The Five *W's* of France's CSR Reporting Law

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Introduction: Why a New Law?

Companies in Japan and the United Kingdom (UK) have led the pack in terms of corporate responsibility reporting over the last decade. Reporting has become the norm for leading companies in these two countries—although for very different reasons. Companies listed on the Japanese stock exchange adhere to clear environmental performance and reporting regulations, which will soon expand to include economic and social issues. In the UK, regulation via the Companies Act is quietly simmering in the background while consumer, media, employee, and shareholder voices are demanding greater accountability for and transparency on key issues.

A CHANGING LANDSCAPE

But this landscape is changing quickly. The Rio+20 conference was the latest opportunity for companies in emerging economies to show they are on par with so-called Western expectations in the areas of the environment and human rights. First movers in emerging economies are distinguishing themselves from competitors in local and global marketplaces through corporate responsibility, and reporting is becoming a channel they can use to showcase industry best practices. Brazilian companies continue to affect their Latin American peers and competitors, and as a result, reporting practices are expected to take hold in this region. As Central and Eastern European economies open and grow, so too will the region's commitment to corporate responsibility. Reporting has a bright future in this region.

NEW FRENCH REPORTING LAW

In this context the French government has passed a new reporting mandate into law—one that could change the way companies in both developed and emerging markets design their reporting practice for a number of reasons:

- **The law is far-reaching.** It affects both companies headquartered in France and those headquartered elsewhere with operations in France.
- **The law is robust.** It requires companies to report on up to 42 indicators spanning environmental, social, and governance categories. When they demand transparency from companies, stakeholders are likely to use these indicators even if the law does not directly affect the company in question.
- **The law creates more complexity** in today's globalized reporting landscape. In a world where trust in corporations is generally low and calls for transparency are increasingly high, companies that are able to respond to complex regulations and build trusting, engaging, and constructive dialogue with their stakeholders will develop a competitive advantage.

A PRACTICAL GUIDE

The following practical guide will help your organization understand Article 225 of the Grenelle II Act, determine whether it applies to your operations in France, and respond in a way that improves your reporting practice, covering the who, what, where, when, and why of the new law.

Article 225 in Brief
Article 225 requires companies to publish information about the social and environmental consequences of their activities as well as their societal commitments to sustainable development in their annual report.

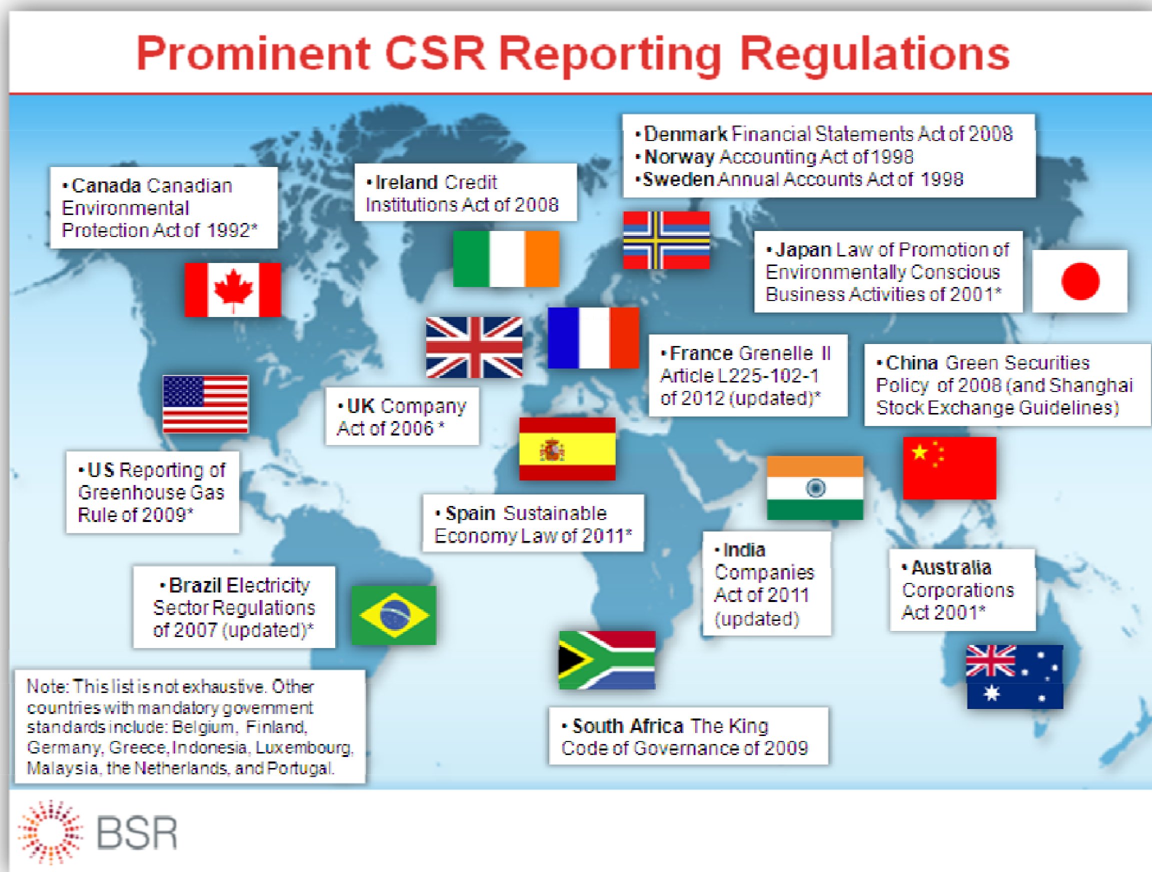
1. All listed companies are required to report.
2. Unlisted companies are only required to report at certain revenue and employment thresholds.
3. The indicators are an expansion of those already introduced in the NRE law.
4. Company reports must be verified by an independent third party who attests to the information's sincerity.

