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Fitness Check on the EU framework for public reporting by companies

Accompanying the document

Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee

on the review clauses in Directives 2013/34/EU, 2014/95/EU, and 2013/50/EU

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List of abbreviations and acronyms used in this report

AD	Accounting Directive (Directive 2013/34/EU)
AFR	Annual Financial Report (as defined by the Transparency Directive)
API	Application Programming Interface
ARC	Accounting Regulatory Committee
BAD	Bank Accounts Directive (Council Directive 86/635/EEC)
BRIS	Business Registers Interconnection System
CBCR	Country-By-Country Reporting
CLD	Company Law Directive (Directive 2017/1132/EU)
CMU	Capital Markets Union
CRD	Capital Requirements Directive (Directive 2013/36/EU)
CRR	Capital Requirements Regulation (Regulation (EU) No 575/2013)
CSDR	Central Securities Depositories Regulation (Regulation (EU) No. 909/2014)
CSV	Comma-separated values file
EEA	European Economic Area
EBA	European Banking Authority
EEAP	European Electronic Access Point
EGESC	Expert Group of the European Securities Committee
ESG	Environmental, Social and Governance
eIDAS	Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market
EITI	Extractive Industries Transparency Initiative
ESEF	European Single Electronic Format
ESMA	European Securities and Markets Authority
GAAP	Generally Accepted Accounting Principles
nGAAP	national Generally Accepted Accounting Principles (in a Member State)
GRI	Global Reporting Initiative
IAD	Insurance Accounts Directive (Council Directive 91/674/EEC)
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
ISIN	International Securities Identification Number
MS	Member State
MTFs	Multilateral Trading Platforms
NCA	National Competent Authority
NFRD	Non-Financial Reporting Directive (Directive 2014/95/EU)
OAM	Officially Appointed Mechanism (body for national storage of regulated information)
P&L	Profit & Loss
PIE	Public-Interest Entity
PR	Prospectus Regulation (Regulation (EU) 2017/1129)
REFIT	Regulatory Fitness and Performance Programme
RTS	Regulatory Technical Standards
SMEs	Small and medium-sized Enterprises
TCFD	Task Force on Climate-related Financial Disclosures
TD	Transparency Directive (Directive 2004/109/EC)
TFEU	Treaty on the Functioning of the European Union
XHTML	EXtensible HyperText Markup Language
XLSX	Microsoft Excel Open XML Spreadsheet
XML	EXtensible Markup Language

EXECUTIVE SUMMARY

Context and objectives

The primary function of public reporting by companies is to enable stakeholders to make informed decisions so as to protect their interests, make investment decisions, or hold companies publicly accountable. The range of stakeholders includes predominantly investors, creditors, civil society and trade unions. Public reporting by companies established in the EU is largely governed by the EU framework on public reporting. The aim of the information to be published under the EU framework is to contribute to the broader EU objectives to achieve (i) an efficient functioning single market; (ii) an integrated capital market; (iii) financial stability, and (iv) sustainable growth.

The legal instruments that make up the EU framework for public corporate reporting have been adopted progressively over the last decades. They span an era with varying levels of ambition on European integration and significant changes in the way business creates value, largely driven by fast technological developments, and increasing societal accountability.

The EU framework assessed in this fitness check comprises the legislative instruments that were adopted from 1978 to 2014, namely the Accounting Directive (AD) including the Non-Financial Reporting Directive (NFRD), the Bank Accounts Directive (BAD), the Insurance Accounts Directive (IAD), the Transparency Directive (TD) and the IAS Regulation (IAS). These instruments apply cumulatively. They set out tailored requirements depending on the type and size of companies: limited liability companies, listed companies, non-listed financial institutions and insurance companies. This fitness check was largely structured around these different types and sizes of companies, recognising that the companies often have different stakeholder compositions.

Corporate reporting has evolved to make companies more accountable on broader economic and societal issues. Today, it covers a broad range of financial and non-financial information such as financial statements, management reports or reports on payments to government. This fitness check assesses whether the EU framework has effectively and efficiently achieved its intended objectives and is still fit for purpose in the light of evolving societal and technological challenges, including the increased importance of sustainability aspects such as climate change. The fitness check also seeks to identify potential inconsistencies or overlaps with other EU legislation.

This fitness check assessment was initiated in 2018. It is based on research carried out by Commission services a thorough consultation including a written public consultation as well as interactions with stakeholders (conference, workshops) and with key expert groups.

Key findings

The underlying objectives of the EU framework remain relevant. The EU continues to be the right level to set public reporting policies to pursue the objectives of developing the internal market and an integrated capital market in general.

The effectiveness of the EU framework was first assessed against the immediate objectives of providing stakeholders with financial and non-financial information that is sufficient in quantity and quality, relevant, comparable, reliable and timely. The EU framework was then assessed in terms of its contribution to broader EU objectives of (i) an efficient functioning of the single market, (ii) an integrated capital market, (iii) financial stability and (iv) sustainable growth.

Overall, the EU framework for corporate reporting achieves the immediate objectives to a great extent. In particular, the IAS Regulation appears to be the most effective instrument in ensuring high-quality and comparable public financial information across the EU.

Public reporting by companies to stakeholders is a very important factor in assessing whether the broader EU objectives are achieved, but it is not the only factor. It is difficult to isolate the impact of the EU framework on public reporting from other factors such as other EU financial regulations pursuing the same objectives (e.g. prudential regulation), or additional national legal requirements for directives that set a minimum level of harmonisation. Nevertheless, academic research provides empirical evidence that the EU framework has reduced the cost of capital, as confirmed by feedback received during the consultation process.

However, there are a number of caveats to the overall effectiveness of the EU framework.

As regards financial information, the Accounting Directive (AD) ensures that limited liability companies publicly disclose a minimum set of information commensurate to their size (micro, small, medium, large) and provide the necessary information to stakeholders. But the AD has a number of lacunas, especially in terms of the relevance and comparability of information. As regards relevance, there are lacunas due to the lack of standardisation on certain accounting treatments – an example is leases. The Member States have mitigated the overall impact of these lacunas, either by supplementing the minimum requirements of the AD in their national Generally Accepted Accounting Principles (nGAAP) or by expanding the scope of companies allowed or required to use International Financial Reporting Standards (IFRS). Lacunas can also be identified in relation to limited availability of data about exposures to financial risks that are linked to sustainability, notably climate risks.

As regards comparability, the minimum harmonisation and principles-based approach in the AD leads to a fair level of comparability in form (prescribed lay-outs) but in substance comparability is not so good, given the numerous options available. This is mainly a concern for stakeholders with an interest in companies with cross-border operations, i.e. larger companies. As a mitigating factor, these count for 2% of all EU limited liability companies.

As regards the timeliness of information provided to stakeholders, the AD permits companies to publish information up to 12 months after the balance sheet date. The publication deadlines implemented by Member States is effectively from 4 to 12 months, with nine Member States granting companies more than 10 months before publication. Such long deadlines raise concerns on the relevance of information for stakeholders, especially trade creditors. There is also evidence that many companies tend to delay publication beyond the legal deadlines. This may be a consequence of insufficiently dissuasive penalties issued in the Member States.

The lacunas in the Accounting Directives are more acute for banks and insurance companies complying with nGAAP, because the EU framework has become less relevant than supervisory reporting, which has been drastically upgraded at the EU level for banks and insurance companies in recent years. The wide use of IFRS standards by large banks and the concentration of the banking industry have significantly reduced the banking assets volumes reported under the Bank Accounts Directive. Both Directives still contribute in terms of improving the relevance and comparability of financial statements through their definitions and lay-outs of the financial statements.

The aim of non-financial reporting is to meet stakeholders' information needs, which have expanded beyond the financial performance of reporting entities. Non-financial information is

increasingly important for investors, creditors and other users such as civil society organisations. The Non-Financial Reporting Directive (NFRD) has led to an increase in the quantity of non-financial information disclosed. But some significant deficiencies in company disclosures have nevertheless been identified, including the failure to disclose all relevant information, and the limited comparability and reliability of the information disclosed. Although the NFRD was a pioneering piece of legislation when it was adopted in 2014, it may no longer be an adequate response to new challenges, in particular the growing needs of investors and other stakeholders for information on the sustainability crises that we face. As a result, as regards the broader objective to achieve sustainable growth, the assessment suggests that the EU framework does not ensure that reporting practices are adequate to enable stakeholders to make informed decisions and hold companies accountable for their impact. The extent to which the EU framework contributes to the broader objective of sustainable growth therefore remains limited.

As regards the management report, there is a growing demand for a better link between financial and non-financial information, better comparability if possible, and the need for more information on intangibles.

Country-By-Country Reporting (CBCR) in the extractive and logging sectors is a new policy. It is too soon to tell whether this has produced significant changes in governments' accountability and resource management in resource-rich countries. However there is no doubt that it has been effective in increasing the transparency of payments made by companies to governments linked to the exploitation of natural resources. Civil society and business alike are concerned by the lack of a global level playing field since the policy is applied only by the European Economic Area, United Kingdom, Canada, and more recently by Switzerland. A level playing field would ensure full reporting coverage and ease the concerns of EU companies in terms of competition. The scope to apply this policy in the logging industries appears to be very narrow, and it triggers hardly any reports. Users report certain shortcomings in the design of the policy such as on joint ventures and difficulties in terms of access and use (machine readability).

The reliability of financial information disclosed by listed companies was found to be overall good, due to the cascade of requirements of collective board responsibility for the true and fair view of financial statements, to the mandatory statutory audit for all listed companies, and securities market supervision. However, enforcement practices of national supervisors still differ significantly across the EU. The Wirecard case[1] confirmed this and indicated that the EU framework presents potential weaknesses as regards the effectiveness of enforcement practices, in particular as regards the lack of coordination between national authorities and the independence of the authorities in charge of examining financial information.

Turning to efficiency, performing a cost/benefit analysis of the entire EU reporting framework proved difficult. To begin with micro companies, the Commission services remain unconvinced that EU reporting requirements are relevant to the 14.2 million micro companies. The attempt to reduce the reporting cost when revising the Accounting Directive in 2013 by bringing in a super-simplified reporting regime has only partly been achieved. One reason is that even if the majority of Member States have alleviated the micro regime, about half of the Member States have not fully implemented the simplified regime, which affects at least 40% of micro companies. Another reason is that even where a simplified regime is in place, many micro companies are

[1] Wirecard, a German company with shares listed on the EU regulated markets, declared bankruptcy in June 2020 after revelations that €1.9 billions in cash reported in the group's balance sheet were missing.

unaware of it, especially when they use the services of an external accountant. Some are reluctant to change practice.

A key finding of this fitness check as regards efficiency is the need to tap the potential of digital tools to structure, re-use, secure, disseminate and give easier access to both financial and non-financial information. The EU framework has started to do so, for instance with the recent adoption of the ESEF Regulation under the Transparency Directive, which makes the consolidated IFRS financial statements of listed companies both human and machine-readable, and with the recent adoption of Directive (EU) 2019/1151 as regards the use of digital tools and processes in company law. However, much remains to be done. The new action plan on the capital markets union adopted in September 2020 suggested creating a European Single Access Point (ESAP) as a matter of priority.

