



EUROPEAN COMMISSION

Directorate-General for Financial Stability, Financial Services and Capital Markets Union

FINANCIAL MARKETS

Corporate reporting, audit and credit rating agencies

CONSULTATION DOCUMENT

REVIEW OF THE NON-FINANCIAL REPORTING DIRECTIVE

EBA response to the European Commission Public Consultation on Non-Financial Reporting Directive (NFRD)

11 June 2020

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

You are invited to reply **by 11 June 2020** at the latest to the **online questionnaire** available on the following webpage:
https://ec.europa.eu/info/publications/finance-consultations-2020-non-financialreporting-directive_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses.**

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published unless respondents indicate otherwise in the online questionnaire.

Responses authorised for publication will be published on the following webpage:
https://ec.europa.eu/info/publications/finance-consultations-2020-non-financialreporting-directive_en

INTRODUCTION

Background information on the Non-Financial Reporting Directive

The [Non-Financial Reporting Directive](#) (Directive 2014/95/EU, the “NFRD”) is an amendment to the [Accounting Directive](#) (Directive 2013/34/EU). It requires certain large companies to include a non-financial statement as part of their annual public reporting obligations. Companies under the scope of the NFRD had to report according its provisions for the first time in 2018 (for financial year 2017).

The NFRD applies to large Public Interest Entities with more than 500 employees. In practice it includes large listed companies, and large banks and insurance companies (whether listed or not) – all providing they have more than 500 employees.

The NFRD identifies four sustainability issues (environment, social and employee issues, human rights, and bribery and corruption) and with respect to those issues it requires companies to disclose information about their business model, policies (including implemented due diligence processes), outcomes, risks and risk management, and key performance indicators (KPIs) relevant to the business. It does not introduce or require the use of a non-financial reporting standard or framework, nor does it impose detailed disclosure requirements such as lists of indicators per sector.

The NFRD requires companies to disclose information “to the extent necessary for an understanding of the development, performance, position and impact of [the company’s] activities.” This means companies should disclose not only how sustainability issues may affect the company, but also how the company affects society and the environment. This is the so-called double materiality perspective.

In 2017, as required by the Directive, the Commission published [non-binding guidelines](#) for companies on how to report non-financial information. In June 2019, as part of the Sustainable Finance Action Plan, the Commission published additional [guidelines on reporting climate-related information](#), which integrate the recommendations of the Task Force on Climate-related Financial Disclosures.

Current context

The non-financial information needs of users, in particular the investment community, are increasing very substantially and very quickly. The demand for better information from investee companies is driven partly by investors needing to better understand financial risks resulting from the sustainability crises we face, and partly by the growth in financial products that actively seek to address environmental and social problems. In addition, some forthcoming EU legislation, including the [regulation on sustainability disclosures in the financial services sector \(Regulation \(EU\) 2019/2088\)](#), and the [regulation on a classification system \(taxonomy\) of sustainable economic activities](#), can only fully meet their objectives if more and better non-financial information is available from investee companies. The taxonomy regulation will require companies under the scope of the NFRD to disclose certain indicators of the proportion of their activities that are classified as sustainable according to the taxonomy.

The feedback received in the online [public consultation on corporate reporting carried out in 2018](#) in the context of a Fitness Check that is currently being finalised by the Commission services, confirms that the non-financial information currently disclosed by companies does not adequately meet the needs of the intended users. The following problems have been identified:

- (1) There is inadequate publicly available information about how non-financial issues, and sustainability issues in particular, impact companies, and about how companies themselves impact society and the environment. In particular:
 - a. Reported non-financial information is not sufficiently comparable or reliable.
 - b. Companies do not report all non-financial information that users think is necessary, and many companies report information that users do not think is relevant.
 - c. Some companies from which investors and other users want non-financial information do not report such information.
 - d. It is hard for investors and other users to find non-financial information even when it is reported.

- (2) Companies incur unnecessary and avoidable costs related to reporting non-financial information. Companies face uncertainty and complexity when deciding what nonfinancial information to report, and how and where to report such information. In the case of some financial sector companies, this complexity may also arise from different disclosure requirements contained in different pieces of EU legislation. Companies are under pressure to respond to additional demands for non-financial information from sustainability rating agencies, data providers and civil society, irrespective of the information that they publish as a result of the NFRD.

In its [resolution on sustainable finance in May 2018](#), the European Parliament called for the further development of reporting requirements in the framework of the NFRD. In December 2019, in [its conclusions on the Capital Markets Union](#), the Council stressed the importance of reliable, comparable and relevant information on sustainability risks, opportunities and impacts, and called on the Commission to consider the development of a European non-financial reporting standard. In addition, ESMA has recently published a

[report on undue short-term pressure on corporations](#) where it recommends the Commission to amend the NFRD provisions.

In its Communication on the [European Green Deal](#), the Commission committed to review the Non-Financial Reporting Directive in 2020 as part of the strategy to strengthen the foundations for sustainable investment. Meeting the objectives of the European Green Deal will require additional investments across all sectors of the economy, the bulk of which will need to come from the private sector. In this sense review of the NFRD is part of the effort to scale up sustainable finance by improving transparency.

The European Green Deal also stressed that sustainability should be more broadly embedded into the corporate governance framework, as many companies still focus too much on short-term financial performance compared to their long-term development and sustainability aspects. As part of the Sustainable Finance Action Plan, work is being undertaken to prepare a possible action in this area.

In addition, to ensure appropriate management of environmental risks and mitigation opportunities, and reduce related transaction costs, the Commission will also support businesses and other stakeholders in developing standardised natural capital accounting practices within the EU and internationally.

The services of the European Commission have published an [Inception Impact Assessment on the Review of the Non-Financial Reporting Directive](#). It summarises the problem definition, possible policy options and likely impacts of this initiative.

Objectives of this public consultation and links with other consultation activities

This public consultation aims to collect the views of stakeholders with regard to possible revisions to the provisions of the NFRD. The principal focus of this consultation is on the possible options for such revisions.