HISTORIC AND INTERNATIONAL CONTEXT

During the last decade, the reporting of nonfinancial information has become widespread. Initiatives, such as the Global Reporting Initiative (GRI), have caused the number of organizations releasing voluntary sustainability reports to blossom to over 4,000.[1] At the same time, regulatory bodies and stock exchanges have begun adopting laws and regulations that have further extended the practice of sustainability reporting. While this trend has advanced the integration of CSR into business practices, the increasing number of regulations has also made it more complicated and costly for international companies to create reports that fulfill the differing requirements of each foreign law.

With origins at the beginning of this reporting trend, Article 225 is one of the most comprehensive reporting laws yet written. The new law updates France's 2002 New Economic Regulation, which required reporting on 32 social, environmental, and governance indicators including employment figures, waste management, and anticorruption practices. Whereas the previous regulation only applied to companies listed on French stock exchanges, Article 225 applies to both listed and unlisted companies with a physical presence in France, affecting both domestic and foreign entities.

Having a clear understanding of Article 225 will help organizations navigate the growing number of voluntary and mandatory regulations. To help set the context, we provide a comparison of the French law to some of the more prominent mandatory national reporting regulations.

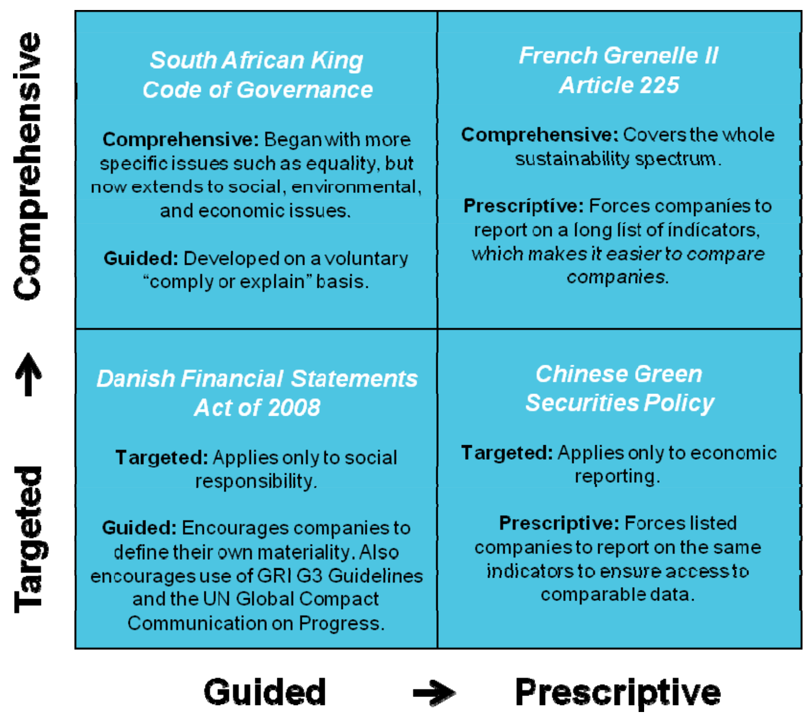


[1] GRI, Sustainability Disclosure Database, http://database.globalreporting.org/