IFRS standards can only be incorporated into EU law if they meet the criteria for endorsement laid down by the IAS Regulation. One criterion is the conduciveness to the European Public Good, which encompasses significantly broader considerations than the capital provider focus adopted by the International Accounting Standard Board (IASB) in developing IFRS standards. Currently, the IAS Regulation provides limited flexibility to amend standards as issued by the IASB, in case a standard would not meet the technical endorsement criteria or not be conducive to the EU public good. Introducing greater flexibility in the IAS Regulation's endorsement procedure could in principle be considered beneficial to address situations in which only some aspects of a standard would not meet the technical endorsement criteria or not be conducive to the EU public good. However, the EU has so far been able to deal with such situations using the limited flexibility available within the confines of the IAS Regulation (the so-called "carve-out" power and the "top-up") and has only needed to do so sparingly on only two occasions since 2003 to cover very limited elements of two standards. This suggests that the endorsement procedure foreseen in the current legal framework provides sufficient flexibility in most cases. There may nevertheless be a case to clarify the endorsement criteria included in the IAS Regulation, in particular in light of the growing importance of sustainability considerations for investment decisions.

Finally, the EU reporting framework is generally internally consistent. There are risks that different pieces of EU legislation that require sustainability disclosures may lack coherence, in particular regarding the financial sector. Legislative and non-legislative developments in this field will need to be followed closely to ensure that the overall sustainability reporting framework remains coherent.

Follow-up

Although it is beyond the scope of the fitness check to provide follow-up action, this section highlights some of the main areas that could be addressed to improve the EU framework. The EU framework on public reporting for non-financial information is relatively recent, but its requirements and public reporting practices are not commensurate with the EU's ambition to become a sustainable economy and society.

Further digitalisation of public reporting could significantly improve companies' access to and use of public reporting.

The IAS Regulation appears to be the most effective instrument in ensuring comparable and complete financial information across Europe. Based on further consultation with all stakeholders, a comprehensive cost-benefit analysis could be carried out to assess whether to

expand the scope of EU-endorsed IFRS to all companies listed on regulated markets and, as a company option, to small and medium-sized enterprises (SMEs) that plan to issue securities or to larger non-listed companies.

As regards limited liability companies in general, more could be done to ensure they publish financial information without delay. Some aspects of CBCR for extractive and logging industries could be improved, such as reporting on joint ventures, accessibility and electronic usability, but also to continue to promote reporting worldwide in order to level the playing field.

Lastly, ensuring further convergence of supervisory practices across the EU, better coordination between national authorities and the independence of national competent authorities should remain a priority with a view to improving the comparability and the reliability of public reporting by companies.

1. INTRODUCTION

Public reporting by companies is a public good that serves the interests of many stakeholders. A broad range of stakeholders such as investors, creditors, employees or depositors use information published by companies for their decision-making. At the heart of any investment decision, timely and high-quality company reporting plays a vital role and underpins the efficient allocation of capital. Civil society organisations and other stakeholders use company information to hold companies accountable, for example on their environmental and social impact.

The legal acts that make up the EU framework for public corporate reporting have been brought in progressively over the last decades and set out tailored requirements depending on the type and size of companies. Some legal acts were adopted four decades ago; others only a few years ago. They span an era with varying levels of ambition on European integration, changes to the Treaty, re-balancing inter-institutional powers and financial crises. During that period, the way businesses create value and the context in which they operate have changed significantly. To a large extent, this has been driven by fast-paced technological developments, increased cross-border activities and innovations in the financial industry that have led to changes to accounting techniques and social responsibility.

Stakeholders increasingly demand a broader range of corporate information. Company strategies, governance, and environmental and social impacts are increasingly considered in combination with their financial performance when assessing a company's long-term ability to create value. These rapid changes in investors' and other stakeholders' needs for information have also profoundly changed how companies present and disseminate corporate information.

Against this background, the European Commission has carried out a comprehensive fitness check to assess whether the EU's legislative framework governing regular public reporting by companies (hereafter: "the EU framework") is still fit for purpose. It is part of the Regulatory Fitness and Performance Programme (REFIT), which uses evaluations and fitness checks to assess EU policies[2].

1.1 Scope of the evaluation

One of the EU's main objectives is to establish a **single market** based on a competitive social market economy vision[3]. To create a positive business environment, where companies can be set up anywhere in the EU and can do business and invest across borders in a frictionless manner, the EU has developed a framework for limited liability companies. This framework contains harmonised minimum requirements applicable to

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2 The European Commission's Better Regulation Agenda is about designing and evaluating European Union policies and laws transparently, with evidence and backed up by the views of citizens and stakeholders. It covers all policy areas and aims for targeted regulation that goes no further than required, in order to achieve objectives at minimum cost. As part of that agenda, in 2012 the Commission launched a programme for Regulatory Fitness and Performance (REFIT).

3 Article 3(3) of the Treaty on European Union: "The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance […]".

different stages in the life of a company. They cover the stage when a limited liability company is established (e.g. minimum capital requirements, content of the founding statutes), certain specific situations (e.g. restructuring, takeovers) and the annual publication of corporate information over the course of a company's life.

Another important objective of the EU is to establish a well-functioning, **integrated EU capital market** that enables capital from investors to flow efficiently to companies. In addition to the EU requirements that aim to ensure the proper functioning of financial market infrastructure (e.g. Central Securities Depositories Regulation, European Market Infrastructure Regulation, Market in Financial Instruments Regulation)[4], companies seeking public funding via capital markets are subject to a broad framework of EU law. The framework includes requirements for listing securities (Prospectus Regulation)[5], protecting investors from insider dealing and market manipulation (Market Abuse Regulation)[6], protecting the rights of shareholders (Shareholders Rights Directive)[7], and other disclosure obligations enabling market participants and other stakeholders to make informed decisions (Transparency Directive)[8]. For capital markets to function efficiently it is essential to have a regular flow of relevant, reliable and comparable company information to market participants and other stakeholders.

In response to the 2008 financial crisis, the EU carried out an ambitious regulatory reform with the aim of restoring **financial stability** and building a stable financial system. The result is a significantly enhanced framework of prudential and supervisory oversight of market infrastructure and financial services sectors (banks, insurance companies, etc.) including the creation of the banking union.

The EU aims to ensure that growth is sustainable, within the overall goal of achieving **sustainable development**. Corporate reporting can contribute to this objective by ensuring that stakeholders have access to information about companies' impact on society and the environment, and about the sustainability-related risks to which companies may be exposed.

A regular, transparent and reliable flow of information builds confidence and trust among all stakeholders engaging with companies (investors, creditors, supervisory authorities, employees, depositors). By building trust, this flow of information contributes – along with other pieces of EU legislation on financial services – to achieving the following broader objectives: the efficient functioning of the EU single market, further integration of EU capital markets, financial stability and sustainable growth.

The purpose of this fitness check report is to assess the applicable EU measures requiring all limited liability companies to publish regularly information about their activities, performance, risks and impacts with a view to protecting the interest of all stakeholders and achieving the broader objectives mentioned above.

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4 Regulation (EU) No 909/2014 on settlement and Central Securities Depositories (CSDR), Regulation (EU) No. 648/2012 on the European Market Infrastructure (EMIR), and Regulation (EU) No. 600/2014 on the Market in Financial Instruments (MiFIR).

5 Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (Prospectus Regulation).

6 Regulation (EU) No 596/2014 on market abuse (Market Abuse Regulation).

7 Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies (Shareholder Rights Directive).

8 Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

This set of rules, the "EU framework", applies to all financial and non-financial companies, covers a wide range of corporate information and lays down different rules for different types of companies. This report assesses whether these rules:

(i) meet the objectives of satisfying users information needs (effectiveness);
(ii) continue to be relevant (relevance);
(iii) have reasonable and proportionate cost for preparers and users (efficiency);
(iv) are correctly set at EU level (EU added-value); and
(v) are consistent across different pieces of EU legislation (coherence).

This fitness check does not cover reporting requirements laid down in other EU laws that also contribute to meeting stakeholders' information needs, but are neither public nor regular, and do not specifically seek to achieve the above-mentioned wider objectives. Some sectoral EU legislation, in particular the supervisory frameworks for banks and insurance companies[9], contain rules for both supervisory reporting and regular public disclosures. In 2019, the Commission services carried out a "Fitness Check of the EU Supervisory Reporting Requirements". This fitness check report complements the 2019 fitness check and assesses the coherence of these sectoral reporting requirements, where publicly available, with the requirements of the EU framework for public reporting.

Legislative acts in the scope of this report

The EU framework covers rules for regular public reporting by companies on their activities, performance, risks and impacts stemming from the following five EU legislative acts:

- **The Accounting Directive (AD)**[10] as amended by the **Non-Financial Reporting Directive (NFRD)**[11] is the foundation of regular public reporting, as it provides rules on the preparation, presentation, publication and audit of annual financial statements for all limited liability companies established in the EU. All companies must publish annual financial statements (composed of a balance sheet, a profit and loss account and notes to the financial statements). Medium-sized[12], large undertakings[13] and public-interest entities (PIEs)[14] are subject to additional requirements, such as the obligation to have their financial statements audited and to prepare a management report. If the company is the parent of a group, it must also prepare and publish

9 The Capital Requirements Regulation, the Capital Requirements Directive and the Solvency II Directive.

10 Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and repealing Council Directives 78/660/EEC and 83/349/EEC. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013L0034.

11 Directive 2014/95/EU amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095.

12 Article 3(3) AD: Medium-sized undertakings shall be undertakings which are not micro-undertakings or small undertakings and which on their balance sheet date do not exceed the limits of 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.

13 Article 3(4) AD: Large undertakings are undertakings which exceed at least two of the three following criteria: a total balance sheet of more than EUR 20 million, a turnover above EUR 40 million and more than 250 employees.

14 Public-interest entities are: 1) "listed companies"; i.e., undertakings whose transferable securities are admitted to trading on a regulated market of any Member State, 2) credit institutions (banks) and 3) insurance undertakings.

consolidated annual financial statements. The AD provides scope to simplify these requirements, depending on the company's size. In particular, micro companies[15] are subject to some exemptions, and small companies can make use of simplified requirements[16].

Limited liability companies that are listed must also prepare a corporate governance statement. Large companies active in the extractive and logging industry must disclose their payments to local governments ("country-by-country" reports). Under the NFRD, large PIEs with more than 500 employees must include in their management report a non-financial statement with material information on their business model, policies, outcomes, risks and risk management and key performance indicators related to, as a minimum, environmental, social and employee matters, respect for human rights, and anti-corruption and bribery matters[17]. In this staff working document, the term "*non-financial information*" refers to the information that companies are required to publish in the non-financial statement[18].

- **The Bank Accounts Directive (BAD)**[19] applies to all banks, irrespective of their legal form. The BAD complements the AD. It aims to harmonise the format and contents of the annual financial statements of all banks established in the EU and sets out some specific accounting treatments, for example on loan valuation, or the fund for general banking risks and audit of financial statements.

- **The Insurance Accounts Directive (IAD)**[20] applies to all insurance undertakings, irrespective of their legal form. The IAD complements the AD. It aims to harmonise the format and contents of the annual financial statements of all insurance undertakings established in the EU and sets out accounting treatments for insurance operations, e.g. technical provisions and audit of financial statements.

