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# From Non-Financial Reporting Directive (2014/95/EU) to the Corporate Sustainability Reporting Directive (EU) 2022/2464

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# Non-Financial and Sustainability Reporting Directive

Disclosure of non-financial information helps the measuring, monitoring and managing of undertakings' performance and their impact on society (Recital 3, NFRD)

Importance of corporate sustainability reporting and encourages undertakings, where appropriate, to consider integrating sustainability information into their reporting cycle (also with a view to development of best practices) (Paragraph 47 of the outcome document of the United Nations Rio+20 conference, entitled 'The Future We Want', Recital 11)

**Originally, Directive 2014/95/EU – Non-Financial Reporting Directive (NFRD)**

**New Directive (Corporate Sustainability Reporting Directive - CSRD) Directive (EU) 2022/2464, applicable from 2025 (financial year 2024) on (Gerasimos Georgopoulos, next presentation)**

# Why do I present the old directive?

- It explains well the principles that have been used by the EU lawmaker in dealing with sustainability reporting issues
- It allows to better understand the changes happened and the reasons for this happening
- It clearly signifies a progressive approach to the complexity of the issue, which might be a first step of regulation
- And in any case they are amendments to Directive 2013/34/EU (financial statements)

# NFRD – Basic principles (i)

## Coordination of national provisions

Coordination **limited to large enterprises** (default rule) [“This should not lead to undue additional administrative burdens for small and medium-sized undertakings”: Recital 8 + Recital 13: “think small first” to reduce overall regulatory burden for SMEs]

- **Currently: around 11,700**
- **With the CSRD: around 50,000**

## Minimum legal requirements for the extent of the information

Large undertakings must prepare non-financial statements regarding, at least:

- **Environmental** matters
- **Social and employee-related** matters
- **Respect for human rights**
- **Anti-corruption and bribery** matters

## NFRD – Basic principles (ii)

- Information on the **due diligence** adopted
- **Supply and subcontracting** chain approach
- **Comply or explain** if Member States allow this

In general: here the whole company is considered, **not just the financial products** issued

# Environmental issues

- **details of the current and foreseeable impacts** of the undertaking's operations on the environment, and, as appropriate, on health and safety;
- **the use of renewable and/or non-renewable energy;**
- **greenhouse gas emissions;**
- **water use;**
- **and air pollution.**

# Social and employee-related matters

- **actions** taken to ensure gender equality;
- implementation of **fundamental conventions** of the International Labour Organisation;
- **working conditions**, social dialogue, respect for the right of workers to be informed and consulted, respect for trade union rights;
- **health and safety** at work;
- and the **dialogue** with local communities, and/or the **actions** taken to ensure the **protection** and the **development** of those communities

# Other issues

## Human rights and anti corruption and bribery

- **information** on the prevention of human rights abuses
- and/or on **instruments** in place to fight corruption and bribery

## Information to be disclosed (i)

Matters that stand out as being **most likely** to bring about the **materialisation of principal risks of severe impacts**, along with those that have **already materialised**. The severity of such impacts should be judged by their scale and gravity. The risks of adverse impact may stem from the **undertaking's own activities** or may be linked to its **operations**, and, where relevant and proportionate, its **products**, services and business relationships, including its **supply and subcontracting chains** (Recital 8)

## Information to be disclosed (ii)

**Double materiality principle** (outside-in: incorporating sustainability; and inside-out: externalising good impact)

- **but this is much more evident in the CSRD**

According to **national, European, or international standards** (Recital 9)

– **With the CSRD also specific Sustainability Reporting Standards**

**MS** shall ensure **adequate and effective disclosure** (compliance and enforcement)

# Scope of application

Defined by reference to the **average number of employees, balance sheet total and net turnover**. [T]he obligation to disclose a non-financial statement should apply only to those **large undertakings** which are **public-interest entities** and to those **public-interest entities** which are **parent undertakings of a large group**, in each case having an average number of employees in excess of 500, in the case of a group on a consolidated basis. (Recital 14)

– Art. 19a(1):

“Large undertakings which are public-interest entities exceeding on their balance sheet dates the criterion of the average number of 500 employees during the financial year”

Just a **default rule**: “This should not prevent Member States from requiring disclosure of non-financial information from undertakings and groups other than undertakings which are subject to this Directive.” (Recital 14)

**Consolidated management reports** in the case of groups of companies  
(harmonization needed in the field of groups)

# Reliability of the information

Statutory auditors and audit firms **only check** that the non-financial statement or the separate report **has been provided**.

MS **may** “require that the information included in the non-financial statement or in the separate report [is] **verified** by an **independent assurance services provider**”. (Recital 16 + Art. 19a.5 and .6)

**N.B.: with the CSRD the assessment becomes mandatory!**

# Corporate governance issues

(18) **Diversity of competences and views** of the members of **administrative, management and supervisory bodies** of undertakings facilitates a **good understanding** of the **business organisation and affairs** of the undertaking concerned. It enables members of those bodies to constructively **challenge** the management decisions and to be more open to innovative ideas, addressing the similarity of views of members, also known as the ‘group-think’ phenomenon. It contributes thus to **effective oversight** of the **management** and to **successful governance** of the undertaking. It is therefore important to enhance transparency regarding the diversity policy applied. This would inform the **market of corporate governance practices** and thus put **indirect pressure** on undertakings to have **more diversified boards**.

