

# Need to know

## BIS consults on disclosure of non-financial and diversity information



### In a nutshell

- BIS has issued a consultation document to ask for views on the UK implementation of the EU Directive on disclosure of non-financial and diversity information by certain large undertakings and groups, as well as the location of and possible level of assurance on this information.
- BIS has also taken the opportunity to ask for wider views on UK reporting, including electronic reporting, removing any unnecessary reporting burdens and providing guidance on some existing requirements.
- The EU Directive is broadly similar to the existing UK narrative reporting framework for quoted companies, although there are some differences including the scope (e.g. some unquoted companies are in scope) and the inclusion of some additional matters (for example anti-corruption and bribery matters) for commentary.
- The EU Directive must be incorporated into UK law by 6 December 2016, and once enacted the requirements will apply to reporting years beginning on or after 1 January 2017.
- The consultation period is open until 15 April 2016.

### Background

Non-financial reporting requirements in the UK have developed substantially in recent years, and the UK is now considered to be a world-leader in reporting and governance. Non-financial reporting information, including information about a company's growth strategy and how it responds to risks and opportunities to deliver returns, enables businesses to communicate the contribution they have made to society, thereby strengthening trust with all stakeholders.

The EU Non-Financial Reporting Directive 2014/95/EU ([EU NFR Directive](#)) was approved by the Council of the European Union in September 2014 and published in October 2014. It requires large public-interest entities (PIEs) with more than 500 employees to include a non-financial statement disclosing, as a minimum:

- environmental, social and employee matters;
- respect for human rights; and
- anti-corruption and bribery matters.

For more information please see the following websites:

[www.ukaccountingplus.co.uk](http://www.ukaccountingplus.co.uk)

[www.deloitte.co.uk](http://www.deloitte.co.uk)

This information is required only to the extent necessary for an understanding of the undertaking's development, performance and position and the impact of its activity. PIEs are those entities with securities admitted to a regulated market in the EU together with credit institutions and insurance undertakings. The content of the non-financial statement should include:

- a brief description of the business model;
- a description of the policies pursued in relation to those matters listed above, including due diligence processes implemented;
- the outcome of those policies;
- principal risks related to those matters and how those risks are managed; and
- any relevant non-financial key performance indicators.

Those large PIEs that are 'traded companies' are required to describe their diversity policy including aspects such as age, gender, educational and professional background. Disclosures should set out the objectives of the policy, how it has been implemented, and results.

#### **How does this differ from existing UK requirements?**

The key areas of difference between the EU NFR Directive and the existing UK requirements for the strategic report as applicable to quoted companies relate to:

- the scope of companies required to disclose the non-financial information;
- the matters which are required to be reported on;
- principal risks specifically related to those matters (including anti-corruption and bribery); and
- diversity information disclosures.

#### **Observation**

As the requirements are set out in an EU Directive, the UK has to implement them and has only limited flexibility about how to do so. There are some options about how the requirements are implemented, e.g. the scope of the requirements and whether the information should be included in the annual report or in a separate report online. So there is benefit in responding to the consultation. The consultation also asks for suggestions about existing regulation that could be removed and reporting requirements that could be made outside of the annual report.

#### **Scope**

The scope of the EU NFR Directive differs from that for existing strategic report requirements for quoted companies in the UK. The Directive's scope is all PIEs that have over 500 employees on average over the financial year. This means that the scope of the EU NFR Directive is narrower in that smaller quoted companies are not within its scope, but, on the other hand large unquoted credit institutions and insurance undertakings are within its scope. Companies with only debt securities traded on a regulated market in the EU are currently excluded from the definition of a quoted company but will be caught by the new requirements if they have more than 500 employees.

The Department for Business, Innovation & Skills (BIS) is inviting comments on two implementation options:

1. introduce the requirements of the Directive exclusively for large PIEs (in addition to retaining the existing UK framework requirements for those quoted companies that are not large PIEs); or
2. reduce the scope of existing UK reporting requirements so that only large PIEs (and not quoted companies falling outside of the large PIE definition) would be required to make any additional disclosures going beyond those currently required for unquoted companies.

