



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

#### **Disclaimer**

This document is a working document of the Commission services for consultation and does not prejudice 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.

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You are invited to reply **by 14 May 2020** at the latest to the **online questionnaire** available on the following webpage: [https://ec.europa.eu/info/publications/finance-consultations-2020-non-financial-reporting-directive\\_en](https://ec.europa.eu/info/publications/finance-consultations-2020-non-financial-reporting-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-financial-reporting-directive\\_en](https://ec.europa.eu/info/publications/finance-consultations-2020-non-financial-reporting-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 non-financial 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 non-financial 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 (EU) 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. not applicable

2. not applicable

3. not applicable

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).

Disclosures on material short- and long-term targets regarding non-financial parameters

Providing information on target achievements in the particular financial year (also regarding interim targets) including explanations

Investment in intangible assets currently represents the majority of investment carried out by the private sector in advanced economies.<sup>1</sup> There is a long-standing debate about the need for better reporting of intangible investments in company reports, including in relation to sustainability.<sup>2</sup> 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 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	No <b>X</b>	Don't know
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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.

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

<sup>2</sup> 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-research-project-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>.

**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 a reasonable extent <b>X</b>	To a very great extent	Don't know
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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 <b>X</b>	There are gaps	There is a need to streamline <b>X</b>	It does not work at all	Don't know
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**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 <b>X</b>	No	Don't know
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Please provide any comments or explanations to justify your answers to questions 1 to 7.

## 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).

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**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 <b>X</b>	To a very great extent	Don't know
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**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 <b>X</b>	No	Don't know
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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 Non-Financial Reporting Directive, taking into account the double-materiality perspective (See section 4)?

	1	2	3	4	Don't know
<a href="#">Global Reporting Initiative</a>			<b>X</b>		
<a href="#">Sustainability Accounting Standards Board</a>			<b>X</b>		
<a href="#">International Integrated Reporting Framework</a>	<b>X</b>				
Another framework or standard *					

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

**Question 10.1** Do you consider that other standard(s) or framework(s), applied on their own, would resolve the problems identified while also enabling companies to comprehensively meet the current disclosure requirements of the NFRD?

Yes	No <b>X</b>	Don't know
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**Question 10.2** Please specify which other standard(s) or framework(s) you consider, applied on their own, would resolve the problems identified while also enabling companies to meet the comprehensively current disclosure requirements of the NFRD, and to what extent:

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

	1	2	3	4

*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 non- financial 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
<a href="#">Global Reporting Initiative</a>			X		
<a href="#">Sustainability Accounting Standards Board</a>			X		
<a href="#">International Integrated Reporting Framework</a>			X		
<a href="#">Task Force on Climate-related Financial Disclosures (TCFD)</a>				X	
<a href="#">UN Guiding Principles Reporting Framework (human rights)</a>			X		
<a href="#">CDP</a>			X		
<a href="#">Carbon Disclosure Standards Board (CDSB)</a>			X		
<a href="#">Organisation Environmental Footprint (OEF)</a>		X			
<a href="#">Eco-Management and Audit Scheme (EMAS)</a>		X			

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

**Question 11.1** Do you consider that the principles and content of other existing standard(s) or framework(s) should be incorporated in a potential common European non-financial reporting standard?

Yes	No	Don't know
X		

**Question 11.2** Please specify the existing standard(s) or framework(s), whose principles and content should be incorporated in a potential common European non-financial reporting standard, and to what extent:

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

	1	2	3	4	5
1. German Accounting Standard No. 20 (group management report)			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 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.
not applicable	

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 non-financial 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	No	Don't know
<b>X</b>		

**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	Don't know
	<b>X</b>			

**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	Voluntary <b>X</b>	Don't know
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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	To a very great extent <b>X</b>	Don't know
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**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 non-financial reporting standard?

	1	2	3	4	Don't know
Investors				<b>X</b>	
Preparers				<b>X</b>	
Auditors/accountants				<b>X</b>	

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			<b>X</b>		
Academics				<b>X</b>	
Other*			<b>X</b>		

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

**Question 18.1** Do you consider that other stakeholder(s) should be involved in the process of developing a European non-financial reporting standard?

Yes <b>X</b>	No	Don't know
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**Question 18.2** Please specify which other stakeholder(s) you consider should be involved in the process of developing a European non-financial reporting standard and to what extent:

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

	1	2	3	4
Accountancy Europe			X	
Employees			X	
Industry associations (especially regarding SMEs)			X	

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 <sup>3</sup>		X			
Other*					

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

**Question 19.1** Do you consider that other European public body/ies or authority/ies should be involved in the process of developing a European non-financial reporting standard?

Yes	No X	Don't know
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**Question 19.2** Please specify which other European public body/ies or authority/ies you consider should be involved in the process of developing a European non-financial reporting standard and to what extent:

\*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= 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

<sup>3</sup> 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.