- **The Transparency Directive (TD)**[21] applies to all companies (including non-EU country companies) that have securities listed on EU regulated markets. It requires –

15 Article 3(1) AD: micro undertakings are undertakings which on their balance sheet dates do not exceed the limits of at least two of the three following criteria: (a) balance sheet total: EUR 350,000; (b) net turnover: EUR 700,000; (c) average number of employees during the financial year: 10.

16 Article 3(2) AD: Small undertakings are undertakings which on their balance sheet dates do not exceed the limits of at least two of the three following criteria: (a) balance sheet total: EUR 4,000,000 (MS option to raise up EUR 6,000,000); (b) net turnover: EUR 8,000,000 (MS option to raise up to EUR 12,000,000); (c) average number of employees during the financial year: 50.

17 The default location of the non-financial statement under the NFRD is the management report. However, the Directive allows Member States to allow companies to publish the non-financial statement in a separate report.

18 See Annex VI for the list of financial and non-financial information that companies need to disclose, together with the type of document where stakeholders can find such information.

19 Council Directive 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:31986L0635.

20 Council Directive 91/674/EEC on the annual accounts and consolidated accounts of insurance undertaking. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31991L0674.

21 Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (https://eur-lex.europa.eu/legal-content/fr/TXT/?uri=CELEX:32004L0109) as amended by Directive 2013/50/EU (https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A32013L0050).

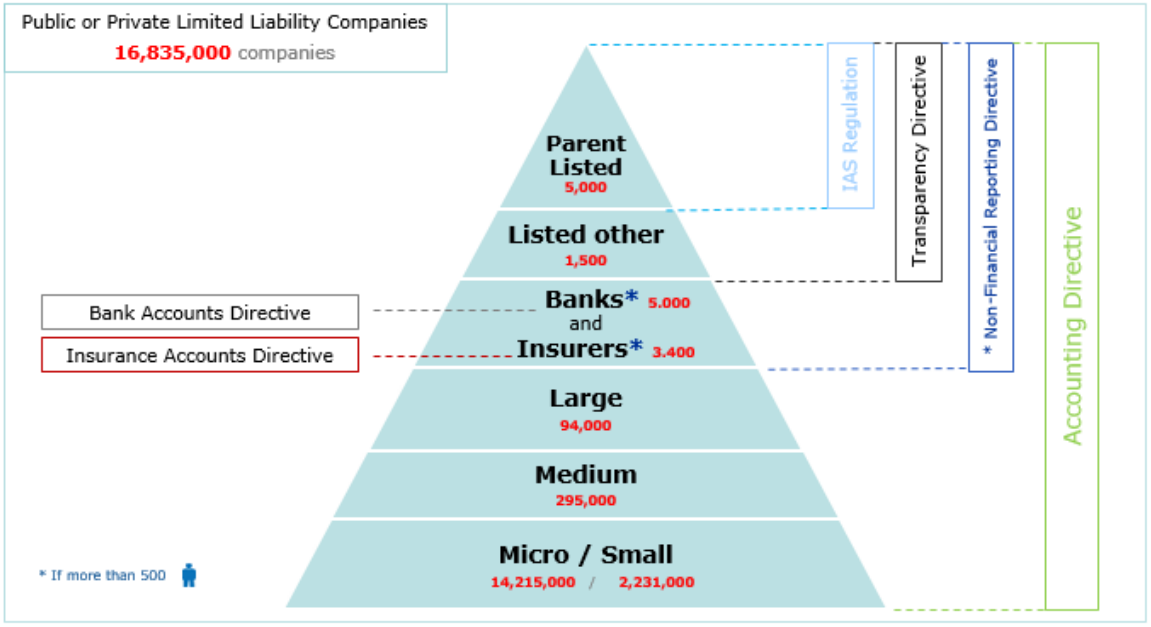
inter alia[22] – companies to publish an annual (and semi-annual) financial report, which comprises the financial statements, the management report, and statements made by the persons responsible in the company that the financial report gives a true and fair view of the company's situation. The TD also requires listed companies active in the extractive and logging industries to publish country-by-country reports drafted in accordance with AD rules.

- **The IAS Regulation**[23] applies to all limited liability companies that have securities listed on EU regulated markets, and complements the reporting requirements of the AD, the BAD and the IAD by requiring companies to prepare consolidated financial statements according to International Financial Reporting Standards (IFRS) as endorsed by the EU. Member States can expand the scope of application to other categories of companies and/or financial statements. Annex IV provides an overview of Member States' use of the options under the IAS Regulation.

Cumulative impacts of the legislative acts in the scope of this report for each category of company

The legislative acts that form part of the EU framework apply cumulatively to companies within their scope. The figure below shows the scope of each act and provides details on the number of companies in each category.

Figure 1: Type of companies covered by EU framework



Numbers of companies in each category

All limited liability companies established in the European Union (listed and non-listed) fall under the scope of the AD. There were in 2016 around 16.8 million companies in the

[22] The TD also provides for other disclosure requirements which are event-based and that do not fall in the scope of this fitness check, e.g. the disclosure of the home Member State, of inside information, of major shareholdings, of total number of voting rights and capital, of changes in ownership.

[23] Regulation (EC) No 1606/2002 on the application of international accounting standards https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32002R1606.

EU-28, of which 0.6% are large companies, 1.8% are medium-sized, 13.2% are small and 84.4% (14.2 million) are micro companies[24].

Approximately 6 500[25] EU and non-EU companies whose securities are admitted to trading on an EU regulated market must comply with additional public disclosure requirements under the TD.

In the EU-28, there are 4 947 credit institutions in the EEA subject to BAD requirements (unless Member States opted to require the use of EU-endorsed IFRS), which hold around EUR 37 trillion in banking assets. There is significant concentration of banking assets as approximately the 120 largest EU institutions hold approximately 80% of EU total banking assets. Since most large banks use IFRS and as several Member States have used the option to require all banks to use IFRS, most of the banking assets within the EEA are reported using IFRS.

In 2017, over 3 400 insurance companies were active in the European Union and subject to IAD public reporting requirements. Out of this total, 2 912 companies and around 350 groups also complied with the supervisory reporting requirements set by the Solvency II Directive, which includes specific measurement and presentation rules, for insurance contracts distinct from accounting standards.

In practice, and taking account of how the NFRD has been transposed in different Member States, approximately 11 700 companies were subject to the reporting requirements of the NFRD[26] in the EU-28.

1.2 Main requirements applicable to each type of company

Table 1 provides an overview of the main requirements of the EU framework on regular public reporting by category of company. It shows that specific requirements apply in conjunction depending on the legal form, type of business, size and sector of the company, or type of funding via public markets.

Under the AD, all limited liability companies must prepare – at individual level – a balance sheet summarising the main classes of assets they own and the main types of liabilities they owe, as well as a profit and loss statement (P&L), which details their various sources of income and expenses to calculate the company's annual earnings.

As companies grow in size, they become subject to additional requirements such as:

- Publication of "Notes to the Financial Statements" that provide more detailed information on the accounting methods the company uses, the policies it uses to

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24 Study on the accounting regime of limited micro companies, CEPS, 2019. Excluding the United Kingdom (EU-27), the figures are respectively a total of 13.5 million companies, 11.1 million (82%) of which are micro-companies.

25 The 2020 ESMA's Report on the enforcement and regulatory activities of European Enforcers in 2019, Annex 3, Number of IFRS issuers per country highlights that in 2019 there were around 5,000 listed parent companies reporting consolidated financial statements according to IFRS and 690 individual companies reporting non-consolidated IFRS Financial statements. However these figures do not include individual listed companies that only report annual financial statements according to national GAAPs. As this number cannot be reliably assessed, the total 6,500 listed companies in EU-28 should therefore be considered as an approximation.

26 This figure takes account of how Member States have transposed the Directive. Not taking account of national transposition, about 2 000 companies are under scope of the NFRD.

make estimates, and detailed breakdowns or reconciliations of the financial aggregates that appear in the balance sheet or P&L.

- Publication of a management report providing a fair review of the company's development and performance and describing the main risks and uncertainties. The management report therefore provides contextual information about the company's context, competitive position and strategy that helps the reader to interpret the "financial statements" (composed of the balance sheet, the P&L and the notes to the financial statements).

- The statutory audit requirement, which involves the company appointing an external auditor to provide an opinion about the true and fair view provided by the financial statements and the management report.

These requirements apply to all limited liability companies at individual level. In addition, if the limited liability company is a parent company – i.e. it exerts control or exercises a dominant influence over other company(ies) - the EU framework requires it to publish consolidated financial statements that incorporate the assets, liabilities, income and expenses of all companies in the group as if it was a single economic entity. The parent company is also required to publish a consolidated management report.

The parent company publishes two sets of financial statements, one as a single legal entity (known as the annual financial statements) and one as the parent company of a group (the consolidated financial statements). These financial statements are prepared in accordance with national Generally Accepted Accounting Principles (nGAAP) that transpose the Accounting Directive into national law. However, Member States may also choose under the IAS Regulation to permit or require companies to apply International Financial Reporting Standards (IFRS) instead of nGAAP.

When a limited liability company issues securities on an EU regulated market (i.e. when it becomes a listed company), additional requirements apply to secure the interests of a wider spectrum of stakeholders.

- The AD requires the company to publish a corporate governance statement outlining the rules, composition and operations of the administrative, management and supervisory bodies as well as the main features of the company's internal control and risk management processes in relation to financial reporting.

- If the company is a large PIE and employs over 500 people, the NFRD requires the company to publish a non-financial statement to stakeholders covering at least environment, social and employee matters, respect for human rights, and anti-corruption and bribery matters.

- If the company is the parent company of a group, the IAS Regulation requires the company to use IFRS standards to prepare the consolidated financial statements. However, the AD applies to the annual financial statements (for the single legal entity) unless Member States choose to permit or require IFRS.

- The TD requires companies to prepare and publish yearly and half-yearly financial reports. If the company operates in an extractive or logging industry, the TD requires it to publish a country-by-country report outlining its payments to

local governments. This country-by-country report must meet the AD requirements.

Lastly, specific rules apply to financial institutions (non-listed banks and insurance undertakings).

- The BAD and IAD require financial institutions to apply specific sectoral presentation and measurement rules. However, Member States may elect to permit or require the use of IFRS under the IAS Regulation.

- Considering their significant public relevance, banks and insurance companies are defined as PIEs and subject to a mandatory audit requirement.

- If the bank or the insurance company is a large PIE that employs over 500 people, the NFRD requires it to publish a non-financial statement.

If the financial institution is listed, the above rules for listed companies apply.

Table 1 provides an overview of how the multiple requirements under the EU framework apply in conjunction. The category "non-listed financial institutions" captures non-listed banks and insurance undertakings.