This public consultation builds on a number of recent consultation activities, including:

- An [online public consultation on corporate reporting in 2018](#), in the context of the Fitness Check on the EU framework for public reporting by companies. That consultation enabled the Commission to gather data and views on the problems that need to be addressed with regard to non-financial reporting. Problem analysis is therefore not a principal focus of the current consultation strategy.
- An [online targeted consultation on climate-related reporting in 2019](#), as part of the development of the new guidelines for companies on how to report climate related information. In addition, the Technical Expert Group on Sustainable Finance organised a [call for feedback on its recommendations with regard to reporting climate-related information](#). The results of these consultation activities, although specific to the issue of climate, are also useful when considering nonfinancial reporting more generally.

This consultation is one element of a broader consultation strategy in the context of the review of the NFRD. In addition to this public consultation, there will also be targeted surveys addressed to SMEs, and to companies currently under the scope of the NFRD. The

targeted surveys will collect more detailed opinions and data from companies on certain issues, including costs related to non-financial reporting.

In addition, the services of the Commission will soon launch a public consultation on a Renewed Sustainable Finance Strategy, seeking for stakeholders’ views in other Sustainable Finance related issues, including questions related to sustainable corporate governance.

Consultation questions

1. QUALITY AND SCOPE OF NON-FINANCIAL INFORMATION TO BE DISCLOSED

The feedback received from the online [public consultation on corporate reporting](#) carried out in 2018 suggests that there are some significant problems regarding the non-financial information currently disclosed by companies pursuant to Directive 2014/95/EU (“the Non-Financial Reporting Directive” or NFRD). Likewise, [ESMA’s 2018 Activity Report](#) gathers evidence that shows there is significant room for improvement in the disclosure practices under the NFRD.

Question 1.: To what extent do you agree or disagree with the following statements about possible problems with regard to non-financial reporting?

	1	2	3	4	5	Don’t know
The lack of comparability of non-financial information reported by companies pursuant to the NFRD is a significant problem.					x	
The limited reliability of non-financial information reported by companies pursuant to the NFRD is a significant problem.				x		
Companies reporting pursuant to the NFRD do not disclose all relevant non-financial information needed by different user groups.				x		

(1= mostly disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Article 19a of the Accounting Directive (which was introduced into the Accounting Directive by the NFRD) currently requires companies to disclose information about four non-financial matters, if deemed material by the particular company: (i) environment, (ii) social and employee issues, (iii) human rights, (iv) bribery and corruption. These correspond to the “sustainability factors” defined in Article 2(24) of Regulation (UE) 2019/2088 on sustainability-related disclosures in the financial services sector.

Question 2.: Do you consider that companies reporting pursuant to the NFRD should be required to disclose information about other non-financial matters in addition to those currently set-out in Article 19a? Please specify (no more than three matters).

1. Companies should report information on the broader topic of **Governance**, which should include but not only the topics of human rights and bribery and corruption.

2.

3.

For each of the four non-financial matters identified in Article 19a of the Accounting Directive, and subject to the company's own materiality assessment, companies are required to disclose information about their business model, policies (including implemented due diligence processes), outcomes, risks and risk management (including risks linked to their business relationships), and key performance indicators (KPIs) relevant to the business.

Question 3.: Are there additional categories of non-financial information related to a company's governance and management procedures, including related metrics where relevant, (for example, scenario analyses, targets, more forward-looking information, or how the company aims to contribute to society through its business activities) that companies should disclose in order to enable users of their reports to understand the development, performance, position and impacts of the company? Please specify (no more than three).

1. Forward-looking information and targets, including quantitative targets.

2. Scenarios applied in the scenario analysis and strategic planning, and in stress testing, particularly those related to climate change and, in general, environmental impact.

3.

Investment in intangible assets currently represents the majority of investment carried out by the private sector in advanced economies.¹ There is a long-standing debate about the need for better reporting of intangible investments in company reports, including in relation to sustainability.² Irrespective of the potential future changes to accounting standards, it is likely to remain the case that a significant proportion of intangible assets will fail to meet the definition of an asset or the criteria for recognition as an intangible asset in the financial statements. The Accounting Directive currently makes no explicit

¹<https://voxeu.org/article/productivity-and-secular-stagnation-intangible-economy>

² The European Financial Reporting Advisory Group (EFRAG) is currently carrying out a research project on this topic. See <http://www.efrag.org/Activities/1809040410591417/EFrag-researchproject-on-better-information-on-intangibles>. The United Kingdom's Financial Reporting Council issued a consultation document about business reporting of intangibles in 2019. See <https://www.frc.org.uk/news/february-2019/consultation-into-improvements-to-the-reporting-of>.

reference to intangible assets in the Articles concerning the management report, other than the requirement to report about activities in the field of research and development in Article 19(2)(b).

Question 4.: In light of the importance of intangibles in the economy, do you consider that companies should be required to disclose additional non-financial information regarding intangible assets or related factors (e.g. intellectual property, software, customer retention, human capital, etc.)?

Yes x	No	Don't know
----------	----	------------

In addition to the provisions of the NFRD, several other EU legislative acts require disclosures of sustainability-related information for financial sector entities:

- The [Regulation on prudential requirements for credit institutions](#) requires certain banks to disclose ESG risks as of 28 June 2022.
- The [Regulation on sustainability-related disclosures in the financial services sector](#) requires financial market participants to disclose their policies on the integration of sustainability risks in their investment decision-making process and the adverse impacts of investment decisions on sustainability factors, as of 10 March 2021.
- The [Regulation establishing a framework to facilitate sustainable investment \(the Sustainable Finance Taxonomy\)](#) creates new reporting obligations including for companies subject to the NFRD, starting in December 2021.

Question 5.: To what extent do you think that the current disclosure requirements of the NFRD ensure that investee companies report the information that financial sector companies will need to meet their new disclosure requirements?