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 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*	X				

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

**Question 20.1** Do you consider that other type of national authorities or bodies should be involved in the process of developing a European non-financial reporting standard?

Yes	No	Don't know
	X	

**Question 20.2** Please specify which other type of national authorities or bodies you consider should be involved in the process of developing a European nonfinancial reporting standard and to what 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= 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.

Q9: Industry-specific rules may make sense if there are particular industry-specific ESG impacts.

Q10: The IR framework is not particularly a standard on non-financial disclosure. Rather it provides a general conceptual approach regarding the inter-connected impacts of financial and non-financial factors on corporate value creation. It stresses the importance of the so-called “integrated thinking” in corporate management.  
The GRI Standards exceed the current requirements of the NFRD, hence, they can partially be used to comply with the NFRD but will lead to more extensive reporting if fully applied. Moreover, it is doubtful whether the materiality definitions are matching perfectly.

Q11: We strongly reject the idea of a specific and precise EU standard on ESG disclosures. As climate change, social imparity, sustainability, and therefore ESG matters, are global challenges that only can be met globally the EU should play a strong role in the global initiatives to develop a global standard of NFR. Different national or regional standards around the world hinder comparability and provoke a huge burden for the companies preparing the reports as well as the users of the reports in making adequate comparisons and the right decisions based on the information provided. As it is true for financial it is also true for non-financial information: there should be a global standard for a global capital market and for globally acting companies.

Q13: The “simplified standard” should be more or less the same as the standard for non-SMEs however with reduced requirements. There shouldn’t be different reporting approaches or ESG measures for large and small companies. Just the amount of disclosed information should be generally reduced. It also should be safeguarded that the “market” or the non-SMEs cannot put pressure on SMEs to provide the same information as non-SMEs despite reduced regulatory requirements.

Q16: Yes, connectivity of financial and non-financial factors, aspects and therefore information is key. Having said this, it is very important that the non-financial disclosure standard is developed – as the financial one – by an international standard setter that has the globally accepted authority to govern over international non-financial reporting. Thus, there is a very strong need to create such an international non-financial-standard-setter that cooperates with the IASB in order to reach an appropriate level of connectivity of the provided information.

Q19/20: The EEA or “environmental authorities” stand for only one, albeit very important (sub-)aspect of the ESG disclosure requirements of the NFRD. Therefore, the exclusivity of naming only the environmental organizations in the question is not appropriate. There are other ESG aspects that are equally important (not at least social ones).

In addition, national accounting standard setters should be involved to an appropriate extent in order to take account of national specificities in non-financial reporting.

### 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<sup>4</sup>. 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.

‘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 non-financial 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 <b>X</b>	Don’t know
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<sup>4</sup> 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).

**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 <b>X</b>	Don't know
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**Question 23.:** If you think there is a need to clarify the concept of 'material' non-financial information, how would you suggest to do so?

The principle of materiality for non-financial reporting is more challenging than that for financial reporting. A clarification of the concept of materiality should include the following aspects:

- Consideration of the dual perspective of materiality: impact of a company on the environment and society (inside-out perspective), and impacts of the environment and society on the company (outside-in perspective);
- Clarification that information that only meets one of the two directions of materiality are considered material following the NFRD. The text of the NFRD must be clear, i.e. it has to be stated unambiguously that information is not only material if both directions are met.
- Consideration of a longer time-horizon related to non-financial information compared to common financial information;
- Consideration of the higher level of subjectivity, especially with regard to forward-looking information; link to the company's strategy, governance and risk management

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

Yes	No	Don't know <b>X</b>
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Please provide any comments or explanations to justify your answers to questions 21 to 24.

Q24: As the materiality judgement depends very much on the business model, the industry, the size, the stakeholders' and management's sensibility regarding ESG aspects as well as on other factors, it is considerably subjective. Therefore, the answer needs a two-fold consideration: 1) If the NFR is audited by an external party, this party needs to audit the materiality assessment process in order to provide a reliable opinion. Thus, the audit needs to make sure that this process is appropriate. Additional disclosures about the process should therefore not be required. They even could lead to an information overload and "noise" in the report. 2) If the NFR is not audited, the disclosure about the assessment process is necessary to give the users or the report an idea of how serious the management takes the challenge to incorporate ESG issues in its strategic and operative decisions. As the materiality judgement is very much governed by the „management approach“, instead of a requirement, the NFRD could include a principle-based recommendation to give information about the materiality assessment process.

**4. ASSURANCE (Question 25-32)**

The NFRD requires that the statutory auditor or audit firm checks whether the non- financial state- ment 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 con- sistent with the financial statements for the same financial year; and (ii) has been prepared in ac- cordance with the applicable legal requirements. Article 34 of the Accounting Directive also re- quires 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 <b>X</b>	To a reasonable extent	Yes, to a very great extent	Don't know
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**Question 26.:** Should EU law impose **stronger assurance requirements** for non-financial infor- mation reported by companies falling within the scope of the NFRD?