### **Observation**

Both of these options have significant disadvantages. The first option results in two similar but different sets of requirements operating in parallel. This results in unnecessary complexity and may lead to errors, particularly as companies may have to move from one set of requirements to the other from year to year. The second option is simpler and deregulatory in that it removes the existing enhanced strategic reporting requirements for smaller quoted companies. However, this is likely to be seen by many as a step backwards given the widespread support for the existing strategic report requirements introduced in 2013. As noted above, the UK is considered to be a world leader in this area of reporting.

A third option that should be considered is to retain the existing familiar requirements and make only those limited amendments necessary to ensure compliance with the EU NFR Directive. For example, it would be necessary to add a requirement for disclosures about anti-corruption and bribery matters. The scope of these requirements could then be expanded to include those large PIEs that are not also quoted companies.

### **The additional matters to be reported**

In addition to the UK reporting framework which requires information on environmental, social and community, employee and human rights matters, the EU NFR Directive requires disclosures in respect of anti-corruption and bribery matters. The required information with respect to anti-corruption and bribery matters should include information about any policies in relation to those matters and the outcome of those policies.

### **Principal risks**

The existing Accounting Directive and UK framework both require companies to describe the principal risks and uncertainties facing the business. The EU NFR Directive states that the non-financial statement should include principal risks relating, as a minimum, to the specified matters (i.e. environmental, social and employee matters, respect for human rights and anti-corruption and bribery matters). These disclosures must include, where relevant and proportionate, the company's business relationship, products or services which are likely to cause an adverse impact in those matters. The company must also disclose how it manages those risks.

### **Observation**

While the existing requirement for companies to consider all principal risks should mean that these areas have been disclosed where relevant previously, the Directive should at least encourage companies to review and refresh their principal risks in respect of the matters specified in the Directive. This may result in companies including additional disclosure in respect of non-financial information.

### **Diversity information in the Corporate Governance Statement**

The EU NFR Directive requires large PIEs that are 'traded companies' to describe their diversity policy including aspects such as age, gender, educational and professional backgrounds. As well as describing the policy, they must explain the objectives of the policy, how it has been implemented and the results of the policy in the reporting period. The EU NFR Directive states that this information should be included as part of the corporate governance statement although UK companies often incorporate that statement into the directors' report or strategic report by cross reference. The existing EU requirements for a corporate governance statement are implemented in the UK through the Disclosure and Transparency Rules of the Financial Conduct Authority.

### Observation

The current UK requirements for the strategic report already require companies to provide numerical disclosures on gender diversity. However, the EU NFR Directive goes further than the existing requirement and also requires companies to include the information in their corporate governance statement specifically. Companies complying with the UK Corporate Governance Code are already required to describe the board's diversity policy, including gender, any measurable objectives that it has set for implementing the policy and progress in achieving those objectives.

The Consultation document refers to the new diversity disclosures applying to "all large PIEs that are traded companies" but this seems an over-simplification of the requirements in the Directive. The relevant requirements make no reference to the threshold of 500 employees but include an exemption for companies that would qualify as small or medium-sized undertakings except for being traded companies. There is also a member state option to exempt companies that have only traded debt. The UK implementation of these requirements therefore needs to be clarified through the Consultation.

### Location of the information and assurance

The EU NFR Directive permits member states to allow companies to prepare the information in a separate report, outside the annual report. BIS is keen to hear views on whether this is an option supported by stakeholders.

### Observation

The EU NFR Directive permits a separate report to be made available "within a reasonable period of time, not exceeding six months from the balance sheet date". It is suggested in the consultation that this could alleviate resource pressure on companies around the reporting deadline for the financial statements. However, it seems to run counter to the aim for 'joined up' reporting and seems unlikely to meet the needs of investors for information other than 'standing data'.