Not at all	To some extent but not much x	To a reasonable extent	To a very great extent	Don't know
------------	----------------------------------	------------------------	------------------------	------------

In order to ensure that the financial sector entities comply with the new disclosure requirements, laid down in the different pieces of legislation, in the most effective and efficient manner, there might be scope for better coherence between the different disclosure requirements.

Question 6.: How do you find the interaction between different pieces of legislation (You can provide as many answers as you want)

It works well	There is an overlap x	There are gaps x	There is a need to streamline x	It does not work at all	Don't know
---------------	--------------------------	---------------------	------------------------------------	-------------------------	------------

Question 7.: In order to ensure better alignment of reporting obligations of investees and investors, should the legal provisions related to non-financial reporting define environmental matters on the basis of the six objectives set-out in the taxonomy regulation: (1) climate change mitigation; (2) climate change adaptation; (3) sustainable use and

protection of water and marine resources; (4) transition to a circular economy (5) pollution prevention and control; (6) protection and restoration of biodiversity and ecosystems?

Yes	No	Don't know
x		

Please provide any comments or explanations to justify your answers to questions 1 to 7.

Question 1 - The challenges that credit institutions usually raise regarding ESG is the lack of comparable, meaningful and reliable information from their counterparties. This was expressed by credit institutions in a survey, developed by the EBA and the ECB in 2019 to gain insights into current practices by credit institutions to incorporate ESG considerations into their frameworks. Partly due to limited reliability and comparability of their counterparties' disclosures, current banks' ESG disclosures are themselves difficult to compare and not comprehensive enough. One of the policy recommendations proposed by the EBA in its report on undue short-term pressure from the financial sector on corporations, is that EU lawmakers should look into EU legislation to promote comparable, reliable and relevant disclosure.

Question 2 – Companies should report information on the broader topic of Governance, which should include not only the topics of human rights and bribery and corruption. Non-financial disclosures should cover the full scope of environmental, social and governance matters. In this sense, human rights, and bribery and corruption, are subsets of governance, but the scope of the governance matter is wider and could cover other topics such as e.g. business ethics and business conduct, including controversial business activities, transparency or institutional strength and accountability. It is important to ensure the consistency of these four areas with ESG issues and the list of factors used by different bodies and to develop concrete ESG definitions in the revised NFRD, and that it provides a mapping of the four existing non-financial matters (or any other if amended) to ESG issues.

Question 3 - ESG risks, and in particular environmental risks, may materialise in the long term, and it is important that companies disclose forward-looking information on how they may be impacted in the future by these risks and on how they plan to mitigate them. In addition, setting and disclosing targets is a good way to show how companies embed ESG considerations into their strategy, how they plan to progress towards achieving them and how successful they are in their strategy. For instance, while acknowledging the current challenges to produce it, forward-looking information and targets related to how the company intends to contribute to the achievement of the Paris agreement would inform on its strategy with regard to climate change. Furthermore, scenario analysis is a very relevant tool for companies to get and provide forward-looking information on ESG risks, particularly in the case of climate change. Similarly, it is relevant to incorporate climate risk and wider environmental risks in stress testing. Transparency on the kind of scenarios applied is very important for users of information to understand the forward-looking data. In this regard, and given that there is a myriad of possible pathways and scenarios, it would be further beneficial if a reference transition scenario with decarbonisation trajectories by sector could be provided by the Commission.

Question 4 – While the EBA acknowledges the challenges of reporting on intangible assets, due to e.g. issues on their valuation, reporting on assets like companies' human capital or customer base may provide information very valuable to understand the companies' sustainability profile. For example, explicit information about companies' value chains (e.g. non-financial information on providers, environmental and social safeguards) would inform the analysis of the ESG risks a company is exposed to throughout its value chain, and would be necessary to obtain credible information on indirect GHG emissions.

Question 5 – As mentioned above, one of the challenges that banks usually raise regarding their own ESG disclosures is the lack of publicly available relevant data from their counterparties. In this regard, the EBA included a policy recommendation in the report on undue short-term pressure proposing the review of the NFRD. The review should take into account the scope of disclosures required in the three regulations mentioned in this question.

Question 6 - The Capital Requirements Regulation (CRR), requires large institutions with listed issued securities to disclose information on ESG risks from 28 June 2022. The ability of credit institutions to disclose ESG prudential information depends on the quality and relevance of the information disclosed by their counterparties based on the NFRD. Both frameworks should be related and aligned. The NFRD review should contribute to address gaps in the publicly available non-financial information, avoiding unnecessary overlaps. Coordination and alignment between the different pieces of regulation is very important.

Question 7 – The different pieces of ESG regulation, including taxonomy, need to be aligned and consistent, including definitions and classifications.

2. STANDARDISATION

Note: in this section, the word “standard” is used for simplicity. This should not be read as a suggestion that all relevant reporting requirements must be specified in a single normative document. Rather, “standard” is merely used as a shorthand that could encompass a consistent and comprehensive set of standards. Reporting standards define what information companies should report and how such information should be prepared and presented.

A requirement that all companies falling within the scope of the NFRD report in accordance with a common non-financial reporting standard may help to address some of the problems identified in section 1 (comparability, reliability and relevance).

Question 8.: In your opinion, to what extent would a requirement on companies to apply a common standard for non-financial information resolve the problems identified?

Not at all	To some extent but not much	To a reasonable extent	To a very great extent X	Don't know
------------	-----------------------------	------------------------	-----------------------------	------------

Question 9.: In your opinion, is it necessary that a standard applied by a company under the scope of the Non-Financial Reporting Directive should include sector-specific elements?

Yes x	No	Don't know
----------	----	------------

A number of non-financial reporting frameworks and standards already exist. Some, including the standards of the Global Reporting Initiative (GRI), the framework of the International Integrated Reporting Council (IIRC), and the standards of the Sustainability Accounting Standards Board (SASB), aim to cover most or all relevant non-financial issues.

Question 10.: To what extent would the application of one of the following standards or frameworks, applied on its own, resolve the problems identified while also enabling companies to comprehensively meet the current disclosure requirements of the NonFinancial Reporting Directive, taking into account the double-materiality perspective (See section 4)?

