals are adopted.

**Process of the initiative**

Both lines of action described in the roadmap will no doubt encompass new and novel approaches including possible regulatory instruments. A comprehensive analysis of these instruments and their foreseen consequences is vital. It should include both factual assessment of all legal and economic aspects as well as broad stakeholder consultation. Proportional solutions require thorough knowledge of stakeholders' view and circumstances. Hence, we urge the Commission to consider how to achieve a broad outreach in the consultation as many companies especially SME's are not sufficiently aware of the challenges at hand.

The Danish Government stands ready to contribute throughout the process.