Table 1: EU framework on regular public reporting by type of company

Category	Size / type	The EU framework on regular public reporting by companies						
		AD	NFRD	IAS	TD	BAD	IAD	CBCR
Limited liability companies	Micro	Abridged balance sheet and P&L	-	- (IFRS = MS option)	-	-	-	-
	Small	Financial statements (Balance sheet, P&L, notes)	-	- (IFRS = MS option)	-	-	-	-
	Medium /Large	Financial statements Management report Audit	-	- (IFRS = MS option)	-	-	-	Report on payments to governments
Listed companies	Listed (individual or parent of a group)	Financial statements Management report Corporate governance statement Audit	If large and >500 employees: non-financial statement	Mandatory IFRS for consolidated financial statements. (IFRS for annual financial statements = MS option)	Yearly and half-yearly financial report (also for non-EU country issuers). Report on payments to governments.	-	-	Report on payments to governments
Non-listed financial institutions	Bank (any legal form)	Management report Audit	If large and >500 employees: non-financial statement	- (IFRS MS = option)		Financial statement Audit		
	Insurance undertaking (any legal form)	Management report Audit	If large and >500 employees: non-financial statement	- (IFRS = MS option)		-	Financial statement Audit	

1.3 Review clauses

Several legislative acts that form part of the EU framework (AD, NFRD and TD) contain review clauses. These review clauses cover reports on payments to governments by extractive and logging industries (CBCR), the financial reporting regime for micro companies, non-financial reporting by certain PIEs, new provisions on digitalisation, simplification, and penalties that were brought in under the TD in 2013. This staff working document accompanies the report to the European Parliament and the Council on these review clauses. It provides complementary information to the content of the

report on review clauses but also, due to its wide-encompassing nature, information going beyond the intended scope of the review clauses.

2. BACKGROUND TO THE INITIATIVE

2.1 Legislation history

The common objective of the EU framework is to publicly report information on a regular basis that meets users' information needs to protect their interest in the company, to make investment decisions, or to hold the company accountable. Over time, the range of information that users have deemed to be relevant for their decision-making has evolved and requirements for corporate reporting under EU law have accordingly been modified or complemented.

Creating the single market

For over four decades, the content, presentation and publication of periodic reports about entities' activities, performance, risks and impacts for all limited liability companies established in the EU have been based on **the Fourth and the Seventh Company Law Directives** on annual and consolidated financial statements[27] (both repealed and replaced by the Accounting Directive in 2013). These directives sought to enhance the protection of stakeholders in a context of increased cross-border activity by coordinating national provisions concerning the preparation and publication of annual financial statements.

In order to tailor the requirements of these directives to the specific characteristics of banks and insurance undertakings, the EU adopted two additional directives respectively in 1986 (**Bank Accounts Directive or BAD**) and in 1991 (**Insurance Accounts Directive or IAD**). These directives provided sectoral adaptations to the general provisions of the Fourth and Seventh Company Law Directives.

Enhancing EU capital markets integration

In 2000, the Commission[28] estimated that, despite the EU Fourth and Seventh Company Law Directives, financial reporting in the EU had remained fragmented and thus hampered the development of a deep liquid single EU capital market. Enhanced transparency, comparable financial reporting and more extensive disclosures were sought by both investors and supervisors from listed companies whereas the existing directives featured too many national options hampering cross-border investment.

As a result, the EU adopted the **IAS Regulation** in 2002 which requires EU companies with securities listed on an EU regulated market to prepare their consolidated financial statements in conformity with the IFRS endorsed in the EU. As regards the annual financial statements of individual companies (i.e. the annual financial statements), the decision to require or authorise IFRS was left as a Member State option, considering that national regulatory and tax requirements might make the use of IFRS inappropriate in some Member States. Accordingly, the existing Fourth and Seventh Company Law

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27 Fourth Council Directive on the annual accounts of certain types of companies (78/660/EEC) and Seventh Council Directive on consolidated accounts (83/349/EEC).

28 Communication from the Commission to the Council and the European Parliament EU - Financial reporting Strategy: the way forward, COM/2000/0359 final.

Directives remained the legal basis for profit distribution, discharge of management[29] and creditors' protection. Besides, the fair value option was also introduced in the Fourth and Seventh Company Law Directives as well as in the sectoral accounting directives (BAD and IAD) in order to reflect developments in international accounting standards pertaining to the valuation of assets.

IFRS are developed by the International Accounting Standard Board (IASB) of the IFRS Foundation, a private organisation dedicated to financial reporting standard setting. IFRS are incorporated into EU law by way of amendments to Commission Regulation 1126/2008 ("IFRS Regulation")[30] after an endorsement procedure designed to secure that their application results in a true and fair view of the financial position and performance of a company, is conducive to the European Public Good and meets the qualitative criteria that make information useful for users. The European Public Good criterion is designed to secure that the focus of the IASB on improving financial reporting does not lead to disregarding other relevant impacts that could affect the European economy, its financial stability or other public policy objectives.

In order to meet stakeholders' needs for more transparent information on EU capital markets, a new transparency regime was brought in with the adoption of the 2004 **Transparency Directive (TD)**[31]. Compared to the previous transparency regime[32], this directive increased the frequency in the disclosure of financial information, brought in rules on the issuer's liability for late or non-disclosure, and imposed the establishment of national mechanisms for the storage of regulated information (Officially Appointed Mechanisms or OAMs)[33].

Simplifying rules for smaller entities and facilitating access to public reporting by companies

The TD rules were further amended in 2013 with a view to simplifying and reducing certain disclosure requirements for small and medium-sized enterprises (e.g. the abolishment of quarterly reporting), and harmonising the disclosure regime of major holding of voting rights. Moreover, in order to facilitate accessibility, analysis and

29 "Whilst the EU's Accounting Directives remain the basis of the EU's accounting rules for limited liability companies, our existing directives do not meet the needs of companies that wish to raise capital on pan-European or international securities markets. This is because transparency, comparable financial reporting and more demanding disclosure requirements for listed companies are being sought by both investors and supervisors".

30 IFRS were first incorporated into EU law by Regulation (EC) No 1725/2003, now repealed and replaced by Commission Regulation 1126/2008 (IFRS Regulation).

31 The 2004 Transparency Directive proposal was one of the priority actions in the Financial Services Action Plan (FSAP) endorsed by Heads of State and Government at the Lisbon European Council in March 2000. This Directive, together with the IAS Regulation, the Market Abuse Directive (Directive 2003/6/EC, now repealed by Regulation (EU) No 596/2014 "Market abuse regulation"), the Prospectus Directive (Directive 2003/71/EC), and the proposal for a revision of the Investment Services Directive (Council Directive 93/22/EEC, now repealed and replaced by Directive 2014/65/EU "MiFID II") was part of a strategy for overhauling securities markets legislation.

32 Before the 2004 Transparency Directive there was very little harmonisation of reporting requirements at EU level. Disclosure by listed companies was partly regulated by different pieces of legislation (e.g. the Official listing Directive (Directive 2001/34/EC)).

33 While under the AD and the Company Law Directive companies shall file the relevant financial and non-financial information to the national Business Register, under the TD listed companies shall file corporate information to the relevant National Competent Authority (NCA). The information is then sent to the OAMs for storage purposes.

comparability of regulated information, the TD mandated the European Securities and Markets Authority (ESMA) to develop a central European Electronic Access Point (EEAP) providing access to the different OAMs and to develop a harmonised electronic format (the European Single Electronic Format – ESEF) for the disclosure of annual financial reports starting with financial year 2020.

In 2013, the **Accounting Directive (AD)** repealed the Fourth and Seventh Company Law Directives and brought in more granularly staged requirements based on company size. Changes were mainly adopted with a view to reduce the reporting burden for small and medium-sized companies ("Think Small First"). Another change was a requirement for Country-By-Country Reporting (CBCR) by large companies in the extractive and logging industries to disclose payments to governments.

Widening the scope of disclosures to non-financial information

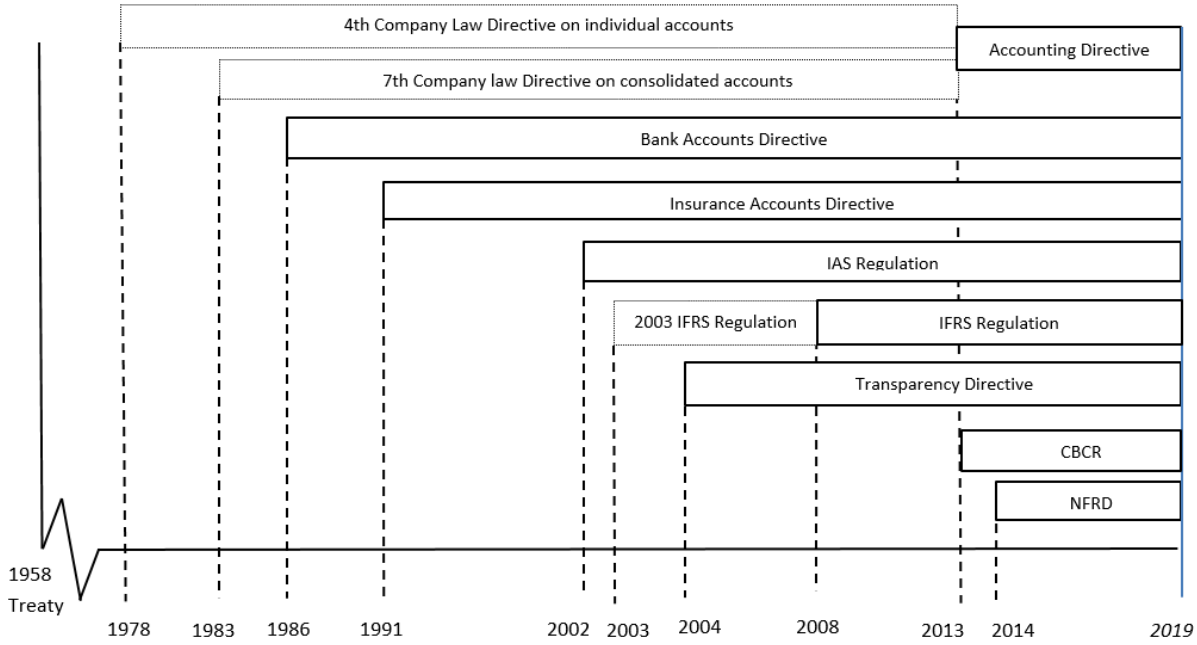
In 2014, the **Non-Financial Reporting Directive (NFRD)** amending the AD was adopted. It brought in stronger non-financial disclosure requirements compared to those added to the Directive in 2003 (which referred only to employee and environmental matters), with the aim of improving the quality and quantity of non-financial information reported by companies. Companies were required to comply with the new provisions on non-financial reporting for the first time in 2018, covering financial year 2017.

The Commission proposed in April 2016 amendments to the AD aiming to ensure that multinational companies disclose corporate tax payments to governments as well as related information on a country-by-country basis, to inform the public at large on the taxes paid per jurisdiction in comparison to actual activities of a company in each jurisdiction [34]. The adoption of the Commission's proposed modifications was pending at the time of drafting this report, and is therefore not considered.

The following graph provides an overview of the adoption of the various instruments included in this fitness check over time.

[34] Commission proposal for a Directive as regards disclosure of income tax information by certain undertakings and branches, COM/2016/0198 final - 2016/0107 (COD), April 2016.