	1	2	3	4	Don't know
Global Reporting Initiative			x		
Sustainability Accounting Standards Board			x		
International Integrated Reporting Framework	x				
Another framework or standard *				x	

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

*Please specify other framework or standard (no more than three.)

	1	2	3	4
1. Commission non-binding guidelines, supplement on climate change reporting				x
2.				
3.				

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

On 5 December 2019, the Economic and Financial Affairs Council adopted conclusions on deepening the Capital Markets Union, in which it invited the Commission to “consider the development of a European non-financial reporting standard **taking into account international initiatives**”.

Most existing frameworks and standards focus on individual or a limited set of nonfinancial issues. Examples include the recommendations of the Task Force on Climate related Financial Disclosures (TCFD), the UN Guiding Principles Reporting Framework (human rights), the questionnaires of the CDP (formerly the Carbon Disclosure Project), and the standards of the Carbon Disclosure Standards Board (CDSB). Several approaches have also been developed at EU level in the environmental area, including the Organisation Environmental Footprint and reporting under the Eco-Management and Audit Scheme (EMAS).

Question 11.: If there were to be a common European non-financial reporting standard applied by companies under the scope of the NFRD, to what extent do you think it would be important that such a standard should incorporate the principles and content of the following existing standards and frameworks:

	1	2	3	4	Don't know

Global Reporting Initiative			X		
Sustainability Accounting Standards Board			X		
International Integrated Reporting Framework	X				
Task Force on Climate-related Financial Disclosures (TCFD)				X	
UN Guiding Principles Reporting Framework (human rights)			X		
CDP					X
Carbon Disclosure Standards Board (CDSB)					X
Organisation Environmental Footprint (OEF)					X
Eco-Management and Audit Scheme (EMAS)					X
Another framework or standard *				X	

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

*Please specify other framework or standard (no more than three).

	1	2	3	4	5
1. Commission non-binding guidelines, supplement on climate change reporting				X	
2. Looking forward, the implementing technical standard on ESG risks disclosures that the EBA is developing to implement Article 449a of CRR should be considered, once it is finalised, for the future definition of sectorial disclosures by credit institutions under the NFRD				X	
3. UNEP-FI (Principles for responsible banking/investment)			X		

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

Question 12.: If your organisation *fully* applies any non-financial reporting standard or framework when reporting under the provisions of the NFRD, please indicate the recurring annual cost of applying that standard or framework (including costs of retrieving, analysing and reporting the information).

Name of standard or framework (max 3)	Estimated cost of application per year, excluding any one-off start-up costs.

Small and Medium-Sized Enterprises (SMEs) often do not have the technical expertise nor resources necessary to prepare reports in accordance with state-of-the-art, sophisticated standards. This may imply that requiring SMEs to apply the same standards as large companies may be a disproportionate burden for SMEs.

At the same time, many SMEs are under increasing pressure to provide certain nonfinancial information to other businesses, in particular if they are suppliers of large companies. In addition, financial institutions are increasingly likely to request certain non-financial information from companies to whom they provide capital, including SMEs. In this respect, SMEs that do not provide non-financial information may experience a negative impact on their commercial opportunities as suppliers of larger companies or on their access to capital, and may not be able to benefit from new sustainable investment opportunities.

Question 13.: In your opinion, would it be useful for there to be a simplified standard and/or reporting format for SMEs?

Yes x	No	Don't know
----------	----	------------

Question 14.: To what extent do you think that a simplified standard for SMEs would be an effective means of limiting the burden on SMEs arising from information demands they may receive from other companies, including financial institutions?

Not at all	To some extent but not much	To a reasonable extent	To a very great extent X	Don't know
------------	-----------------------------	------------------------	-----------------------------	------------

Question 15.: If the EU were to develop a simplified standard for SMEs, do you think that the use of such a simplified standard by SMEs should be mandatory or voluntary?

Mandatory x	Voluntary	Don't know
----------------	-----------	------------

In the responses to the Commission's public consultation on public corporate reporting carried out in 2018, just over half of the respondents believed that integrated reporting could contribute to a more efficient allocation of capital and agreed that the EU should encourage integrated reporting.

Question 16.: In light of these responses, to what extent do you agree that the body responsible for developing a European non-financial reporting standard should also have expertise in the field of financial reporting in order to ensure "connectivity" or integration between financial and non-financial information?

Not at all	To some extent but not much	To a reasonable extent x	To a very great extent	Don't know
------------	-----------------------------	-----------------------------	------------------------	------------

Question 17.: The key stakeholder groups with an interest in and contributing to the elaboration of financial reporting standards have historically been investors, preparers of financial reports (companies) and auditors/accountants. To what extent do you think that these groups should also be involved in the process of developing a European nonfinancial reporting standard?

	1	2	3	4	Don't know
--	---	---	---	---	------------

Investors				x	
Preparers				x	
Auditors/accountants				x	

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

Question 18.: In addition to the stakeholders referred to in the previous question, to what extent do you consider that the following stakeholders should be involved in the process of developing a European non-financial reporting standard?

	1	2	3	4	Don't know
Civil society representatives/NGOs			x		
Academics			x		
Other*			x		

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

*Please specify other categories (no more than three).

	1	2	3	4
1. Credit institutions			x	
2.				
3.				

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

Question 19.: To what extent should the following European public bodies or authorities be involved in the process of developing a European non-financial reporting standard?

	1	2	3	4	Don't know
European Securities Markets Authority (ESMA)				x	
European Banking Authority (EBA)				x	
European Insurance and Occupational Pensions Authority (EIOPA)				x	
European Central Bank (ECB)			x		
European Environment Agency (EEA)			x		
Platform on Sustainable Finance ³				x	
Other*			x		

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

³ Established under the Regulation on the establishment of a framework to facilitate sustainable investment (the “Taxonomy Regulation”), not yet published in the EU Official Journal.