NATIONAL CSR REPORTING LAWS COMPARISON TABLES

	France[2]	Denmark[3]	South Africa[4]	China[5]
Effective	December 2011	January 1, 2009	March 1, 2010	2009
Companies Subject to Law	Listed and unlisted companies with more than 500 employees and €100 million in revenue	Listed and state-owned public limited companies with assets/liabilities of €19.2 million, revenue of €38.5 million, and more than 250 employees	Listed companies	Listed companies (State-owned companies are encouraged to report on environmental, social, and economic indicators.)
Indicators	Social, environmental, and economic	Social responsibility policies, actions, and achievements	Social, environmental, and economic	Environmental (required), social, and economic (encouraged)
Format	Integrated report with third-party assurance	Sustainability report	Integrated report with third-party assurance	No uniform standards
Sanctions for Noncompliance	Required to produce information at stakeholder request	No sanctions	Requires explanation for noncompliance	Investigation or fines

The French Article 225 is a detailed, prescriptive law covering comprehensive sustainability criteria, but other laws tend to either focus on more targeted sustainability criteria or provide softer guidance, as shown below.



[2] Legifrance, Decret n. 2012-557, www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025746900

[3] Danish Business Authority, FAQ relating to the requirement in the Danish Financial Statements Act to report on CSR, www.csrgov.dk/sw51582.asp

[4] Corporate Sustainability Reporting, African Initiative, www.reportingcsr.org/_south_africa-p-183.html

[5] Disclosure through Green Securities Policy, The Asia Water Project China, 2010. www.asiawaterproject.org/for-business/water-disclosure/disclosure-through-the-green-securities-policy/

Who Does the Law Affect?

There are three types of business entities subject to the law:

- **Listed companies** on French stock exchanges, including subsidiaries of foreign companies listed in France
- **Unlisted companies (SA, SCA, and SE)**, including subsidiaries of foreign corporations located in France

Unlisted organizations are liable only if they meet the following thresholds: They have total assets and liabilities worth at least €100 million and an average of 500 permanent employees employed during the fiscal year.

- **Note on Subsidiaries:** Unlisted subsidiaries may be exonerated from the law if they fulfill two conditions:

    - Their parent company presents consolidated group data and breaks indicators down into details for each subsidiary.
    - The subsidiary clearly tells stakeholders where to find this information.

When: A Timetable of Application

The law will apply immediately to all listed companies (regardless of revenue) and roll out over three years to unlisted companies who meet certain thresholds of revenue and employment.

		2012	2013	2014
Listed Companies	All revenue and employment levels	✓		
Unlisted Companies	Revenue > € 1 billion > 5,000 employees	✓		
	Revenue > € 400 million > 2,000 employees		✓	
	Revenue > € 100 million > 500 employees			✓

- **Note on Third-Party Verification:** Companies must also seek independent third-party verification for their reports, as well as an opinion about the sincerity of information presented as follows:

    - **For listed companies:** From the fiscal year beginning December 31, 2011
    - **For unlisted companies:** From the year ending December 31, 2016

Where Must Companies Publish This Information?

All indicators required by this law must be published in the company's annual report. In the case of subsidiaries, references to a parent company's report must appear in the subsidiary's annual report.

What Must Companies Report?

Article 225 requires reporting on over 29 indicators spanning environmental, social, and governance categories. Below is an exhaustive list of the indicators that all affected companies must address.

» **Note on supplemental indicators:** Listed companies on French stock exchanges are subject to 13 additional indicators, marked with ★ in the following tables.

