



Non-Binding Guidelines for Reporting of Non-Financial Information by Companies

ICAEW welcomes the opportunity to comment on the *Non-Binding Guidelines for Reporting of Non-Financial Information by Companies* published by European Commission (EC) in February 2016, a copy of which is available from this [link](#).

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MAJOR POINTS

ICAEW and the EU Directive

1. ICAEW supports efforts at a national, European and international level to improve the quality of narrative reporting by large organisations. We contributed to the debate in Brussels from 2011 to 2014 about the objectives, scope and content of the proposed Non-Financial Reporting Directive (the 'NFR Directive'). In our Financial Reporting Faculty's briefing paper of September 2013, for example, we broadly supported the European Commission's legislative proposals, calling for 'positive and cost-effective change across the European Union'. We recommended a number of changes designed to ensure that the proposed new regime would be sufficiently proportionate and flexible. Our principal recommendation - the adoption of an approach to disclosure based consistently on an 'to the extent necessary' formulation, to avoid generic, boilerplate information regarding human rights, bribery and anti-corruption and environmental, social and employee matters - was reflected in the final text.

Non-binding, principles-based guidelines

2. While we understand that the publication of guidelines on the reporting of non-financial information is a requirement of the NFR Directive, we also note that some member states have, in recent years, developed their own guidelines to assist companies in improving the quality of non-financial reporting. With this in mind, we strongly support the approach of producing guidelines that are non-binding.
3. We believe it will be important for the non-binding guidelines to be principles-based. In our view, very prescriptive guidelines and/or detailed examples can result in disclosure of 'boilerplate' or unnecessary information - clutter. Such boilerplate and clutter acts to undermine the ability of the company to tell its 'story' in a clear, concise, imaginative way, and can ultimately result in the disclosure of information that is less meaningful and more challenging to determine key messages. It is therefore important that the guidelines should not undermine the exercise of professional judgement or stifle helpful innovation in reporting practice.
4. In 2014, the UK's Financial Reporting Council (FRC) issued *Guidance on the Strategic Report* which enables companies to comply with a new UK narrative reporting regime. We recommend that the EC considers the structure and content of this guidance, which adopts a principles-based approach and is highly-regarded, when developing its own non-binding guidelines.
5. In our view, good practice on reporting of non-financial information will emerge over time, a process that should be encouraged by the EC guidelines. The guidelines could usefully promote a consistent approach in this area across member states and improve the overall quality of non-financial reporting, but at the same time they should not limit the ability of companies to experiment in their reporting of non-financial information if they wish to.
6. Finally in this context, we strongly believe that the scope of the non-binding guidelines should be limited to those companies required to comply with the NFR Directive. Extending the scope in any way will, in our view, result in unnecessary confusion and uncertainty.

Terminology

7. We note that the EC consultation document uses terminology consistent with the NFR Directive, for example, by referring to a 'non-financial statement'. However, we would urge the EC to consider carefully the terminology used when developing its guidelines, particularly the use of the term 'non-financial statement'. In our view, this term is likely to result in confusion, as it suggests the need for a separate statement which only deals with non-financial matters. This would be unhelpful – it doesn't reflect the flexibility available in NFR Directive and furthermore, is inconsistent with national, European, and international developments towards

broader narrative reporting regimes that encourage reporting on major financial **and** non-financial matters in which investors will be interested.

RESPONSES TO ONLINE QUESTIONNAIRE

Question 1:

What aspects of disclosure of non-financial information do you think that should be addressed by the guidelines? Please order in terms of importance (1 least important, 9 most important).

- Materiality/Relevance
- Usefulness
- Comparability
- Avoiding undue administrative burden
- Comprehensiveness
- Fairness and balance
- Understandability
- Reliability
- Other, please specify: text

8. We do not believe it is helpful or appropriate to rank the various aspects of disclosure as outlined above. In our view, they are all important aspects of non-financial information which should all be addressed in the guidelines.