*Please specify other European public bodies or authorities that you consider should be involved in the process of developing a European non-financial reporting standard (no more than three).

	1	2	3	4
1. . European Union Agency for Fundamental Rights (FRA)			x	
2.				
3.				

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

National accounting standards-setters of several EU Member States are represented in the European Financial Reporting Advisory Group (EFRAG), which acts as the EU’s voice and technical advisor in relation to financial reporting.

Question 20.: To what extent to do you consider that the following national authorities or bodies should be involved in the process of developing European non-financial reporting standards?

	1	2	3	4	Don’t know
National accounting standards-setters		x			
Environmental authorities		x			
Other*					

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

*Please specify other type of European public bodies or authorities that you consider should be involved in the process of developing a European non-financial reporting standard (no more than three).

	1	2	3	4
1.				
2.				
3.				

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 4= to a very great extent

Please provide any comments or explanations to justify your answers to questions 8 to 20.

Questions 8, 9 – Our experience on Pillar 3 disclosures by banks is that consistency and comparability across institutions is key for users of information to make informed decisions, and to promote market discipline. A minimum standardisation of non-financial reporting by companies is a proper way to ensure consistency and comparability of disclosures. Common and standard disclosures should be supplemented with sector-specific standards on non-financial reporting, that should reflect their distinctive sustainability characteristics. Some flexibility should be left for companies to reflect their own idiosyncratic features.

Question 10 and 11 – In terms of climate change reporting, the Commission non-binding guidelines on climate change reporting (COM NBG) and the TCFD recommendations are the most relevant frameworks. The COM NBG implement the recommendations included in the TCFD recommendations, adding the double materiality perspective. They include an annex for lending and insurance activities that is very relevant for the EBA work on banks’ Pillar 3 ESG disclosures. Other relevant international frameworks include the Global Reporting Initiative,

broadly applied by banks in their non-financial reporting, very comprehensive, focused on the impact of the company on the environmental and social factors; the Sustainability Accounting Standards Board, which includes a sectorial approach and is focused on information relevant for investors and analysts; and the UN Guiding Principles Reporting Framework for information on human rights.

Questions 13, 14 and 15 - One of the challenges for the development by banks of their ESG framework is the lack of information from their counterparties, particularly in the case of counterparties that are not under the scope of the NFRD, including SMEs. This is why the EBA strongly supports that the scope of application of the NFRD should be broadened in terms of companies that are obliged to disclose. When broadening the scope of application of the NFRD, SMEs should be considered in a proportionate way and the NFRD should define clear proportionality criteria, quantitative and qualitative, to delimit to which SMEs the reporting obligations apply. Developing simplified and proportionate, although relevant, standard for SMEs, in addition to the proportionality criteria would restrict the number of obliged SMEs, would contribute to alleviate the burden on SMEs arising from bilateral information demands, including financial institutions, and would help them to gain access to better business opportunities.

Question 18 –The EU action plan on sustainable finance underlines the relevant role that banks could/should have to channel investments that should help in the transition to a sustainable economy. The plan also underlines the risks for banks coming from unsustainable economic development. In this regard, it is important that banks can access to the data they need from their counterparties to manage ESG risks and to understand the impact of their lending and investment decision on ESG aspects. Therefore, credit institutions should be involved to a reasonable extent in the standard setting process, to ensure that their needs for information from their counterparties are taken into account. Similarly, other stakeholders should be involved, to ensure that they are capable of feeding in information that the banks might need.

Question 19 –The review of the NFRD is very relevant for the EBA policy work on sustainable finance. In this regard, the EBA has a mandate, in the CRR, to develop technical standards implementing the ESG prudential disclosure requirements. One of the key challenges for banks regarding these disclosures is the lack of relevant ESG information from their counterparties. In order to address this lack of ESG information, it is very relevant the review of the NFRD, and the disclosure of non-financial information by corporates from all sectors. The EBA should be fully involved in the standard setting process, to ensure that banks’ needs for information are taken into account, and in order to provide our expertise when setting the sectorial standards for credit institutions, as the EBA’s experience in developing Pillar 3 disclosure standards for credit institutions is very relevant. Detailed disclosure standards should be defined in binding, rather than voluntary technical standards, to promote relevant, reliable and comparable disclosures. In order to ensure a sufficiently independent but inclusive governance built on strong consultative processes, the process should be placed with a public body, and the ESAs could play a leading role, leveraging on a sound tested process with extensive stakeholder engagement and ensuring consistency with other disclosure standards under their remit. The strong role for the ESAs should be coordinated at an international level and a strong European position through the ESAs would be beneficial to Europe’s Green Deal objectives.

3. APPLICATION OF THE PRINCIPLE OF MATERIALITY

The NFRD requires companies to disclose information “to the extent necessary for an understanding of the development, performance, position and impact of [the company’s]

activities.” This materiality principle implies that companies reporting pursuant to the NFRD must disclose (i) how sustainability issues may affect the development, performance and position of the company; and (ii) how the company impacts society and the environment. This is the double-materiality perspective.⁴ The two “directions” of materiality are distinct although there can be feedbacks from one to the other. For example, a company that with severe impacts on the environment or society may incur reputational or legal risks that undermine its financial performance.

⁴ See also the Commission’s non-binding guidelines on reporting climate-related information, section 2.2, page 4 [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0620\(01\)#page=4](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0620(01)#page=4).

‘Material’ information is defined in Article 2(16) of the Accounting Directive as “the status of information where its omission or misstatement could reasonably be expected to influence decisions that users make on the basis of the financial statements of the undertaking. The materiality of individual items shall be assessed in the context of other similar items.” This definition is geared towards financial reporting, which is principally intended to serve the needs of investors and other creditors. By contrast, non-financial information serves the needs of a broader set of stakeholders, as it relates not only to the increasing impact of non-financial matters on the financial performance of the company, but also to its impacts on society and the environment. This may imply the need to provide an alternative definition of materiality for application in the context of nonfinancial reporting, or at least additional guidance on this issue.