Figure 2: Timing of instruments



2.2 Baseline scenario

Any evaluation needs an appropriate point of comparison to help capture the change that EU intervention has brought over time. Conceptually, the main baseline (or counterfactual) is the situation where the EU would not have acted in respect of the single market, the integrated capital market, financial stability and sustainability, by including the measures in the scope of the fitness check. However, in practice, this approach is complicated by the nature of the fitness check being an evaluation of a group of measures taken at different points in time as described above. When the Commission proposed the Fourth Company Law Directive on annual financial statements in 1971, companies had been legally required to disclose financial information for some time by national laws of the then six Member States of the European Community. Most Member States regarded disclosure of financial information by limited liability companies as a natural consequence of their limited liability, irrespective of the size of the company[35]. This is what could be retained as the baseline scenario for the public reporting by limited liability companies, to be modulated in a Union of 28 Member States with varied historical background[36]. For listed companies, the adoption of the IAS Regulation in 2002 ended a situation, where Member States allowed listed companies to use a variety of different national and international financial reporting frameworks (including US GAAP). The baseline here could be the counterfactual of a hypothetical current situation of multiple financial reporting frameworks used by EU listed companies.

35 Karel Van Hulle, Leo van der Tas, "European Union, Individual accounts" in TRANSACC, Dieter Ordelheide and KPMG, second edition.

36 The harmonisation of accounting standards is not specifically provided for in the Treaties of the Union. Nevertheless, the EU intervention was seen as a way to promote freedom of establishment for companies by providing an equivalent level of protection for the owners, employees, creditors, or other persons, in accordance with the Treaty provisions.

However, for the effectiveness analysis of the EU framework developed over a long period of time, it is more meaningful to investigate whether the objectives of the EU framework are met, and hence use the desired outcome as a point of comparison. When assessing efficiency-related evaluation questions, the fitness check compares the actual situation with a desired, better outcome: whether EU intervention is implemented in a most efficient manner or if the current level of efficiency can be improved. When assessing the relevance of reporting, the needs for stakeholders today are considered. When assessing the added value, the fitness check compares the current situation with a desired steady state situation: whether action could be taken at a different level and lead to a better outcome. When assessing the coherence the fitness check looks at the current situation: whether current requirements of the reporting framework and of other EU laws are consistent.

3. INTERVENTION LOGIC

Figure 4 summarises the intervention logic. Stakeholders, who demand financial and non-financial information about companies' activities, performance, risks and impacts, include not only shareholders and potential investors, but also lenders, customers, suppliers, employees and authorities as well as society at large. They expect this information to be useful for their decision-making so as to protect their interests, to invest and allocate capital between different companies' (main market participants' interest), or to hold companies accountable on wider societal issues (main NGO's interest).

Absent any regulatory requirements, companies would voluntarily prepare regular reports on their activities, performance, risks and impacts in order to manage their business as well as to communicate with their stakeholders. However, voluntary public reporting does not lead to an efficient outcome in terms of the quantity and quality of information provided to stakeholders. Corporate reporting is a public good, i.e. it is non-rivalrous (one person's "consumption" does not reduce the amount available for others) and non-excludable (once reporting is publicly available, individual consumption cannot be charged). Also, companies will not voluntarily disclose the quality and quantity of information that various stakeholders need. Indeed, absent regulatory requirements, the quality and quantity of the information disclosed fully depends on the entity's own communication strategy, which can lead to obscuring information that could be useful for stakeholders' decision-making. In addition, voluntary public reporting does not secure consistency over time and across reporting entities with regards to the measurement and presentation of similar economic transactions. As a consequence, voluntary public reporting does not allow stakeholders to draw informed comparisons between companies' performance and financial position or to assess the progresses in achieving the company's financial objectives and forecasts. Finally, voluntary public reporting does not secure an equal access to information to stakeholders whether in terms of content or timing. Accordingly, some interested parties may not be in a position to exercise their rights or may bear opportunity costs because of a lack of timely information.

Against this background, it is logic that Member States already had national company law requirements on the preparation and publication of annual financial statements before the Commission proposed the Directive on annual financial statements in 1971.

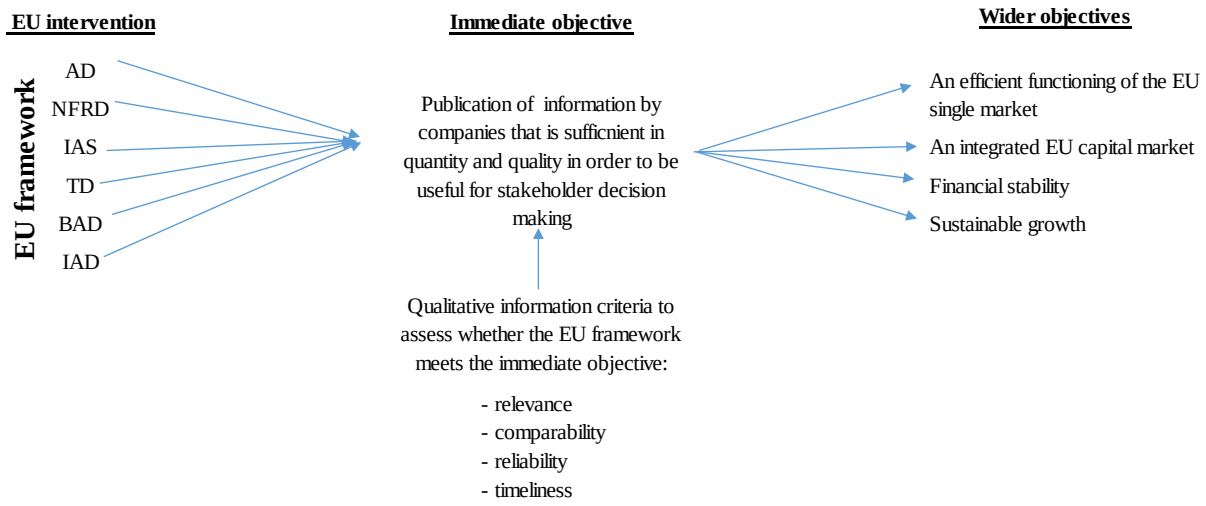
EU regulatory action was deemed necessary for ensuring that stakeholders throughout the EU have access to comparable information about companies that is sufficient both in quality and quantity in order to be useful for their decision-making. This is the "immediate" objective of EU intervention for public reporting. In doing so, EU

intervention seeks to contribute to the wider Union objectives mentioned in section 1.1 "Scope of the evaluation", namely: (i) an efficient functioning of the EU single market; (ii) an integrated EU capital market; (iii) financial stability and (iv) sustainable growth. These wider objectives are reflected in the recitals of the five legislative acts of the EU framework.

Contribution of public corporate reporting to the four wider objectives

As summarised in figure 3 and further explained below, the immediate objective of the EU framework contributes to the wider objectives.

Figure 3: Contribution of the immediate objective of the EU framework to wider objectives of EU action



As regards the **efficient functioning of the EU single market**, the EU legislation on public reporting by companies requires a minimum level of harmonised information about companies' activities, performance, risks and impacts in order to enable stakeholders to better assess and compare the companies' situations and performance at a pan-European level. This facilitates cross-border establishment and investments and contributes to the wider objective of achieving the EU single market. This objective is pursued by the five legislative acts in the scope of this fitness check, but has been the cornerstone of the AD which laid down the first set of public reporting rules for EU companies.

With regard to entities with securities listed on EU regulated markets, the EU public reporting framework provides a high level of harmonisation in financial reporting and hence promotes the integration of **EU capital markets**. By securing a single set of rules, it also fosters capital markets' efficiency in the EU. Enhancing transparency, comparability and accountability of listed entities is expected to increase investors' confidence, promote better capital allocation by market participants, and lower the cost of capital for companies. As a result, it is expected to contribute to more integrated and efficient EU capital markets. The TD and the IAS Regulation in particular have had as a

main objective the enhancement of transparency on EU capital markets and their integration.

As regards **financial stability**, prudential regulation and supervision of the financial institutions' sector play a key role. Public reporting by companies, especially by listed banks and insurance undertakings, also contributes to the objective of financial stability, in at least two ways. Firstly, considering that the IFRS-based financial information (as required by the IAS Regulation) is the starting point for the calculation of prudential requirements for listed banks, their supervisory oversight is largely influenced by financial reporting rules. Secondly, transparent and timely public reporting by financial sector operators enhances market discipline and confidence in the resilience of the financial sectors, which contribute to financial stability. From that perspective, the TD and the IAS Regulation pursue the objective of financial stability. The sectoral legislation (the BAD and the IAD) by widening the scope of public reporting to all banks and insurance companies have also sought to contribute to the financial stability objective.

As to **sustainable growth**, public reporting by companies has gradually expanded to provide, beyond financial information, a broad range of non-financial information. This development resulted from investors' increasing interest in a larger set of information to assess the prospects of companies. It was also driven by the desire from a wider audience to make companies accountable on important societal issues. This development has been supported by the EU legislative action. In the context of the long-term strategy for sustainable growth of the Commission, EU legislation on corporate reporting has required companies to regularly publish environmental, social and employee-related information. The NFRD is particularly relevant in pursuing the sustainability objective.

Table 2 provides an overview of the expected relative contribution of the EU framework to the wider objectives. The "+" shows the intended relevance of the acts for the different objectives:

Table 2: Wider objectives of EU action

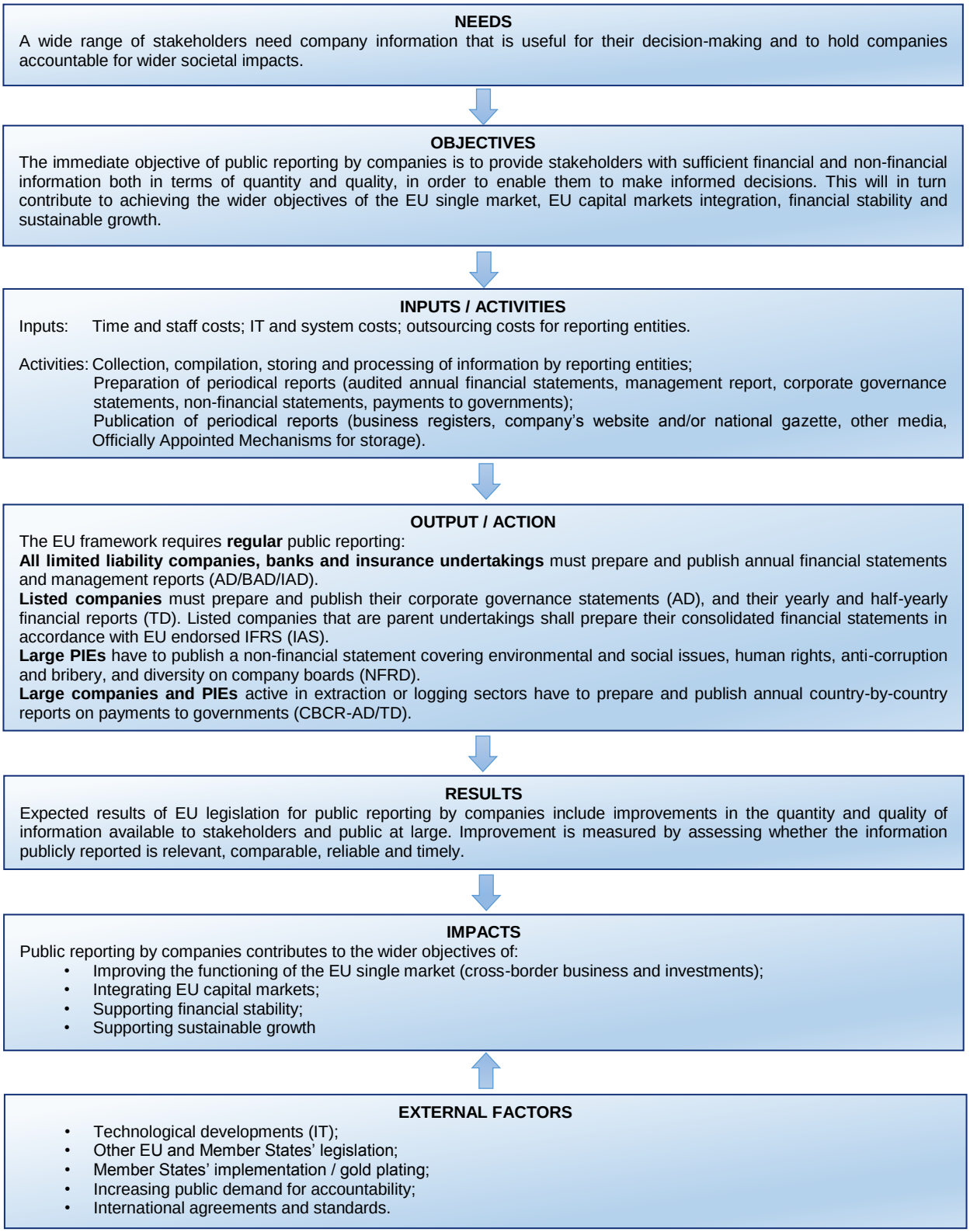
	WIDER OBJECTIVES	**SPECIFIC OBJECTIVES**	**EU FRAMEWORK**				
			AD[37]	IAS	TD	BAD	IAD
►	**EU single market**	• Cross-border investments • Cross-border establishment • Stakeholder protection	++ ++ ++	++ + +	+ ++ +	+ + +	+ + +
►	**Integrated EU capital market**	• Access to capital • Capital allocation • Integrated securities market	 + +	++ ++ ++	++ ++ ++		
►	**Financial stability**	• Public confidence in company reporting • Trust in the resilience of specific sectors (banking and insurance)	+	++	++	 +	 +

[37] Includes the amending Non-Financial Reporting Directive.

►	**Sustainable growth**	• Increase corporate accountability • Good corporate governance • Improve social and environmental disclosures by companies	++ ++ +		+ +		

Intervention logic – visual chart

Figure 4: Intervention logic for public reporting by companies



4. EVALUATION QUESTIONS

This fitness check assesses the fitness of the companies' public reporting obligations against the five better regulation criteria of effectiveness, efficiency, relevance, coherence and EU added value.

For each criterion, specific evaluation questions were designed using evidence collected during the evaluation process.

Table 3: Evaluation questions per evaluation criterion

Effectiveness	Has the EU framework on public reporting by companies been effective in enabling informed decision-making by stakeholders by ensuring the timely reporting of relevant, comparable and reliable financial and non-financial information? In doing so, has the EU framework contributed to the wider objectives of the EU single market, capital markets integration, financial stability and sustainable growth?
Efficiency	To what extent are the costs of implementing the framework justified and proportionate to the benefits? Is there room for enhancing efficiency for both users and preparers, for instance by making better use of digitalisation?
Relevance	Are the originally pursued objectives still relevant, whether in terms of completeness (new needs), or accuracy (changes in, or disappearance of needs)? Are the EU instruments still relevant in the light of the evolution of needs and problems in the area of public reporting by companies?
EU added value	Is the EU the right level to design policies in order to obtain valuable results over and above unilateral and non-coordinated action by each Member State? Are there policies that could be better achieved at the international level?
Coherence	Are there significant inconsistencies, overlaps or synergies as regards the preparation, publication and dissemination of financial and non-financial information by companies between the legal instruments within the scope of the fitness check? Are there significant inconsistencies or overlaps between the EU framework for public reporting by companies and other Union legislation as regards content, format, timing, dissemination channels of reported information?

5. METHOD

5.1 Overall approach

The fitness check aims at assessing the combined impact of the five EU legislative acts that constitute the EU framework for regular public reporting by companies. As outlined in section 1.1 "Scope of the Evaluation", the EU framework provides for specific requirements depending on the legal form, the size and the shareholding of reporting companies. Accordingly, the fitness check assesses the cumulative effects of the various pieces of legislation in the EU framework, considering separately the following categories of entities: limited liability companies, listed companies, and non-listed financial institutions.

This approach by category of entities is applied throughout the report to answer the evaluation questions with some adaptions in the following sections:

Effectiveness

In order to assess the effectiveness in achieving the wider objectives laid down in section 3 "Intervention logic" (despite the impracticability of disentangling the effects of the framework from other EU legislations and national laws), the fitness check first assesses whether the EU framework achieves its immediate objectives of providing stakeholders with financial and non-financial information that is sufficient in quantity and quality to enable them to make informed decisions. This immediate objective is assessed against measuring whether the regular disclosures required by the five legal acts provide relevant, comparable, reliable and timely information.

As a second step and consistent with the intervention logic described in section 3, section 7.1.4 considers how regular public reporting by companies of financial and non-financial information contributes to achieving the wider objectives of an efficient functioning of the single market, the integration of EU capital markets, financial stability and sustainable growth. In particular, this section considers empirical evidence from academic research demonstrating the existence of causal relationships and mechanisms of effects between the quality of financial reporting by companies and the behavioural consequences on capital market participants.

The choice of these four qualitative features (relevance, comparability, reliability and timeliness) is based on existing conceptual frameworks for corporate reporting. These characteristics describe what useful information is and how it relates to decision-making:

- Relevant means that reported information is useful for decision-making. Relevant information is information that will make a difference to a decision maker. It matters that all relevant information is provided as its omission would mislead the decision maker.

- Comparable means that common data content and formats allow stakeholders to compare information about activities, performance, risks and impacts between companies and over time.

- Reliable refers to whether information is free of material error and bias, and not misleading. Basically, reliability refers to the trustworthiness of the information. If

stakeholders cannot trust the published information, it is useless for decision-making.

- Timely means information is provided within a reasonable period after the end of the reporting period. It would not make sense for stakeholders to receive information that is too late to make a decision with practical effects, for example to protect their interests or to make investment decisions.

In addition, considering that different stakeholder groups have different interests in public reporting, the fitness check aims at identifying the extent to which the EU framework meets the expectations of the main stakeholder groups defined in section 7.1 Effectiveness.

Efficiency of the EU framework

In addition to assessing the extent to which the costs of implementing the EU framework are justified and proportionate to the benefits for each category of entity, the fitness check also considers more specifically the requests for simplifications expressed by stakeholders with a specific focus on digital technology.

Relevance of the EU framework

In addition to assessing whether the originally pursued objectives are still relevant, this section considers whether the EU framework is still relevant in view of more recent business and regulatory acts and their impact on user needs.

EU added value of the EU framework

This section considers whether the EU level is the right one for setting corporate reporting policies promoting an integrated capital market, safeguarding financial stability and improving sustainable growth, as well as whether setting these policies at the international level would be better suited.

Coherence of the EU framework

This section considers more specifically possible inconsistencies or overlaps between the legal instruments that constitute the EU framework for regular public reporting by companies, and between these legal instruments and other pieces of EU legislation.

5.2 Past evaluations

The Commission issued in June 2015 a report[38] on the evaluation of IAS Regulation. The report assessed the impact of adopting IFRS in the EU. It concluded that IFRS had made EU capital markets more efficient by making companies' financial statements more transparent and easier to compare. The report identified areas for improvement, such as collaboration between actors in the IFRS endorsement process.

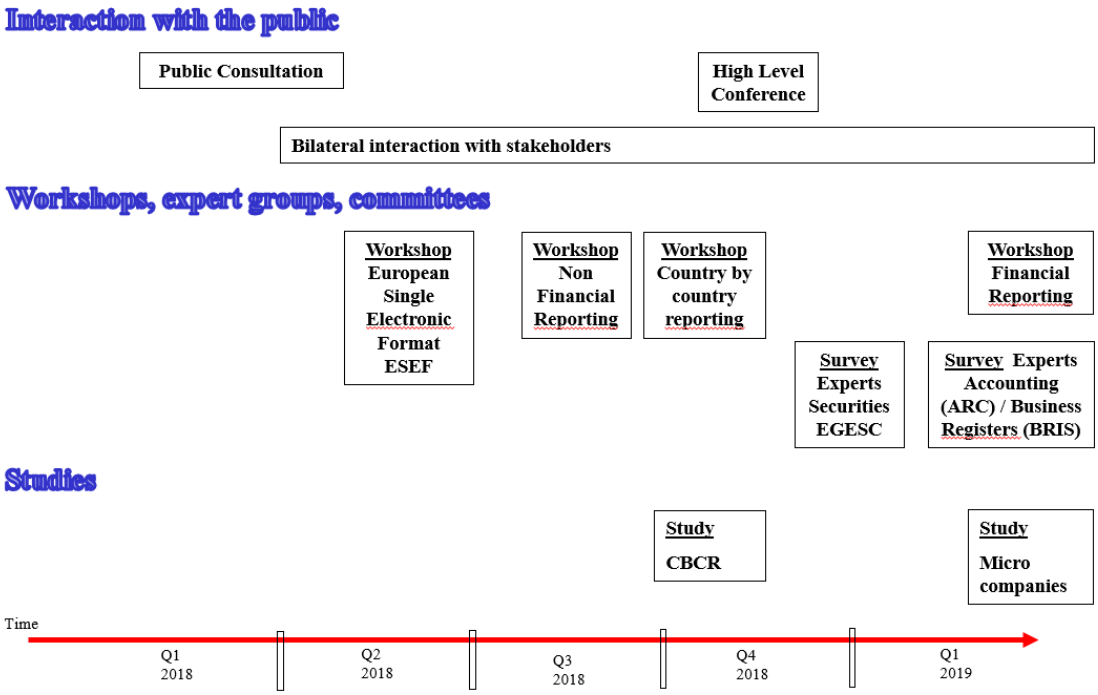
This evaluation builds upon this earlier analysis, in particular in the section of the key evaluation questions (section 7).

[38] Commission report on the evaluation of Regulation (EC) No 1606/2002 - https://ec.europa.eu/info/law/international-accounting-standards-regulation-ec-no-1606-2002/monitoring-and-enforcing_en.

5.3 Information and data gathering

Figure 5 gives an indication of the consultation activities and studies carried out specifically for this fitness check:

Figure 5: Consultation activities



This fitness check is based on several data sources (studies, surveys, interviews, public consultation, conference, workshops, and bilateral meetings with stakeholders) carried out during 2018 until the second quarter of 2019.