Yes <b>X</b>	No	Don't know
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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 cri- teria.
- **Limited assurance** engagements provide a lower level of assurance than the reasonable assur- ance engagements. The conclusion is usually provided in a negative form of expression by stat- ing 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	Limited <b>X</b>	Don't know
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**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 assess- ment process**?

Yes <b>X</b>	No	Don't know
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**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 <b>X</b>
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**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 <b>X</b>	No	Don't know
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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.

The only international assurance standard that can be perceived as adequate is ISAE 3000. However, with the given and increasing importance of the NFR, it is necessary that the international accounting profession (e.g. IAASB) develops a new assurance standard that is aligned with the non-financial reporting requirements and that should then be implemented by EU member states' assurance standard setters in their jurisdictions.

**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 <b>X</b>	Don't know
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**Question 32.:** Do you publish non-financial information that is assured?

Yes	No
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**Question 32.1:** If you do publish non-financial information and that information is assured, please indicate the annual costs of such assurance:

Not applicable

**Question 32.2:** If you provided an answer to the previous question, please describe the scope of the assurance services provided (issues covered, reasonable/limited, etc.).

Not applicable

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

Q26: The “yes” to question 26 arises from the fact that there are for the time being no assurance requirements for non-financial information reported by companies falling within the scope of the NFRD on a European or international level. In addition, the auditing profession has so far not been exclusively authorized to perform the assurance service. There are other institutions that are (at the moment) equally authorized to provide certification or assurance services under the NFRD. This might not have a positive effect on the quality and reliability of the reporting and suggests to the reader a misleading picture of the audit work performed.

Thus, the current level of assurance regulation does not correspond with the current and future importance of non-financial reporting. Especially in front of the background of the politically intended transformation of the EU’s finance system in order to achieve the Paris climate goals the audit of information is of crucial importance.

Q27: For the time being, a general requirement to have a reasonable assurance level for NFR is not appropriate. There is still a considerable amount of ESG categories and aspects where precise definitions and measures are missing. This fact hinders the application of an assurance on a reasonable level, because such a level would provoke a large expectation gap on the side of the users of NFR. On the long run, it might be possible to overcome the current challenges of ESG disclosures. Then, the audit on a reasonable assurance level would be feasible, desirable and would represent the equal importance and the connectivity with financial disclosures.

Q29: To our perception, there is not a clear “yes” or “no” to this question, because the answer depends on whether the non-financial information is audited on a reasonable or on a limited assurance level. If the assurance level were reasonable the answer should be “yes” (comparable to the audit of the financial accounts). If the assurance level is limited, it is not appropriate to publish the key engagement risks, the auditor’s response to these risks and any related key observations.

In addition, the usefulness of the disclosure of the key audit matters for financial statements audits has been considerably questioned. So, it might be argued that this information requirement shouldn’t be transferred to the NFR.

## 5. DIGITISATION (Question 33-35)

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 <b>useful</b> to require the <b>tagging</b> of reports containing <b>non-financial information</b> to make them machine-readable.			X			
The tagging of non-financial information would <b>only</b> be possible if reporting is done <b>against standards</b> .				X		
All reports containing non-financial information should be available through a <b>single access point</b> .					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 X	To a reasonable extent	Yes, to a very great extent	Don't know 2
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**Question 35.:** Please provide any **other comments** you may have **regarding** the **digitalisation** of sustainability information:

It is currently unclear who would use the digitized information. The effort to tag information is very high. Before tagging is required, other elements of the reporting environment need to be set (e.g. reporting standards, assurance standards, level of assurance). In this regard it is also necessary to differentiate between “core sustainability information” that is of major importance to all types of users (in particular investors, lenders etc.) and sustainability information that is also of relevance but for particular stakeholder groups. Especially regarding the “core information” tagging would increase the usefulness. This is in particular the case, if the non-financial information is provided at the same time as the financial one. However, this requirement of

tagged non-financial and financial information at the same time raises the challenge and the burden for the providers of the information, who are the preparers of the reports.

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

Q33: A single access point and machine-readable non-financial information can benefit users of non-financial reports in the long run. However, tagging non-financial information might be complex and might require a significant level of standardization. Otherwise, there is a high risk of inconsistent tagging which might not create enough reliable and relevant information for its cost. It is doubtful whether such a level of standardization is desired for non-financial reporting. It is also doubtful whether information users are really interested in tagged information if this is provided with a time lag to the information through other channels such as PDF-reports. Corporate experience shows that users do not retrieve tagged information to a large extent if it is provided after the same information in a different form or through other channels (like PDFs).