Question 2:

Who should be considered in your opinion the main audience of the non-financial statement? Please, check the box of the alternative that you consider more appropriate.

- The shareholders
- The investment community in a broad sense
- Users of information with an economic interest, such as suppliers, customers, employees, etc.
- All users of information (including consumers, local communities, NGOs, etc.)
- Other, please specify: text

9. The shareholders (but see the discussion below).

Question 2.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

10. We have selected 'shareholders' above as the main audience of the non-financial information required by the NFR Directive. In our view, this term encompasses present and potential capital providers (for example, investors, lenders and other creditors) but would not extend to the investment community in a broad sense.
11. We accept that for many companies, reporting non-financial information to other stakeholders other than capital providers is also important. Equally, there are situations in which aspects of a company's performance that are of particular interest to other stakeholders are also material to capital providers, or that information provided primarily for capital providers can be useful for other stakeholders too. However, we do not believe that the focus of the non-financial information required by the Directive and included within the annual report should move from capital providers to stakeholders more generally. If this focus is lost, we think that the information provided will be diffused and less useful.

12. Accordingly, we believe the overarching purpose of the guidelines should be to promote effective communication between a company and its capital providers (as defined by us above).

Question 3:

In your opinion, what features make a piece of information material/relevant for the purposes of the non-financial statement? Please, order in terms of importance (1 least important, 7 most important).

- Useful for the management/directors of the company
- Relevant for shareholders or investors' decision-making
- Necessary to understand the impacts of the company's activity
- Necessary to understand the company's development, performance and position
- Necessary to understand how the company manages non-financial risks
- Other, please specify: text

13. See response to question 3.1.

Question 3.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

14. We do not believe it is possible or helpful to rank the features outlined in this question. In our view, the overriding principle here is that information is material or relevant when it is 'relevant for shareholders or investors' decision-making'. The remaining features outlined in question 3, with the exception of the first item (see below), are essentially sub-sets of this overriding principle.
15. In our opinion, whether or not information is 'useful for the management/directors of the company' is not a relevant consideration with regards to the materiality of a piece of information. Management and directors will have access to a wealth of information, often very detailed, that is useful in their operational decision-making, for example monthly management accounts. But much of that information is not relevant for 'shareholders' and investors' decision-making'.

Question 4:

Do you think that the guidelines will be more useful for companies and users if they set out general principles and key ideas or if they put forward solutions in a detailed manner, including on specific sectoral issues? * Please, indicate on a scale from 1 to 5 (1 geared towards general principles, 5 high level of detail/prescription)

16. 1 - ie, geared towards general principles.

Question 4.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

17. We strongly favour guidelines that are principles-based, possibly with some examples of common situations. In our view, very prescriptive guidelines and/or detailed examples can result in disclosure of 'boilerplate' or unnecessary information - clutter. Such boilerplate and clutter acts to undermine the ability of the company to tell its 'story' in a clear, concise, imaginative way, and can ultimately result in the disclosure of information that is less meaningful and more challenging to determine key messages. It is therefore important that the guidelines should not undermine the exercise of professional judgement or stifle helpful innovation in reporting practice.

- 18.** Generally speaking, we believe the guidelines should be easy to follow, logically-ordered, and should clearly distinguish between the requirements of the NFR Directive and the non-binding guidelines provided by the EC. Furthermore, attempts to produce very detailed guidance are likely to complicate the overall drafting process and result in unnecessary delays to its publication.