Question 21: Do you think that the definition of materiality set-out in Article 2(16) of the Accounting Directive is relevant for the purposes of determining which information is necessary to understand *a company’s development, performance and position*?

No, not at all	To some extent but not much	To a reasonable extent	Yes, to a very great extent	Don’t know
----------------	-----------------------------	------------------------	-----------------------------	------------

Question 22.: Do you think that the definition of materiality set-out in Article 2(16) of the Accounting Directive is relevant for the purposes of determining which information is necessary to understand *a company’s impacts on society and the environment*?

No, not at all	To some extent but not much	To a reasonable extent	Yes, to a very great extent	Don’t know
----------------	-----------------------------	------------------------	-----------------------------	------------

Question 23.: If you think there is a need to clarify the concept of ‘material’ nonfinancial information, how would you suggest to do so?

--

Question 24.: Should companies reporting under the NFRD be required to disclose their materiality assessment process?

Yes	No	Don't know
-----	----	------------

Please provide any comments or explanations to justify your answers to questions 21 to 24.

--

4. ASSURANCE

The NFRD requires that the statutory auditor or audit firm checks whether the nonfinancial statement has been provided if a firm falls within the scope of the Directive.

Article 34 of the Accounting Directive requires that the financial statements are audited, and that the statutory auditor or audit firm express an opinion whether the management report (i) is consistent with the financial statements for the same financial year; and (ii) has been prepared in accordance with the applicable legal requirements. Article 34 of the Accounting Directive also requires the statutory auditor or audit firm to state whether it has identified material misstatements in the management report and to give an indication of the nature of such material misstatements. However, the non-financial statement published pursuant to the NFRD – whether contained in the management report or a separate report – is explicitly excluded from the scope of Article 34 of the Accounting Directive. Consequently, the NFRD does not require any assurance of the content of the non-financial statement.

Question 25.: Given that non-financial information is increasingly important to investors and other users, are the current differences in the assurance requirements between financial and non-financial information justifiable and appropriate?

No, not at all	To some extent but not much x	To a reasonable extent	Yes, to a very great extent	Don't know
----------------	-------------------------------------	---------------------------	--------------------------------	------------

Question 26.: Should EU law impose stronger assurance requirements for non-financial information reported by companies falling within the scope of the NFRD?

Yes x	No	Don't know
----------	----	------------

There are two types of assurance engagement a practitioner can perform:

- Reasonable assurance reduces the risk of the engagement to an acceptably low level in the given circumstances. The conclusion is usually provided in a positive form of expression and states an opinion on the measurement of the subject matter against previously defined criteria.
- Limited assurance engagements provide a lower level of assurance than the reasonable assurance engagements. The conclusion is usually provided in a

negative form of expression by stating that no matter has been identified by the practitioner to conclude that the subject matter is materially misstated.

Question 27.: If EU law were to require assurance of non-financial information published pursuant to the NFRD, do you think that it should require a *reasonable* or *limited* assurance engagement on the non-financial information published?

Reasonable x	Limited	Don't know
-----------------	---------	------------

Question 28.: If EU law were to require assurance of non-financial information published pursuant to the NFRD, should the assurance provider assess the reporting company's materiality assessment process?

Yes x	No	Don't know
----------	----	------------

Question 29.: If assurance of non-financial information was required by EU law, should the assurance provider be required to identify and publish the key engagement risks, their response to these risks and any related key observations (if applicable)?

Yes	No	Don't know
-----	----	------------

Question 30.: If assurance of non-financial information was required by EU law, do you think that assurance engagements should be performed based on a common assurance standard?

Yes	No	Don't know
-----	----	------------

If you answered yes in reply to the previous question, please explain whether there is an existing assurance standard that could be used for this purpose or whether a new standard would need to be developed.

--

Question 31.: Do you think that an assurance requirement for non-financial information is dependent on companies reporting against a specific non-financial reporting standard?

Yes	No	Don't know
-----	----	------------

Question 32.: If you publish non-financial information and that information is assured, please indicate the annual costs of such assurance.

--

If you provided an answer to the previous question, please describe the scope of the assurance services provided (issues covered, reasonable/limited, etc.).

--

Please provide any comments or explanations to justify your answers to questions 25 to 32.

As explained before, credit institutions mention the lack of reliability of the non-financial information disclosed by their counterparties as one of the challenges to embed sustainability considerations in their processes, including risk management processes. The lack of reliability of the public information could be addressed with stronger assurance requirements imposed by EU law for non-financial information reported by companies falling within the scope of the NFRD.

Question 27. The level of assurance depends on the maturity of the legal framework. At the beginning, in the absence of a complete set of standards, limited assurance should be required and once a common set of standards is developed, then reasonable assurance could be required. The assurance would increase the level of confidence of the stakeholders in the disclosures of an entity.

5. DIGITISATION

The EU has introduced a structured data standard, the European Single Electronic Format (ESEF) under the Transparency Directive. With effect from 1 January 2020 listed companies in the EU shall report their annual financial reports in XHTML (audited financial statements, management report and issuer’s responsibility statements). Additionally, if the consolidated financial statements are prepared in IFRS, the XHTML document should also be tagged using iXBRL elements specified in the ESEF taxonomy. This allows the information to be machine-readable. This is expected to produce a number of benefits, including cost saving for users of annual financial reports, greater speed, reliability and accuracy of data handling, improved analysis, and better quality of information and decision-making.

Additionally, the Commission is exploring opportunities to establish a single access point for public corporate information. In this respect, the Commission expects the High-level Forum on CMU to examine this topic and formulate recommendations from the Capital Markets angle in the coming months.

Question 33.: To what extent do you agree or disagree with the following statements regarding digitalisation of non-financial information?

	1	2	3	4	5	Don't know
It would be useful to require the tagging of reports containing non-financial information to make them machine-readable.					x	
The tagging of non-financial information would only be possible if reporting is done against standards.					x	

All reports containing non-financial information should be available through a single access point.					x	
---	--	--	--	--	---	--

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Question 34.: Do you think that the costs of introducing tagging of non-financial information would be proportionate to the benefits this would produce?