# Corporate governance issues

(19) The obligation to **disclose diversity policies** in relation to the administrative, management and supervisory bodies with regard to aspects such as, for instance, age, gender or educational and professional backgrounds should apply only to certain large undertakings. **Disclosure of the diversity policy should be part of the corporate governance statement**, as laid down by Article 20 of Directive 2013/34/EU. **If no diversity policy is applied there should not be any obligation to put one in place, but the corporate governance statement should include a clear explanation as to why this is the case.**

More in general: what does “diversity” mean?

# The statement

Art. 19a.1

- In the Management Report
- “Containing information to the **extent necessary for an understanding** of the undertaking's **development, performance, position and impact of its activity**, relating to, as a minimum, **environmental, social and employee matters**, respect for **human rights, anti-corruption and bribery matters**, including:
  - (a) a brief description of the undertaking's business model;
  - (b) a description of the policies pursued by the undertaking in relation to those matters, including due diligence processes implemented;
  - (c) the outcome of those policies;
  - (d) the principal risks related to those matters linked to the undertaking's operations including, where relevant and proportionate, its business relationships, products or services which are likely to cause adverse impacts in those areas, and how the undertaking manages those risks;
  - (e) non-financial key performance indicators relevant to the particular business.

Where the undertaking does not pursue policies in relation to one or more of those matters, the non-financial statement shall provide a clear and reasoned explanation for not doing so.”

# Minimum European requirements

- Environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters
- Description of policies (but not obligation to establish policies)
- Non-financial key performance indicators relevant to the particular business (who decides if they are relevant?)
  - And does this entail a specific liability for the directors?
- Comply or explain policy
- Much less relevant with the new Directive
- Links to the financial statements (“The non-financial statement referred to in the first subparagraph shall also, where appropriate, include references to, and additional explanations of, amounts reported in the annual financial statements”)
- Subsidiary undertakings exempted from the reporting obligation if included in consolidated management report (Art. 19.3)

# Exceptions (i)

MS may allow **some information to be omitted in exceptional cases**, where, “in the duly justified opinion of the members of the administrative, management and supervisory bodies (...), the **disclosure of such information would be seriously prejudicial to the commercial position of the undertaking**, provided that **such omission does not prevent a fair and balanced understanding** of the undertaking's development, performance, position and impact of its activity.” (Art. 19a.1, now also in CSRD 19a.3)

## Exceptions (ii)

“Where an undertaking prepares a **separate report** corresponding to the same financial year whether or not relying on national, Union-based or international frameworks and covering the information required for the non-financial statement as provided for in paragraph 1, **Member States may exempt** that undertaking from the **obligation to prepare the non-financial statement** laid down in paragraph 1, provided that such separate report:

- is published together with the management report in accordance with Article 30; or
- is made publicly available within a reasonable period of time, not exceeding six months after the balance sheet date, on the undertaking's website, and is referred to in the management report.” (art. 19a.4)

**With the CSRD: to be mandatorily included in the management report (art. 19a.1)**

- And no general exemption, but “lighter” reports for “small and non-complex institutions” (art. 19a.6)

# Consolidated statements

**Public-interest entities** which are parent undertakings of a large group exceeding on its balance sheet dates, on a consolidated basis, the criterion of the average number of 500 employees during the financial year

**Same information as the single-entity** statement, and equally linked to the financial statements

Always **comply or explain**

– **See above**

Same rules for exceptions and reliability/assessment (Art. 29a)

# Corporate governance

In the corporate governance statement of the Management report the **diversity policy** must be stated:

- in relation to the undertaking's administrative, management and supervisory bodies
- age, gender, or educational and professional backgrounds, the objectives of that diversity policy, how it has been implemented and the results in the reporting period

## Comply or explain

Assessed by the Statutory auditor or audit firm (Art. 20.3)

Possible MS exemption for those companies “which have only issued securities other than shares admitted to trading on a regulated market”, unless they have issued shares traded in a multilateral trading facility (Art. 20.4)

## General exemption for SMEs (Art. 20.5)

- But in CSRD things are more complex

# Liability for compliance

**Member States** shall ensure that the **members of the administrative, management and supervisory** bodies of an undertaking, acting within the competences assigned to them by national law, have **collective responsibility** for ensuring that:

- (a) the **annual financial statements**, the management report, the corporate governance statement when provided separately and **the report referred to in Article 19a(4)**; and
- (b) the **consolidated financial statements**, the consolidated management reports, the consolidated corporate governance statement when provided separately and **the report referred to in Article 29a(4)**,

**are drawn up and published in accordance with the requirements of this Directive** and, where applicable, with the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002. (art. 33.1)

**With the CSRD, art. 33.1 mentions also the Sustainability Reporting Standards**

# News from the Taxonomy Regulation

The **Taxonomy Regulation** included **further obligations** in terms of **disclosure** (art. 8)

Inclusion of information on *how and to what extent* the undertaking's activities are **associated with economic activities covered by the Taxonomy regulation**, and in particular:

- Proportion of turnover derived from sustainable activities (products and services)
- Proportion of capital expenditure and operating expenditure related to assets or processes associated with sustainable economic activities

**Delegated act**, specifying content and presentation of the information, and defining the methodology to be used, is expected

**All of this is now incorporated in the CSRD**

Thank you very much for your  
attention!

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