The Commission launched a public consultation on the EU regulatory framework for public reporting from March till July 2018 to collect the views, evidence and expertise from any interested stakeholder. Stakeholders from 23 Member States and 25 non-EU countries submitted 338 responses. The vast majority of respondents represented an "organisation or company" (82%), 9% were public authorities or international organisations and the remaining 9% were private individuals. Within the category "organisation or company", 25% were "company, SME, micro-enterprise and sole trader", 25% were "industry associations" and 21% were "non-governmental organisations". In terms of geographical coverage, over 60% of the responses were submitted by entities located in Germany, the United Kingdom, Belgium and France. Around 25% of respondents were companies with cross-border activities.

For the purpose of this fitness check the type of stakeholder is more relevant than the organisation form. Acknowledging that mapping respondents into stakeholder categories is not straightforward (for example banks are preparers and users (lending) and some respondents are associations representing a larger number of stakeholders), it is interesting to note that investors and analysts using public reporting by companies seem underrepresented. Only 13% of the respondents were identified investors, while only 5% were creditors (banks as a proxy). Most respondents were preparers, accounting professionals and public authorities (60%). This reflects a general difficulty for policy

making on public reporting and accounting standard setting: investors and analysts engage to only a limited extent in public consultations compared to other stakeholder groups. This fitness check sought to overcome the underrepresentation of investors by organising a workshop on corporate reporting with investors.

Stakeholders did not respond evenly to all the different sections of the questionnaire. Civil society and employees unions, for instance, largely responded to the Non-Financial Reporting (NFR) section but did not or hardly respond to questions on financial reporting and digitalisation. Interestingly, investors and institutional investors responded more to NFR questions than to the financial reporting parts. Overall, sections 1 (assessing the fitness of the EU framework), 2 (the EU framework for all companies) and 5 (NFR) were the most frequently answered. The section reviewing the EU financial reporting framework for banks and insurance companies had least responses with mainly banks and academics sharing their views.

DG FISMA published the "summary of responses to the public consultation on public reporting by companies[39]" on 18 November 2018. Whereas the responses are a very important source of input for this fitness check, the overall limited number of responses, the skewed distribution of types of respondents / stakeholders and their geographical concentration imply that it is not statistically representative. The responses are therefore used as a qualitative input.

In addition to the fitness check consultation, a high-level conference on "The future of corporate reporting" was held on 30 November 2018[40], and a number of ad hoc workshops and stakeholder meetings were hosted:

- A workshop addressing the European Single Electronic Format (ESEF), involving preparers, analysts and professional associations;
- An open stakeholder meeting on NFR, involving companies, investors, civil society organisations and other stakeholders; a meeting with civil society organisations, and a meeting with companies to hear their views on NFR; and a multi-stakeholder workshop on NFR to test some of the preliminary findings of this fitness check;
- A workshop addressing financial reporting from the viewpoint of users and investors.

On targeted topics of interest for the fitness check, DG FISMA surveyed the Accounting Regulatory Committee (ARC)[41], the Expert Group of the European Securities Committee (EGESC)[42] and the Company Law Expert Group on the Business Registers Interconnection System (CLEG-BRIS)[43].

The evaluation is also underpinned by two specific studies respectively on the reporting on payments to governments by extractive and logging industries (VVA, 2018) and the

39 See Summary Report of the Public Consultation on the Commission's web site.

40 https://ec.europa.eu/info/events/finance-181130-companies-public-reporting_en.

41 The ARC is composed of representatives of each Member State's relevant ministries, and includes as observers the EEA countries, ESMA and EFRAG. This Committee provides opinion to the European Commission on proposals to adopt IFRS.

42 The Experts Group is a consultative entity set up by the Commission Services in order to provide advice and expertise, in the area of the securities law, to the Commission and its services.

43 The expert group assists the Commission in the preparation of legislative proposals and policy initiatives in relation to the Business Register Interconnection System.

accounting regime of micro companies (CEPS, 2019). The Commission services' evaluation of the IAS Regulation conducted in 2015 brings additional robust evidence.

Further details on the various consultation activities and their outcome are given in Annexes II and III. These are referred to where appropriate to support assertions made in the body of this staff working document.

5.4 Limitations

One major limitation of the fitness check stems from the fact that four out of the five acts that constitute the EU framework on public reporting by companies are Directives, which by definition are required to be transposed by Member States into national law. This implies in practice that stakeholders with an interest in public reporting usually do not draw a distinction between the requirements arising from Union law and additional national rules. This limitation is especially acute with regard to the requirements applicable to limited liability companies as the EU framework features Member States' options and does not address all types of economic transactions, rights and obligations The fitness check does not assess the Member States exercise of options or supplementary requirements stemming from Member States' national Generally Accepted Accounting Principles (nGAAP).that complement the EU framework.

Other limitations of this evaluation stem from data availability, measurability of outcomes such as compliance costs, benefits for companies (assessment of benefits stemming directly from reporting in a quantified manner), timing (some data and evidence will only become available in the future) and the difficulty to correlate costs and benefits with the preparation of financial statements and non-financial reporting obligations.

Compliance costs typically arise from the preparation, audit and dissemination (e.g. filing with a register, posting on a web site, publication activities) of the information.

This fitness check focuses on the preparation costs, but encounters the following practical challenges:

- As regards filing with an authority, filing fees do not stem from EU action as it is a national business register's or an OAM's decision to impose such fees on companies;
- Costs in relation to other publication channels selected by a company, such as its own web pages, typically depend on the company's choices and on the structure of its own web site. Such costs are difficult to isolate.

As regards preparation costs in relation to financial reporting, there are a number of inherent difficulties:

- It is difficult to delineate costs in relation to the preparation of financial statements from the cost of ongoing administration and other reporting requirements. Typically, in order to manage its business, a company must register transactions and maintain records throughout the year, prepare company tax returns and provide statistical data, etc. So, there is a considerable portion of the EU obligation that companies would apply anyway, in a "business as usual" situation. The "cost of doing business" would therefore exist, even absent any EU or national public reporting requirement. Besides, Union requirements on the preparation of annual financial statements

substitute national requirements that were in place before EU legislative action, including for other reasons than corporate reporting (tax returns, statistics...). It would be especially challenging to quantify costs, if one only took into account any additional costs arising from EU legislation on the top of national legal obligations. So, a portion of the preparation costs should not be attributed to EU intervention. However, assessing this proportion is a particularly difficult exercise, but it is estimated that the larger the company, the closer the non-EU attributable costs gets to 100%[44].

- The relevant directives are largely minimum harmonisation[45]. This means that some cost for the preparation of financial reporting is due to additions by national legislators and should therefore not be attributed to EU action.
- The super-simplified regime offered by the Accounting Directive for micro companies is an option for the Member States. Hence, where that option is not used companies are subject to more demanding requirements than they are under EU intervention.

For these reasons, the cost-benefit analysis focused primarily on the preparation of financial reporting by micro companies, which represent more than 80% of the EU companies and for which the cost of public reporting is relatively higher than for large companies[46].

Attention was also paid in this exercise to costs attributable to the preparation of CBCR for extractive and logging industries and non-financial reporting (NFRD, including the treatment of information arising from risk management processes). Additional limitations apply to the NFRD. Since companies only reported according to the provisions of the directive for the first time in 2018, there is inevitably a lack of comprehensive and historical data about how the directive has influenced company reporting of non-financial information and about the views of the intended users of that information. A number of studies, covering the 2018 and 2019 reporting cycles, have nevertheless been very useful for this fitness check, even though companies are still adapting to the requirements of the directive, and the situation can be expected to evolve further in the next reporting cycles.

6. IMPLEMENTATION STATE OF PLAY

As part of this fitness check, the Member States' implementation of the existing EU framework was also assessed. In this context, Member States' compliance with EU law constitutes the pre-condition for the relevant EU policy objectives to be reached effectively.

While certain EU legal instruments (e.g. the Regulations) become directly applicable following their publication in the Official Journal of the European Union, certain others

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44 Impact assessment accompanying the proposal for the overhaul of the Accounting Directive, SEC(2011) 1290 final.

45 The Accounting Directive contains maximum harmonisation provisions in respect of financial statements (Art. 4(5)) and in respect of notes (Art. 16(3)) for small companies.

46 The burden compared to total administrative costs, was estimated before simplification at the EU level to represent 75% of total administrative costs for micros, 59% for small and virtually none for large companies– Source: Impact assessment accompanying the proposal for the overhaul of the Accounting Directive, SEC(2011) 1290 final, table 4 p.20, citing a study made by a consortium (Capgemini, Deloitte, Ramboll) for the European Commission, 2009.

(e.g. the Directives) require Member States to bring in national transposing measures. According to the EU Treaties[47], the Commission has the duty to ensure the application of EU law under the control of the Court of Justice of the EU. The Commission is therefore responsible for monitoring how EU law is implemented, solving problems with Member States so as to remedy any possible breaches of EU law, and taking infringement action when appropriate[48]. For this purpose, it carries out compliance assessments for all Directives published in the Official Journal of the European Union that require transposition measures. It also handles complaints concerning possible breaches of EU law by the Member States received by members of the public, businesses and civil society.

In order to assess the Member States' implementation of the existing EU framework, the Commission mainly focused on the results of the compliance assessments for the Accounting Directive, the Non-Financial Reporting Directive amending the Accounting Directive, and the 2013 Directive amending the Transparency Directive.

In order to facilitate the Member States' implementation of the directives, the Commission services organised transposition workshops[49] with Member States' representatives to provide informal guidance on how to transpose specific provisions of the AD and the NFRD. During these workshops, Q&As and non-papers to clarify definitions and provisions were shared with the participants.

State of play of transposition in Member States

Despite significant delays in the notification of their national transposing measures, to date all 28 Member States have completed the transposition of the AD, the NFRD and the 2013 Directive amending the TD[50]. All the infringement cases that were initially opened for late transposition[51] were subsequently closed. For these three directives, the Commission services assessed the compliance of the national transposing measures with each directive's most important provisions. Such compliance check was based – in part – on a preliminary assessment of the national transposing measures per each Member State carried out by an external contractor.

Compliance issues emerging from the compliance assessment

As for the AD, only a few non-critical issues were identified during the compliance assessment of the changes brought in by the new Directive adopted in 2013. A minority of Member States struggled with the removal of a restriction that existed thus far to have only ordinary activities in the turnover, resulting in potentially uneven definitions of turnover across the EU. In addition, Member States have had slightly varying interpretations of certain accounting rules in the AD[52].

47 Article 17 TEU.

48 As set out in Articles 258 and 260 TFEU.

49 NFRD: two workshops in 2015 and two workshops in 2016. AD: six workshop over 2014/2015.

50 Accounting Directive: deadline for transposition 20/07/2015; last notification received 26/01/2017. NFRD: deadline for transposition 06/12/2016; last notification received on 27/11/2017. TD: deadline for transposition 26/11/2015; last notification received on 06/12/2017.

51 Late transposition cases opened (and later closed): as for the AD, 18 cases; as for the NFRD, 12 cases; as for the TD, 21 cases.

52 Goodwill amortisation and impairment; the notion of control, participating interests and affiliated undertakings regarding consolidation; the fair value option.

As for the NFRD, several issues were identified during the compliance assessment. Firstly, some Member States have not been sufficiently clear or precise in the transposition of the concrete disclosure requirements contained in the directive. Secondly, there are concerns about the collective responsibility of the members of the administrative, management and supervisory bodies of undertakings with regard to the non-financial statement if this is published in a separate report. Lastly, the exemption that applies to certain subsidiary undertakings has been limited in some Member States.

