WebMemo
Published by The Heritage Foundation
No. 3419
November 22, 2011

CSR: New EU Strategy Threatens U.S. and European Companies

James M. Roberts and Andrew W. Markley

Apparently the bureaucrats in the European Union Commission's corporate social responsibility (CSR) department were not content to see the EU's burdensome regulatory requirements dragging EU economies into recession and financial crisis, so they came up with a new CSR strategy. Released on October 25, it fundamentally redefines the EU's approach to CSR and signals a new era of heavy-handed EU social and environmental regulation.[1]

CSR: From Sideshow to EU Center Stage. The commission's new CSR strategy adopts a radical definition of CSR. The commission's earlier definition, adopted in 2001, called for companies to integrate "social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis." The 2001 definition explicitly recognized CSR as voluntary and implicitly recognized the validity of the business objective: Companies are first and foremost businesses but are encouraged to address social and environmental issues arising in the course of operations and dealings with employees, customers, and other stakeholders.

By contrast, the new strategy proclaims a "Modern Understanding of Corporate Social Responsibility" in which CSR becomes the defining purpose of the company. The new strategy describes the aim of CSR as "maximizing the creation of shared value for their owners/shareholders and for their other stakeholders and society at large."

In this definition, a company is not really a business but rather an agency administering the distribution of "shared value" to its "triple bottom line" constituencies: its shareholders, stakeholders (including employees, customers, and suppliers), and society at large (especially with respect to environmental impacts). Note that the new strategy acknowledges no particular priority on the part of owners in the "sharing of value" among these three groups.

The Slippery Slope from Voluntary to Mandatory. The new strategy also emphasizes legal and regulatory measures that the EU will put in place to achieve this new vision of CSR. Although acknowledging that business itself might take the lead on CSR initiatives, the new strategy quickly moves to a call for government regulation "to promote transparency, create market incentives for responsible business conduct, and ensure corporate accountability." Furthermore, when the new strategy mentions "flexibility," it does so only in the context of the particular *approach* that an enterprise uses to achieve CSR.

This paper, in its entirety, can be found at:
http://report.heritage.org/wm3419

Produced by the Center for International Trade and Economics (CITE)

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002–4999
(202) 546-4400 • heritage.org

The Heritage Foundation
LEADERSHIP FOR AMERICA

When it comes to results, the new strategy stresses the importance of government policy "to promote a more level playing field." For developing countries caught in the enervating and morally hazardous vortex of dependency on foreign aid, this new CSR standard might as well be an engraved invitation for them to demand even more redistributions of wealth that are debilitating in the long run but helpful to corrupt regimes seeking to stay in power in the short run.

At the supra-national EU level, the new strategy calls for development and implementation of a government procurement directive setting forth CSR requirements for government contracting. It also announces the commission's intention to monitor the CSR efforts of larger companies (defined as enterprises with more than 1,000 employees).

At the country level, the strategy mandates that each EU member announce by mid-2012 a plan for promoting CSR, especially encouraging a "peer review mechanism for national CSR policies" to spur adoption of CSR measures by all countries based on the models provided by those EU member countries with the most extensive CSR legislation to date.

The bureaucrats in Brussels are likely to skew membership in such "peer groups" to favor local representatives of the very same "trade unions and civil society organizations" that have been pressuring for this more aggressive CSR strategy EU-wide. The strategy paper notes that these statist-oriented groups should "identify problems, bring pressure for improvement and…work constructively with enterprises to co-build [*sic*] solutions."

ISO 26000: The Threat to Free Markets Begins to Emerge. Finally, the commission's new strategy on CSR raises concerns by assigning a prominent role to the ISO 26000 Guidance Standard on Social Responsibility, which was introduced by the International Organization for Standardization (ISO) in November 2010. Serious questions surround ISO 26000, including issues concerning the process that was used by the ISO to fashion ISO 26000, the overly broad definition of the concept of CSR adopted by ISO 26000, and the appropriateness of ISO as a private body to define extensive and detailed principles of social responsibility for companies, governments, and civil society organizations (all of which are purportedly within the scope of ISO 26000).[2]

ISO 26000 also extends its reach to global commercial networks—not only to U.S. companies with operations in the EU but also to U.S. companies directly exporting to the EU or in any way providing goods or services to EU companies (even in the U.S.). ISO 26000 contains commands to extend CSR into a nation's "spheres of influence" and to "avoid complicity" in what others may do. Complicity is defined as either assisting, remaining silent about, or benefiting from the actions of others that are not in accordance with ISO's version of CSR. To meet the "influence" and "complicity" requirements, an EU company contracting with a U.S. company (even in the U.S.) would oblige the U.S. company to comply with the EU/ISO version of CSR.

The London-based think tank Open Europe estimates that EU social law—even before any new EU Commission-imposed CSR requirements—costs British business and the public sector £8.6 billion a year.[3] The report draws special attention to the importance of small- and medium-size businesses (SMEs) for employment and economic growth and points out that regulatory costs are more burdensome on just these types of businesses. The same is true for CSR. SMEs in the U.S. will also find it more costly to comply with comprehensive standards such as ISO 26000.

1. European Commission, "A Renewed EU Strategy 2011-14 for Corporate Social Responsibility," October 25, 2011, at *http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=7010* (November 14, 2011).
2. For more on ISO 26000, see James M. Roberts, "How Corporate Social Responsibility (ISO 26000) Mandates Undermine Free Markets," Heritage Foundation *Backgrounder* No. 2409, May 3, 2010, at *http://www.heritage.org/Research/Reports/2010/05/Corporate-Social-Responsibility-Standards-ISO-26000-Bad-for-Business.*
3. Stephen Booth, Mats Persson, and Vincenzo Scarpetta, "Repatriating EU Social Policy: The Best Choice for Jobs and Growth?," Open Europe, November 2011, at *http://www.openeurope.org.uk/research/2011EUsocialpolicy.pdf* (November 16, 2011).

What the U.S. and the Administration Should Do.

U.S. companies should:

- Actively participate in the public debate promised by the EU Commission's new strategy on "the role and potential of business in the 21st century;"
- Monitor the implementation of EU government procurement requirements based on ISO 26000 or other CSR standards; and
- Urge the U.S. government to oppose efforts on the part of the EU to enforce the extraterritorial application of EU-recognized CSR standards.

The Obama Administration and Congress should:

- Reject the definition of CSR as embodied in ISO 26000 as the basis for any U.S. government regulatory or policy initiative;
- Urge the EU, its member states, and other authorities to avoid using the ISO 26000 "guidance standard" as the basis for contractual or regulatory requirements; and
- Monitor the development and implementation of EU government procurement requirements based on ISO 26000 or other CSR standards to ensure compliance with applicable treaties and intergovernmental agreements.

False Premises. CSR initiatives are built on the twin false premises that private companies become "responsible" only by meeting codes such as ISO 26000 and must be thrust into a quasi-governmental role in order to address challenges facing modern society. However, not only do companies already provide many valuable benefits to peoples and societies around the world, but the challenges facing modern society will be met only by effective and responsible government, a vibrant civil society, and a dynamic economy. Further hobbling markets with CSR would deter economic growth in those countries and regions and thereby negatively impact overall growth.

—James M. Roberts is Research Fellow for Economic Freedom and Growth in the Center for International Trade and Economics at The Heritage Foundation. Andrew W. Markley is chair of and professor in the Department of Business at Grove City College.