

Member of the European Parliament

Ms Veronica GAFFEY
Chair of the Regulatory Scrutiny Board (RSB)
European Commission

RE: Access to documents request regarding the Commission Proposal on Sustainable Corporate Governance and the role of the Regulatory Scrutiny Board

Dear Ms Gaffey,

On the basis of Regulation (EC) No 1049/2001 regarding the public access to documents, we, the undersigned Members of the European Parliament, request the European Commission to grant access to relevant documents related to the European Commission's Sustainable Corporate Governance proposal, including the Regulatory Scrutiny Board opinion, dated November or December 2021, the Regulatory Scrutiny Board opinion dated May 2021, and all correspondence received and meetings undertaken by members of the Regulatory Scrutiny Board (RSB) in relation to this proposal.

Whilst we understand that, in accordance with Regulation 1049/2001, access to a document drawn up by an institution for internal use, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, access shall be granted if "there is an overriding public interest in disclosure." There is a clear public interest in understanding the reasons an internal body of the Commission has given a second negative opinion on a proposal which received almost half a million responses from citizens in the related public consultation. Member States and NGOs are now asking why the proposal has been delayed again, for which very little public explanation has been offered.

Likewise, we are concerned about the public statements put forward by industry lobbies, which openly announce their successful lobbying endeavours towards the Regulatory Scrutiny Board, thanking the Regulatory Scrutiny Board for their role in postponing the legislative proposal. These kinds of public statements cast a doubt on the objectivity and integrity of the Regulatory Scrutiny Board, especially considering that according to the very limited transparency information available, no meetings between industry lobbies and the Regulatory Scrutiny Board have taken place in 2021.

In the Interinstitutional Agreement on Better Law-Making, paragraph 12, both the European Commission, as well as the European Parliament, have recognised the positive contribution of impact assessments in improving the quality of Union legislation. Impact assessments are a tool that can help the institutions to reach well-informed decisions. However, the RSB's work ought to be of

a technical nature, providing quality assurance of Commission proposals, but stopping short of political judgments. The public statements by industry would suggest that the lines have become blurred.

In summary, we therefore request the disclosure of the following, in accordance with Regulation (EC) No 1049/2001:

- a list of all meetings with external stakeholders, attended by members of the Regulatory Scrutiny Board in relation to the Commission's Sustainable Corporate Governance proposal.
- all correspondence exchanged between members of the Regulatory Scrutiny Board and external stakeholders, in relation to the Commission's Sustainable Corporate Governance proposal.
- The first and second opinions of the Regulatory Scrutiny Board regarding the Impact Assessment for the Commission's Sustainable Corporate Governance proposal.

The disclosure of this information is a necessity, given the clear public interest in the delay of this vital proposal, as well as the need to enable the European Parliament to better consider and take into account the Regulatory Scrutiny Board's arguments already at this stage. This disclosure would also help resolve any doubts there may be towards the integrity, objectivity and transparency of the process or indeed the RSB's interpretation of its mandate, by ensuring that co-legislators and stakeholders are on an equal footing and that no stakeholder is enjoying privileged access to the law-making process.

In accordance with Article 7 of Regulation 1049/2001, we kindly request the disclosure of the information requested within 15 working days.

Respectfully,

In Strasbourg, 15th of December 2021,

Lara WOLTERS, MEP, S&D Rapporteur on the European Parliament's Legislative Initiative Report on Corporate Due Diligence

Heidi HAUTALA, MEP, Greens/EFA Shadow Rapporteur on the European Parliament's Legislative Initiative Report on Corporate Due Diligence

Manon AUBRY, MEP, The Left Shadow Rapporteur on the European Parliament's Legislative Initiative Report on Corporate Due Diligence

Pascal DURAND, MEP, Renew Shadow Rapporteur on the European Parliament's Legislative Initiative Report on Corporate Due Diligence