Q34: At present, non-financial reporting is still under development. There are lots of non-binding reporting standards and there is no clear guidance. This hinders tagging that affords a high level of standardization. A taxonomy on which tagging can reasonably be performed is still in quite far distance. Consequently, it is hardly possible to estimate the resulting costs and benefits in this context. With regard to the costs it would be necessary to differentiate between initial costs and subsequent (permanent) costs. The initial costs are expected to be considerable, the subsequent costs might not be material, provided that there are not constant changes in the taxonomy.

Overall, while the costs might be estimable in monetary terms, this is not possible regarding the benefits, that are even not quantitatively measurable. Thus, a direct comparison between costs and benefits might always fail.

## 6. STRUCTURE AND LOCATION OF NON-FINANCIAL INFORMATION (Question 36-39)

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	5	Don't know
The option to publish the non-financial statement as part of a <b>separate report</b> creates a <b>significant problem</b> because the non-financial information reported by companies is <b>hard to find</b> (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 <b>different reports</b> creates the perception that the information reported in the separate report is of <b>secondary importance</b> and does not necessarily have implications in the performance of the company.				X		

1= not at all, 2= to some extent but not much, 3= to a reasonable extent, 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	No	Don't know X
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**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 <b>supervision</b> of information published in separate reports.				X		
Legislation should be amended to require companies to <b>file</b> the separate report with <b>Officially Appointed Mechanisms (OAMs)</b> .				X		
Legislation should be amended to ensure the same <b>publication date</b> 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)

**Question 38.1.:** Please provide any comments regarding the location of reported non-financial information.

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 <b>X</b>	To a reasonable extent	Yes, to a very great extent	Don't know
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Please provide any **comments or explanations** to justify your answers **to questions 36 to 39.**

Q37: We "don't know" because the term "necessary" is not defined in any way in the question, which can therefore not be faithfully answered. The management approach largely applies to the content of the management report. So, if the question is related to the "necessity"-judgement of the management, then our answer would be "yes". If it is related to the regulatory requirements without taking into account the view of the management, then our answer would be "no", because this would undermine the management approach.

Q39: For us, the issue with separate reports is the (perceived) lack of relevance and connectivity of non-financial information compared to the financial one in the management report. For some readers, who are looking for a very specific, yet small and isolated piece of information, it might not be conflicting or may even be helpful to have a segregation of information in various statements. However, overall, we do not share this view, because showing the interdependencies within these pieces of information according to the view of the management can often be of decisive relevance for readers, especially investors.



## 7. PERSONAL SCOPE - WHICH COMPANIES SHOULD DISCLOSE (Question 40-43)

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 <b>with securities listed</b> in regulated markets, <b>regardless of their size.</b>				X		
Expand scope to include <b>all large public interest entities</b> (aligning the size criteria with the definition of <i>large undertakings</i> set out in the Accounting Directive: <b>250 instead of 500 employee</b> threshold).			X			
Expand scope to include <b>all public interest entities, regardless of their size.</b>		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 <b>large non-listed companies</b> .				X		
Remove the exemption for companies that are <b>subsidiaries</b> of a parent company that reports non- financial information at group level in accordance with the NFRD.		X				
Expand the scope to include <b>large companies established in the EU but listed outside the EU</b> .			X			
Expand the scope to include large companies <b>not established in the EU that are listed in EU</b> regulated markets.			X			
Expand scope to include <b>all limited liability companies</b> 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 X	Don't know
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**Question 42.1.:**

If you consider that there should be a specific competent authority in charge of supervising non-listed companies' compliance with the obligation of disclosing non-financial information, please specify who in your opinion should carry out this task (National Competent Authorities, European Supervisory Authorities, other...) and how:

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

(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**.

## 8. SIMPLIFICATION AND REDUCTION OF ADMINISTRATIVE BURDENS FOR COMPANIES (Question 44-45)

**Question 44.:** Does your company publish non-financial information pursuant to the NFRD?

Yes	No	Don't know X
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**Question 44.1:** 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, analyzing 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.

Not applicable

**Question 44.2:** 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.

Not applicable

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 <b>uncertainty</b> and complexity when deciding <b>what</b> non- financial information to report, and <b>how and where to report</b> such information.			<b>X</b>			
Companies are under <b>pressure to respond to individual demands</b> 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.					<b>X</b>	
Companies reporting pursuant to the NFRD have <b>difficulty in getting the information</b> they need <b>from business partners</b> , including suppliers, in order to meet their disclosure requirements.				<b>X</b>		

*(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**.

Q44: We are a working group of the Schmalenbach-Gesellschaft für Betriebswirtschaft (a German registered non-profit association), that has accountants as well as preparers and auditors of financial and non-financial statements and accounting academics as members. Therefore, we do not present corporate reports (neither financial nor non-financial ones).