BIS is also interested to hear whether the non-financial information should be verified by an independent assurance service provider. The recent UK implementation of the EU Accounting Directive, which is effective for periods commencing on or after 1 January 2016, amended the auditor's responsibilities relating to the scope of the audit report in relation to the directors' report and strategic report. Auditors will be required to report positively on certain matters including consistency with the financial statements, preparation in compliance with relevant legal requirements and details of any material misstatements. However, the scope of the work to support these opinions is restricted to that done in the course of the audit of the financial statements. The consultation is asking for views about whether there should be a requirement for verification of non-financial information going beyond these basic requirements while recognising that there would be a cost to this.

### Wider reporting

BIS has used the consultation to "take a wider, strategic look at reporting in the UK", particularly focusing on the scope for deregulation. The main topics for consultation are:

- whether non-financial information could be published solely in electronic format on a company's website and wider considerations in respect of electronic publication;
- amending the definition of the term 'senior manager' for the purposes of numerical disclosures on gender diversity, which as currently defined in the Companies Act 2006 explicitly requires the inclusion of all directors of subsidiaries who may not be seen as 'senior managers' in the context of the group;
- whether any existing UK or EU reporting requirements could be repealed in order to remove any unnecessary reporting; and
- the cost of preparing an annual report, as well as the expected costs and benefits of adopting the EU NFR Directive.

## At a glance – a high level overview of the differences and which companies they affect

### Existing non-financial information requirements for UK companies

Company type	Principal risks	Environmental, social and employee matters	Human rights matters	Anti-corruption and bribery matters	Diversity matters
Listed equity (> 500 employees)	✓**	✓	✓	X	✓*
Listed equity (≤ 500 employees)	✓**	✓	✓	X	✓*
Listed debt (> 500 employees)	✓**	X	X	X	X
Listed debt (≤ 500 employees)	✓**	X	X	X	X
Unlisted credit institutions (> 500 employees)	✓**	X	X	X	X
Unlisted credit institutions (≤ 500 employees)	✓**	X	X	X	X
Unlisted insurance undertakings (> 500 employees)	✓**	X	X	X	X
Unlisted insurance undertakings (≤ 500 employees)	✓**	X	X	X	X

### EU NFR Directive requirements non-financial statement requirements for UK companies

Company type	Principal risks	Environmental, social and employee matters	Human rights matters	Anti-corruption and bribery matters	Diversity matters
Listed equity (> 500 employees)	✓	✓	✓	✓	✓***
Listed equity (≤ 500 employees)	X	X	X	X	X***
Listed debt (> 500 employees)	✓	✓	✓	✓	X***
Listed debt (≤ 500 employees)	X	X	X	X	X***
Unlisted credit institutions (> 500 employees)	✓	✓	✓	✓	X
Unlisted credit institutions (≤ 500 employees)	X	X	X	X	X
Unlisted insurance undertakings (> 500 employees)	✓	✓	✓	✓	X
Unlisted insurance undertakings (≤ 500 employees)	X	X	X	X	X

\* Whilst some disclosures regarding diversity are already required in the existing UK framework, these differ from those in the EU NFR Directive.

\*\* Whilst the disclosure of principal risks is a requirement of all UK companies within the scope of the strategic report requirements, the EU NFR Directive explicitly refers to principal risks relating to the non-financial information matters (i.e. environmental, social, employee, human rights, anti-corruption and bribery matters).

\*\*\* As referred to above, the Directive includes a member state option to exempt companies with only traded debt from the additional Diversity requirements. The Directive also makes no reference to 500 employees in its requirements on diversity matters so it remains unclear how this will be implemented in the UK.

### Further information

If you have any questions about the subjects raised in this publication, please speak to your usual Deloitte contact.

The consultation document can be accessed at: <https://www.gov.uk/government/consultations/non-financial-reporting-directive-uk-implementation>

More information on the proposed changes to the existing UK financial reporting framework, as well as other UK accounting, reporting and corporate governance news and publications, can be found at [www.ukaccountingplus.co.uk](http://www.ukaccountingplus.co.uk)

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