No, not at all	To some extent but not much	To a reasonable extent	Yes, to a very great extent	Don't know
----------------	-----------------------------	------------------------	-----------------------------	------------

Question 35.: Please provide any other comments you may have regarding the digitalisation of sustainability information:

--

Please provide any comments or explanations to justify your answers to questions 33 to 35.

<p>The EBA strongly supports the implementation of a central point where the information would be stored, and also should be machine-readable. This is in line with the policy recommendation to the COM included in the “EBA report on undue short-term pressure”, according to which the Commission could consider (i) promoting initiatives from the private sector that would aim to facilitate data access and comparability of information (e.g. industry associations’ benchmarks), (ii) setting up a centralised database at the EU level on environmental data that could be used for financial purposes and (iii) improving the communication channels between the public and private sectors in order to facilitate the dissemination of information, especially on the public regulatory roadmaps and long-term governmental policies, for example related to the implementation of the Paris Agreement.</p>
--

6. STRUCTURE AND LOCATION OF NON-FINANCIAL INFORMATION

The default requirement of the NFRD is that companies under scope shall include their non-financial statement in their annual management report. However, the NFRD also allows Member States to allow companies to disclose the required non-financial information in a separate report under certain conditions, and most Member States took up that option when transposing the Directive. Companies can be allowed by national legislation to publish such a report up to six months after the balance sheet date.

The publication of non-financial information in a separate report has a number of consequences, including:

- Separate reports that include non-financial information are out of the legal mandate of the national competent authorities, whose mandate over periodic reports is limited to the annual and semi-annual financial reports (which include the management report).

- Separate reports that include non-financial information are not required to be filed in the Officially Appointed Mechanisms (OAMs) designated by Member States pursuant to Article 21(2) of the Transparency Directive.

Question 36.: Other consequences may arise from the publication of the non-financial statement as part of a separate report. To what extent do you agree with the following statements:

	1	2	3	4	Don't know
The option to publish the non-financial statement as part of a separate report creates a significant problem because the non-financial information reported by companies is hard to find (e.g: it may increase search costs for investors, analysts, ratings agencies and data aggregators).				x	
The publication of financial and non-financial information in different reports creates the perception that the information reported in the separate report is of secondary importance and does not necessarily have implications in the performance of the company.				x	

1= not at all, 4= to a very great extent]

Question 37.: Do you believe that companies should be required to disclose all necessary non-financial information in the management report?

Yes x	No	Don't know
----------	----	------------

Question 38.: If companies are allowed to publish the required non-financial information in a report that is separate from the management report, to what extent do you agree with the following approaches?

	1	2	3	4	5	Don't know
Legislation should be amended to ensure proper supervision of information published in separate reports.						
Legislation should be amended to require companies to file the separate report with Officially Appointed Mechanisms (OAMs).						
Legislation should be amended to ensure the same publication date for management report and the separate report.				x		

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please provide any comments regarding the location of reported non-financial information.

Non-financial information disclosures should be easy to identify, locate and find, so that users of information may have easy access to it and in order to further promote the ultimate objective of market discipline.

The management report, including the non-financial statement, aims to provide a company’s stakeholders with the information necessary to understand the company’s development, performance, position and impact. Some non-financial information is also reported in the corporate governance statement, which is also part of the management report.

Question 39.: Do you consider that the current segregation of non-financial information in separate non-financial and corporate governance statements within the management report provides for effective communication with users of company reports?

No, not at all	To some extent but not much	To a reasonable extent	Yes, to a very great extent	Don’t know
----------------	-----------------------------	------------------------	-----------------------------	------------

Please provide any comments or explanations to justify your answers to questions 36 to 39.

7. PERSONAL SCOPE (WHICH COMPANIES SHOULD DISCLOSE)

The NFRD currently applies to large Public-Interest Entities (PIEs) with more than 500 employees. In practice this means large companies with securities listed in EU regulated markets, large banks (whether listed or not) and large insurance companies (whether listed or not) – all provided that they have more than 500 employees.

The Accounting Directive defines large undertakings as those that exceed at least two of the three following criteria:

- (a) balance sheet total: EUR 20 000 000;
- (b) net turnover: EUR 40 000 000;
- (c) average number of employees during the financial year: 250.

Some Member States have extended the personal scope of the NFRD by lowering the threshold to 250 employees, in effect capturing all large PIEs.

Companies that are a subsidiary of another company are exempt from the reporting requirements of the NFRD if their parent company publishes the necessary non-financial information at consolidated level in accordance with the NFRD.

There are a number of potential arguments to support the extension of the personal scope of the NFRD:

- Changes in the legislative framework: following the adoption of the Regulation on sustainability-related disclosure in the financial services sector and of the Taxonomy Regulation, investors may require non-financial information from a broader range of investees in order to comply with their own sustainability-related reporting requirements.
- Large unlisted companies can have significant impacts on society and the environment. There may therefore be no *a priori* reason to differentiate between listed and non-listed companies in this respect. In addition, the difference in treatment between listed and non-listed companies in this regard may serve as a disincentive for companies to become listed, and therefore undermine the attractiveness of capital markets.
- Exempting PIEs that are subsidiaries limits the information about impacts on society and the environment, thus undermining the ability of stakeholders of such exempted subsidiaries to hold them accountable for their impacts on society and the environment, especially at local and national level.

Question 40.: If the scope of the NFRD were to be broadened to other categories of PIEs, to what extent would you agree with the following approaches?

	1	2	3	4	5	Don't know
Expand scope to include all EU companies with securities listed in regulated markets, regardless of their size.					x	
Expand scope to include all <i>large</i> public interest entities (aligning the size criteria with the definition of <i>large undertakings</i> set out in the Accounting Directive: 250 instead of 500 employee threshold).					x	
Expand scope to include <i>all</i> public interest entities, regardless of their size.			x			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Question 41.: If the scope of the NFRD were to be broadened to non-PIEs, to what extent would you agree with the following approaches?