Question 5:

Please, provide a brief description of how you think that the following matters should be treated in the guidelines, including as appropriate how they should be defined and described:

- a. Business model (text – 400 characters)
 - b. Policies (text – 400 characters)
 - c. Due diligence process (text – 400 characters)
 - d. Business relationships (text – 400 characters)
 - e. Key performance indicators –KPIs (text – 400 characters)
 - f. Outcome of policies (text – 400 characters)
 - g. Principal risks (text – 400 characters)
 - h. Impact of the activity (text – 400 characters)
 - i. Adverse impacts (text – 400 characters)
 - j. Information omitted in exceptional cases where disclosure would be seriously prejudicial (text – 400 characters)
- 19.** In 2014, the UK's Financial Reporting Council (FRC) issued guidance to enable companies to comply with a new UK narrative reporting regime and to help promote more effective communication with capital providers. This principles-based guidance, which is highly-regarded, covers many of the matters outlined above.
- 20.** With this mind, we strongly recommend that the EC considers the structure and content of the FRC's *Guidance on the Strategic Report* guidance when developing the non-binding guidelines for reporting of non-financial information by companies. We have uploaded a copy of the FRC guidance as part of our response to this consultation and outlined any key relevant paragraphs below:
- Business model – paragraphs 7.11 to 7.16
 - Policies – paragraphs 7.29 to 7.34
 - Due diligence process – paragraphs 7.29 and 7.34
 - Business relationships – paragraphs 7.23 to 7.28
 - Key performance indicators – paragraphs 7.43 to 7.50
 - Outcome of policies – paragraphs 7.29 to 7.34
 - Principal risks – paragraphs 7.23 to 7.28
 - Impact of the activity – paragraphs 7.23 to 7.28
 - Adverse impacts – paragraphs 7.23 to 7.28
 - Information omitted in exceptional cases – paragraph 5.12.
- 21.** When providing guidance on the above matters, other than in relation to information omitted in exceptional cases, it will be very important for the EC to emphasise that the NFR Directive

requires companies to disclose the non-financial information only **to the extent necessary** for an understanding of the undertaking's business.

Question 6:

How do you think that the guidelines should approach the disclosure of key performance indicators (KPIs)? * Please, indicate your two preferred approaches (1 Best option, 2 Second preferred option).

- The guidelines should highlight key principles on how to disclose relevant KPIs and complementariness with narrative and/or financial information as applicable
 - The guidelines should make reference to KPIs proposed by other frameworks where addressing concrete matters or issues
 - The guidelines should include a comprehensive list of KPIs, general and sectoral
 - The guidelines should provide flexibility for companies to exercise judgement in deciding what KPIs should be included in their disclosures
 - Other, please specify: text
22. Our preferred approach would be that the guidelines provide flexibility for companies to exercise judgement in deciding what KPIs should be included in their disclosures.
23. Our second preferred approach would be for the guidelines to highlight key principles on how to disclose relevant KPIs and complementariness with narrative and/or financial information as applicable.
24. In 2015, the European Securities and Markets Authority (ESMA) issued *Guidelines on Alternative Performance Measures* which aim to improve the usefulness and transparency of alternative performance measures included in prospectuses or regulated information. It may be helpful for the EC to cross-refer to these guidelines, which we believe to be broadly proportionate. Also, as noted above, we recommend that the EC consider the UK FRC's guidance on KPIs (see our response to question 5) when developing its own guidance on this matter.

Question 6.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

25. Our preferred approaches are underpinned by our general preference for the guidelines to be principles-based rather than providing prescriptive guidance or detailed examples (see our response to question 4.1).

Question 7:

Do you think that the guidelines should include guidance on specific sectoral issues such as responsible supply chain management of conflict minerals? * Please, indicate on a scale from 1 to 5 (1 geared towards general principles, 5 high level of detail/prescription)

26. No ranking is provided. Our explanation is given in response to question 7.1.

Question 7.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

27. We do not think the guidelines should include guidance on specific sectoral issues. In our view, providing guidance on such specific matters would go beyond the overriding principle that the capital providers of the company (see response to question 2) are the main audience for the non-financial information required by NFR Directive. If such information is relevant to the decision-making of capital providers it will already be captured by the requirements of the Directive and therefore dealt with in any corresponding principles-based guidelines.

- 28.** In our view, providing detailed guidance on such matters is likely to result in 'boilerplate' or unnecessary information. Other non-financial or regulatory information that is not necessarily relevant to capital providers in terms of company performance, but which is considered necessary or relevant for another public policy purpose, should be dealt with separately.