GRENELLE II ARTICLE 225 INDICATOR TABLES

	Environmental
Indicators	**Subindicators**
General environmental policy	Company efforts to take into account environmental issues and, where appropriate, assessments or environmental certifications
	Employee training programs on environmental protection
	Resources devoted to prevention of environmental risks and pollution
	★The dollar amount of provisions and guarantees for environmental risks, provided that such information is not likely to cause serious harm to the company in ongoing litigation
Pollution and waste management	Measures to prevent, reduce, or compensate for air, water, and soil emissions severely affecting the environment
	Measures to prevent, recycle, and dispose of waste
	Taking into account noise and other forms of pollution
Sustainable use of resources	Water use and water supply based on local constraints
	The consumption of raw materials and steps taken to improve their efficient use
	Energy consumption, measures to improve energy efficiency, and percentage of renewable energy used
	★Land use
Climate change	Greenhouse gas emissions
	★Adaptation to climate change impacts
Protection of biodiversity	Measures taken to preserve or enhance biodiversity

	Social
Indicators	**Subindicators**
Company's territorial impact and economic and social activity	Employment and regional development
	Neighboring and local populations
External relations with individuals or organizations interested in the company's activities	Opportunities for dialogue with these individuals or organizations
	Partnership or corporate philanthropy
Subcontracting and suppliers	Taking into account social and environmental issues in purchasing policies
	★Percentage of outsourced work and the inclusion of social and environmental responsibility in conversations with suppliers and subcontractors
★Loyalty practices	★Actions taken to prevent corruption
	★Measures taken to promote consumers' health and safety
★Human rights	★Actions taken to promote human rights

	Governance
Indicators	**Subindicators**
Employment	The total number and distribution of employees by sex, age, and geographical area
	Hiring and firing of employees
	Current salaries and salary progression
Work organization	Working hours
	★Absenteeism
Social relations	Social dialogue efforts, including procedures for informing, consulting, and negotiating with staff
	Collective bargaining agreements
Health and safety	Health and safety conditions
	Agreements signed with trade unions or staff representatives on health and safety
	★Occupational accidents (incl.frequency/severity) and occupational diseases
Training	Training policies
	Total training hours
Equal treatment	Policies and measures taken to promote equality between women and men
	Policies and measures taken to promote the employment and integration of disabled persons
	Policies and actions taken to prevent discrimination
★Promotion and enforcement of the International Labor Organization's basic conventions	★Respecting freedom of association and collective bargaining
	★Elimination of discrimination in employment and occupation
	★Elimination of forced or compulsory labor
	★Effective abolition of child labor

Key Implications for Sustainability Reporting

The passage of this law provides an opportunity to reflect on current trends in sustainability reporting. Below are four key implications:

1. **Calling for transparency is great.** Regulation has called for much more transparency in reporting and regulation so far has provided greater transparency than ever. Transparency helps stakeholders get a better sense on how companies can effectively contribute to a more just and sustainable world. Even if the overall reporting process can still be improved, stakeholders have greater access to information than ever before.

2. **Comparability is important.** One risk of increasingly fragmented regulations is increasingly fragmented reporting. When developing a process for sustainability reporting, a company should consider robust, best-practice regulations and guidelines, such as Article 225 of the Grenelle II Act and the GRI Guidelines. If companies model their reports after these guidelines, companies will be reporting on similar indicators, meaning that stakeholders will be able to compare their data. Such an industry-wide view is invaluable.

3. **Balance is key.** That being said, regulators, companies, and stakeholders need to find the right balance between pressure and cooperation. The French Article 225 toes the fine line between the two and could either become:
    - A policy that spurs greater efforts to engage stakeholders and reduce sustainability effects with the potential to spark wider adoption across industries.
    - An overly prescriptive policy that becomes a pure compliance mechanism. In this case, sustainability reporting would lose the added value of improving decision makers' insight into strategy and operations, clouding the important issues with mandatory responses to nonmaterial data.

4. **Link issues to indicators**. Success in reporting depends on whether a company gives serious consideration to improving management processes by looking carefully at the indicators key to their actual performance—even if one of these indicators is not required of their business by law. For example, one of Article 225's supplemental social indicators calls for data on the "percentage of outsourced work and the inclusion of social and environmental responsibility in conversations with suppliers and subcontractors." Companies which are seriously addressing issues such as carbon footprint or even traceability of conflict minerals must ensure that relevant suppliers are part of the companies' initiatives in order to build more sustainable and responsible supply chains. Advancing these issues requires defining and putting into place inclusive processes and companies should use this indicator to help measure their success.

With the right guidance, companies will be able to use Article 225 as a reporting framework to increase transparency, create comparability, and link key issues to material indicators, all strengthening their overall strategy and processes.

For More Information

This briefing paper is designed as a quick reference. For more information about this reporting law and other national regulations, we invite you to visit the following external resources:

- ORSE Website: *Guide to National Reporting Regulations*
- European Commission Report: *State of Play in Sustainability Reporting in the European Union*

Contact

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