	1	2	3	4	5	Don't know
Expand the scope to include <i>large non-listed</i> companies.					x	
Remove the exemption for companies that are subsidiaries of a parent company that reports nonfinancial information at group level in accordance with the NFRD.				x		
Expand the scope to include large companies established in the EU but listed outside the EU.					x	
Expand the scope to include large companies not established in the EU that are listed in EU regulated markets.					x	
Expand scope to include <i>all</i> limited liability companies regardless of their size.			x			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Question 42.: If *non-listed* companies were required to disclose non-financial information, do you consider that there should be a specific competent authority in charge of supervising their compliance with that obligation?

Yes	No	Don't know
-----	----	------------

If yes, please specify who in your opinion should carry out this task (National Competent Authorities, European Supervisory Authorities, other...) and how.

--

Due to the nature of their activities, credit institutions and insurance undertakings have larger balance sheets than non-financial corporations. Hence, the vast majority of such institutions will exceed the balance sheet threshold in the definition of large undertakings set-out in the Accounting Directive. Moreover, the application of some public disclosure requirement of EU prudential regulation for credit institutions and insurance undertakings is defined based on various size thresholds.

For example:

- the [Regulation on prudential requirements for credit institutions and investment firms](#) includes in its definition of large credit institutions those with a total value of assets equal to or greater than EUR 30 billion;
- the same Regulation defines small and non-complex institutions as those that have EUR 5 billion or less total assets;
- the consultation paper published by EIOPA in October 2019 proposes to revise article 4 thresholds of Solvency II (below which entities are excluded from the scope of Solvency II), doubling the thresholds related to the technical provisions (from EUR 25M provisions to EUR 50M) and allowing Member States to set the threshold referring to premium income between the current EUR 5M and until a maximum of EUR 25M.

Question 43.: To what extent do you agree with the following statements relating to possible changes of the personal scope of the NFRD for financial institutions?

	1	2	3	4	5	Don't know
The threshold criteria for determining which banks have to comply with the NFRD provisions should be different from those used by Non-Financial Corporates.				x		

The threshold criteria for determining which insurance undertakings have to comply with the NFRD provisions should be different from those used by Non-Financial Corporates.						
--	--	--	--	--	--	--

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please provide any comments or explanations to justify your answers to questions 40 to 43.

Questions 40 and 41 - Lack of relevant data from their counterparties, in particular SMEs, is one of the main challenge identified by credit institutions for the disclosure of relevant information on ESG risks and factors, and for the management of ESG risks. It is for this reason that the EBA supports the extension of the companies that are under the scope of application of the NFRD. It should include all large companies established in the EU (listed or not listed) and all large companies listed in the EU. As regards SMEs, we support the extension of the scope of application of the NFRD to SMEs in a proportionate way, based on clear proportionality criteria, both quantitative and qualitative. Proportionality criteria should delimit the scope of SMEs, and define also proportionate disclosure requirements, based on simplified standards as proposed in questions 13 to 15 of this questionnaire, that should not impose disproportionate burden to SMEs. Similarly, proportionality criteria and simplified standards could also be considered in the case of PIEs different to listed companies, credit institutions and insurance undertakings, designated by EU Member States.

Question 43 - The EBA insists on the view that the scope of companies subject to NFRD disclosures should be broadened, in order to address the need for relevant information by market participants. In the case of credit institutions the EBA proposal is that the threshold criteria to determine which banks are subject to the NFRD should be defined in a different way. This proposal does not pretend to set a narrower or broader scope of application for banks compared to other companies, as the scope should be similar, but to adjust the threshold to the specific features of banks' business and balance sheet. In this vein, in the case of credit institutions, proportionality criteria could be based on the definition of large, small and non-complex and other institutions included in the Capital requirements regulation. In addition, when setting thresholds for banks, the NFRD should take into account the level of application of the disclosures in the case of banking groups, whether it should be at consolidated level or in some instances, like in the case of e.g. large subsidiaries, also at sub-consolidated or even individual level.

8. SIMPLIFICATION AND REDUCTION OF ADMINISTRATIVE BURDENS FOR COMPANIES

Question 44.: If your company publishes non-financial information pursuant to the NFRD, please state how much time the employees of your company spend per year carrying out this task, including time of retrieving, analysing and reporting the information? Please provide your answer in terms of full-time-equivalents (FTEs, 1 FTE= 1 employee working 40h a week during 250 working days per year). Please provide your answer for reports published in 2019, covering financial year 2018.

--

Please state the total cost per year of any external services, *excluding the cost of any assurance or audit services*, that you contracted to assist your company to comply with the requirements of the Non-Financial Reporting Directive. Please provide your answer for reports published in 2019, covering financial year 2018.

--

The majority of Member States have transposed the NFRD requirements into national legislation making very few changes to the wording of the legal provisions. Therefore, in the majority of the national legal frameworks, companies are required to comply with national legislation that is quite high level, not very prescriptive and do not require the use of any particular reporting standard.

Question 45.: To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
Companies reporting pursuant to the NFRD face uncertainty and complexity when deciding what nonfinancial information to report, and how and where to report such information.				x		
Companies are under pressure to respond to individual demands for non-financial information from sustainability rating agencies, data providers and civil society, irrespective of the information that they publish as a result of the NFRD.				x		
Companies reporting pursuant to the NFRD have difficulty in getting the information they need from business partners, including suppliers, in order to meet their disclosure requirements.						

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please provide any comments or explanations to justify your answers to questions 44 to 45.

<p>The answers to question 45 reflect the need from our point of view of consistent and clear non-financial reporting standards, with a binding nature and a broader scope of application in terms of companies. Clarity, standardisation, binding nature and broader scope of application should help to address companies' uncertainties on the information that they have to disclose, would alleviate their burden to respond to bilateral and ad-hoc requests for information and would also facilitate the access by companies to information from their counterparties.</p>
--