Statement from UNI Finance on the role of Finance in the EU's Corporate Sustainability Due Diligence Directive

As the Finance sector of UNI Global Union and 150 national trade unions representing more than 3 million workers in the Finance sector around the world, we strongly support the introduction of a robust human rights due diligence directive at the EU level. This has the potential for a game-changing impact both within Europe and globally by regulating how European companies behave on workers' rights globally in their operations and value chains and setting a global standard which other countries may follow. Disappointingly, we see significant missed opportunities in the current draft proposal from the European Commission, particularly regarding the limitations for the financial sector.

The Commission's proposal states its objective is to: "ensure that companies active in the internal market contribute to sustainable development… through the identification, prevention and mitigation, bringing to an end and minimization of potential or actual adverse human rights and environmental impacts connected with companies' own operations, subsidiaries and value chains."

However, as trade unions, civil society, and other advocates have highlighted, the current proposal falls short of achieving this objective in many crucial elements. The failure of the proposal to ensure meaningful involvement of trade union representatives throughout the due diligence process is a critical omission. The absence of a role for trade unions and other stakeholders fundamentally undermines the ability of the directive to deliver effective human rights due diligence, and is misaligned with international standards for meaningful stakeholder engagement, as highlighted by the European Trade Union Confederation (ETUC), Shift, the Business and Human Rights Resource Centre, and the European Coalition for Corporate Justice (ECCJ).

Representing workers in the finance sector, we are also deeply concerned by the shortcomings in the current proposal regarding the role of the finance sector in meeting this objective. The finance sector has a catalytic effect in its impact across the economy. Through its ability to cascade human rights due diligence across its reach, financial institutions also have the potential to enable or undermine the efforts of the proposal to meet the urgent needs for workers' rights and other human rights around the world.

We would like to highlight in particular the need to address the following discrepancies between the requirements for the finance sector and all other sectors covered in the proposal.

1. The scope of companies covered

The proposal includes in scope a set of smaller companies in "high-impact" sectors to reflect proportionality of obligations on smaller companies but capture those which are higher-priority for their human rights' impacts. The proposal states that these sectors should be determined based on existing sectoral OECD due diligence guidance. However, the finance sector, which is subject to extensive OECD guidance, has been excluded. The reasons for this restriction are unclear as concerns over resourcing are certainly less pronounced in finance than other sectors while the potential human rights impact is significant.

2. The ongoing nature of human rights due diligence

The proposal also limits due diligence obligations for the finance sector to only to prior to the inception of a contract, as opposed to at least every twelve months for every other sector. This unnecessary restriction disincentivizes an ongoing human rights due diligence process in line with the clear guidelines under international standards. It is also out of step with current best practices at a growing number of financial institutions. Risks continuously evolve that must be taken into account within all companies' human rights due diligence processes, and for finance, it is particularly important to encourage an ongoing and long-term time horizon.

3. The coverage of the value chain

Even for those companies covered, the value chain covered is limited to large corporate clients, and other companies in their corporate group, and excludes risks arising in those clients' own value chains. As stated by Shift: "This is not consistent with explicit guidance on the financial sector from the OECD, OHCHR and UN PRI, nor with growing practice in the sector."

Moreover, it is unclear what range of capital markets activities are covered within scope of the value chain. Many organisations representing financial institutions have highlighted this lack of clarity in their responses to the Commission's consultation. We must emphasize that the directive should cover the full range of activities undertaken by financial institutions, in line with international standards rather than drawing its own distinctions.

Addressing these elements in the proposal is essential to ensuring that the role of finance supports the objectives of the proposal. With the necessary improvements, this proposal could be significant step forward in unlocking the potential of finance to add an additional incentive for companies to implement effective human rights due diligence, rather than risk undermining this agenda. While finance indeed has its specificities, these have been addressed in extensive guidance from the OECD, and best practices have evolved that must become normalised as the standard across the sector. Moreover, it is critical that this initiative aligns and complements the EU agenda for sustainable finance, rather than send contradictory signals.

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