Question 8:

How do you think that the guidelines should relate to existing national, international or other EU-based frameworks (such as UN Global Compact, the UN Guiding Principles on Business and Human Rights, OECD guidelines for multinational enterprises, the ILO Tripartite Declaration of principles concerning multinational enterprises and social policy, EMAS, etc.)? Please, order in line with your views (1 least in line, 6 most in line)

- The guidelines should include detailed solutions and be an exhaustive document in a way that could make unnecessary for companies the use of other guidelines
 - The guidelines should be complementary to other frameworks
 - The guidelines should make reference to other frameworks where addressing concrete matters or specific issues
 - The guidelines should get general inspiration from other frameworks
 - The guidelines should explain how content produced in the context of other frameworks could be used in the non-financial statement
 - Other, please specify: text
- 29.** While we understand that the publication of non-binding guidelines for the reporting of non-financial information is a requirement of the NFR Directive, we also note the wide-range of existing guidance and the numerous frameworks available at a national, European and international level. In our view, it would not be helpful for the EC guidelines to try to refer to all of the available frameworks and guidance. This may result in confusion and in any case the references are likely to become out of date quickly, and would therefore require regular updating.
- 30.** We believe that it would be more helpful for the EC's non-binding guidelines to acknowledge the existence of other guidance and frameworks, possibly with some limited examples. However, in making reference to the use of alternative guidance/frameworks, it would be important for the EC guidelines to emphasise that the focus of the NFR Directive is to provide non-financial information relevant to capital providers.
- 31.** In our view, good practice on reporting of non-financial information will emerge over time, a process that should be encouraged by the EC guidelines. The guidelines could usefully promote a consistent approach across member states and improve the overall quality of non-financial reporting, but they should not limit the ability of companies to innovate and experiment if they wish to.

Question 8.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

- 32.** Our response to question 8 is underpinned by our general preference for the guidelines to be principles-based rather than providing prescriptive guidance or detailed examples (see our response to question 4.1).

Question 9:

Do you think that when preparing the guidelines only the companies included in the scope of the directive should be considered, or that the interests, characteristics and/or requirements of other companies that prepare management reports should be taken into

account as well? Please, check the box of the alternative that you consider most appropriate.

- Specific to the requirements of the companies under scope of the directive
- Consider all large companies
- Consider all companies
- Focus on the requirements of the companies under the scope of the directive, but also propose best practice for other companies that prepare management reports

33. Our answer is 'specific to the requirement of the companies under scope of the directive'.

Question 9.1:

Accordingly, do you think that the content of the guidelines should be different according to the targeted companies? Would you please, provide a brief explanation? *(text – 400 characters)

34. No. It is not clear to us why the guidelines would be useful to companies outside the scope of the NFR Directive. In our view, the guidelines should not differ according to different types of company – the same guidelines should apply to all, and only, those companies within the scope of the NFR Directive.

Question 10 [only for respondents that are companies]:

Does your company disclose annually relevant non-financial information?

- Yes
- No

If so, does your company use any existing reporting framework(s)?

- Yes
- No

If so, would you, please, indicate which one(s)? (text – 100 characters)

35. Not applicable.

Question 11:

Should the guidelines provide more clarity on what companies should disclose as regards their board diversity? *

- Yes
- No
- No position

36. Yes (see below).

Q11.1:

Would you, please, provide a brief explanation? *(text – 400 characters)

37. We believe it will be useful for the guidelines to reiterate the examples of diversity eg, age, gender, educational or professional background, given in the NFR Directive, particularly for any member states that do not currently have an established regime for reporting on diversity. It may also be helpful to provide some general examples, although care would need to be taken to avoid any detailed examples which may appear prescriptive and result in boiler-plate and unhelpful disclosures.

V. Final

Please, upload, as needed, any relevant document or information that you consider useful for the purposes of this consultation.