As for the TD, a few Member States had difficulties with the transposition of the notification requirements for holders of financial instruments allowing the acquisition of shares to which voting rights are attached. Some issues have also been identified with the establishment by some Member States of certain minimum effective, proportionate and dissuasive administrative measures and sanctions for breaches of the national provisions transposing the TD rules.

Table 4 summarises the above:

Table 4: State of play of transposition and main implementation issues

	To start at the latest by,,,,	Union's activities to facilitate implemen-tation	Status of trans-position	Main implementation issues identified during compliance assessment
Accounting Directive	20 July 2015	Six workshops in 2014/2015. Publication of guidance on the Commission's website. Q&As shared with participants to provide guidance.	Complete Last notification received on 26/01/2017	• Modification to the definition of "turnover"; • Goodwill amortisation and impairment; • Notion of control, participating interests and affiliated undertakings regarding consolidation; • Fair value option.
NFRD	6 Dec. 2016	Two workshops in 2015 and two workshops in 2016. Q&As shared with participants to provide guidance.	Complete Last notification received on 27/11/2017	• Concrete disclosure requirements; • Collective responsibility of members of the management bodies where the non-financial statement is published in a separate report; • Exemption for subsidiaries to disclose non-financial statement was limited by some Member States
Trans-parency Directive	26 Nov. 2015	ESMA's: • Q&A on the Directive and implementing measures • practical guide on notifications of major holdings	Complete Last notification received on 6/12/2017	• Rules on the notification for holders of financial instruments allowing the acquisition of shares to which voting rights are attached; • Establishment of dissuasive, proportionate and effective administrative measures and sanctions.

7. ANSWERS TO THE EVALUATION QUESTIONS

This section assesses the EU framework on public reporting against the following criteria: effectiveness (7.1), efficiency (7.2), relevance (7.3), EU added value (7.4) and coherence (7.5).

7.1 Effectiveness of the EU framework

The overarching evaluation question is whether the EU framework on public reporting by companies has been effective in enabling stakeholders to make informed decisions by ensuring the timely reporting of relevant, comparable and reliable financial and non-financial information on companies' activities, performance, risks and impacts. Public reports are useful for stakeholders when they can use them for informed decision-making. For example, forecasting future cash flows (predictive value) or comparing past evaluations or predictions with actual achievements (confirmatory value). Providing information with confirmatory value is especially useful with a view to assessing management stewardship and confronting past forecasts with actual achievements.

The usefulness of publicly reported information depends on who the stakeholders are and what they expect. The number and types of stakeholders depends on the type and size of the reporting entity. A fully management-owned micro company has a very limited number of stakeholders compared to a listed company, which is accountable to a much broader range of stakeholders and has to cater for a multi-facetted reporting. This Fitness Check identifies three types of reporting entities (see also Table 1 in section 1.1) with the five main categories of stakeholders (investors, creditors, employees, civil society and authorities). This fitness check also recognises that some stakeholder groups are not homogenous. For example, investors may have different interests (e.g. different levels of interest in sustainability), risk appetite, and time horizons for their investments; institutional investors or private equity funds may have direct access to companies that retail investors do not have. This fitness check also considers that stakeholders with privileged insider access to information, such as manager-owners or tax authorities are less prone to see value in public reporting. Hence, they are not further considered in the remainder of this exercise.

Limited liability companies

Micro companies are often management-owned companies with sole proprietorship. They usually recourse to bank funding (loans and overdrafts). In most cases they have a single line of business with none to very little cross-border activity. Micro companies may have chosen the limited liability legal form to shield the personal property of the owner-manager from business risks or for tax reasons.

Small companies usually have more substantial amounts of bank lending and a more complex ownership structure including external investors. They may have more complex group structures (also for tax purposes) and some cross-border business.

Medium and large non-listed companies can comprise very large family-owned companies or companies whose ownership is more widespread. Some are comparable to international listed groups in terms of size and cross-border activities and can employ thousands of employees. They have registered shareholdings. Investment funds or asset managers may hold direct participation in their share capital.

All limited liability companies have trade creditors (e.g. product or service suppliers with varying contract terms and conditions) who may use the annual financial statements to assess the creditworthiness of companies. Employees can also use such statements to evaluate the profitability and pension contribution capacity of their employers. In general, civil society is more interested in impacts of companies on society and the environment and more concerned by activities of larger companies.

Listed companies

Listed companies have diversified widely dispersed (largely anonymous) shareholdings including direct and indirect investments by institutional investors such as life insurance companies, pension funds or hedge funds. Virtually all have EU cross-border business. They can be global players with more than 100.000 employees and complex international group structures. Public reporting by listed companies is subject to supervision by securities market supervisors.

Non-listed financial institutions

Banks take deposits and grant loans on their own account, have access to central bank liquidity, and are subject to specific prudential requirements on solvency, resolution, deposit guarantees, and banking supervision. To the extent that banks are listed, the regular public reporting requirements for listed companies apply.

Insurance undertakings underwrite insurance risks for their own account and are subject to specific prudential requirements on solvency, governance, and insurance supervision. To the extent that insurance undertakings are listed, the regular public reporting requirements for listed companies apply.

Depositors of banks and policyholders of insurance undertakings are protected by a cascade of regulatory requirements, including prudential and supervisory frameworks as well as deposit and insurance scheme guarantees, and they usually do not rely on public reporting by financial institutions in order to protect their interest.

Table 5 summarises for each category of entities the main stakeholder groups for which public information is useful for their decision-making.

Table 5: Stakeholder groups per type of entity

Category	Size / type	Stakeholders				
		Investors (Equity)	**Creditors** (debt funding + trade creditors)	**Employees**	**Civil society**	**Others**
Limited liability companies	Micro	Manager / owner (1 or very few shareholders)	Banks, trade creditors	Direct employer / owner relationship	In exceptional cases	Authorities
	Small	Manager / owner + few registered shareholdings	Banks, trade creditors	Direct employer / owner relationship	In some cases, depending in impacts	Authorities
	Medium	Registered shareholdings (e.g. family), asset managers	Banks, trade creditors	Structured employee representation	In some cases, depending on impacts and size	Authorities
	Large	Registered shareholdings (e.g. family), asset managers	Banks, trade creditors	Structured employee representation	NGOs	Authorities
Listed companies	Listed (group)	Shareholders on secondary markets, investment funds, asset managers	Banks, trade creditors, holders of listed debt securities	Structured employee representation	NGOs	Authorities
Non-listed financial institutions	Bank (any legal form)	Registered shareholders (cooperative shareholders)	Interbank lenders, creditors, depositors holders	Structured employee representation	Depending on impacts and size	Authorities
	Insurance undertaking (any legal form)	Registered shareholders (cooperative shareholders)	Policy holders	Structured employee representation	Depending on impacts and size	Authorities

7.1.1 Effectiveness of the EU framework on regular public reporting by all limited liability companies

Table 6 summarises the requirements of the EU framework on regular public reporting by all limited liability companies (14.2 million micro, 2.3 million small, 0.3 million medium and 0.1 million large companies). These requirements stem from the AD, the IAS Regulation where Member States have decided to expand the scope of mandatory application of IFRS (see Annex IV), and CBCR where the company is large and is active in the extractive or logging sector. One Member State requires the use of IFRS for all limited liability companies, 15 Member States permit the use of IFRS by all limited liability companies, and four Member States only permit the use of IFRS by subsidiaries of parent undertakings reporting under IFRS. Evidence indicates that where the use of

IFRS is permitted, take up remains limited and the vast majority of companies choose using national GAAP[53].

Table 6: Requirements of the EU framework on regular public reporting by all limited liability companies

Category	Size / type	The EU framework on regular public reporting by all limited liability companies		
		AD	**IAS**	**CBCR**
Limited liability companies	Micro	Abridged balance sheet and P&L	- (IFRS = MS option)	-
	Small	Financial statements (Balance sheet, P&L, notes)	- (IFRS = MS option)	-
	Medium / Large	Financial statements, management report, audit	- (IFRS = MS option)	Extractive or logging sector (large)

Conclusion on the Effectiveness of the EU framework on regular reporting by all limited liability companies

For a majority of stakeholders, the information provided under the EU framework applicable to all limited liability companies is *relevant*. Even if the AD has lacunas and did not keep pace with regulatory and business developments, this does not appear to be a major issue in practice as Member States have largely supplemented the EU framework in their national legislation (or allowed the use of IFRS).

Comparability of published information is adequate in form due to prescribed lay-outs but perfectible in substance. This is mainly a concern for stakeholders with an interest in companies with cross-border operations, i.e. larger companies. These count for 2% of the total number of EU limited liability companies. Stakeholders tend to point to IFRS-based solutions to address this.

Reliability of the information published under the EU framework seems adequately safeguarded by collective board responsibility for giving a "true and fair view". The statutory audit requirement, which is commensurate to the size of companies, offers an additional safeguard for users of information of a fair portion of larger companies.

The *timeliness* of information provided to stakeholders depends on how Member States have implemented the publication provisions of the AD. Even though sometimes published earlier due to national laws, the AD allows publication of the information up to 12 months after the end of the reporting period significantly which reduces the relevance of the information for stakeholders. Moreover, there is evidence that not all companies comply with the timeliness of their publication obligations. This lack of compliance may be a consequence of insufficiently dissuasive sanctioning regimes implemented in the Member States.

The usefulness of CBCR in bringing transparency on payments to governments by extractive and logging industries is widely recognised by civil society.

[53] Source: Commission services' search in Orbis.

Relevance

The vast majority of stakeholders consulted for this fitness check does not dispute the relevance of the financial information provided under the EU framework applicable to all limited liability companies (Q16-Q17[54]). **Even if there is growing debate and research about the usefulness of financial reporting for decision-making[55], users consider that financial statements have an important confirmatory role.** Companies' information in the financial statements may be seen to be essentially about past events with limited forward-looking value. Nevertheless, in their responses to the consultations, stakeholders outlined that financial statements have an important confirmatory role and did not call for amendments to the AD in order to require additional forward-looking data in the financial statements such as future cash flows.

Arguably, the AD has not been updated to reflect all regulatory and business developments. In consequence, there are numerous areas for improvement which were identified through Commission research and consultations:

- **Lacunas in recognition and measurement principles for the preparation of financial statements**: the AD may not adequately portray some transactions, for instance the revenues from multiple-element-sale contracts or the underlying assets and liabilities of lease contracts[56].

- **Lacunas in the completeness of financial statements:** for example, the AD does not require the preparation of a cash-flow statement or a statement of changes in equity.

- **Insufficient content of the management report**: management reports include more forward-looking and risk oriented, narrative information. As such investors consider it a key document. Some analysts argue that the management report could include key performance indicators to strengthen comparability as well as (not necessarily financial) information on intangibles.

Member States have mitigated the impact of these lacunas, either by supplementing the minimum requirements of the AD in their national legislation (as illustrated in figure 6), or by expanding the scope of the companies allowed or required to use IFRS. A majority of stakeholders consider the EU framework as overall relevant and support the status quo (Q12[57]). However, the variety of nGAAPs resulting from the situation may have impacts in terms of comparability.

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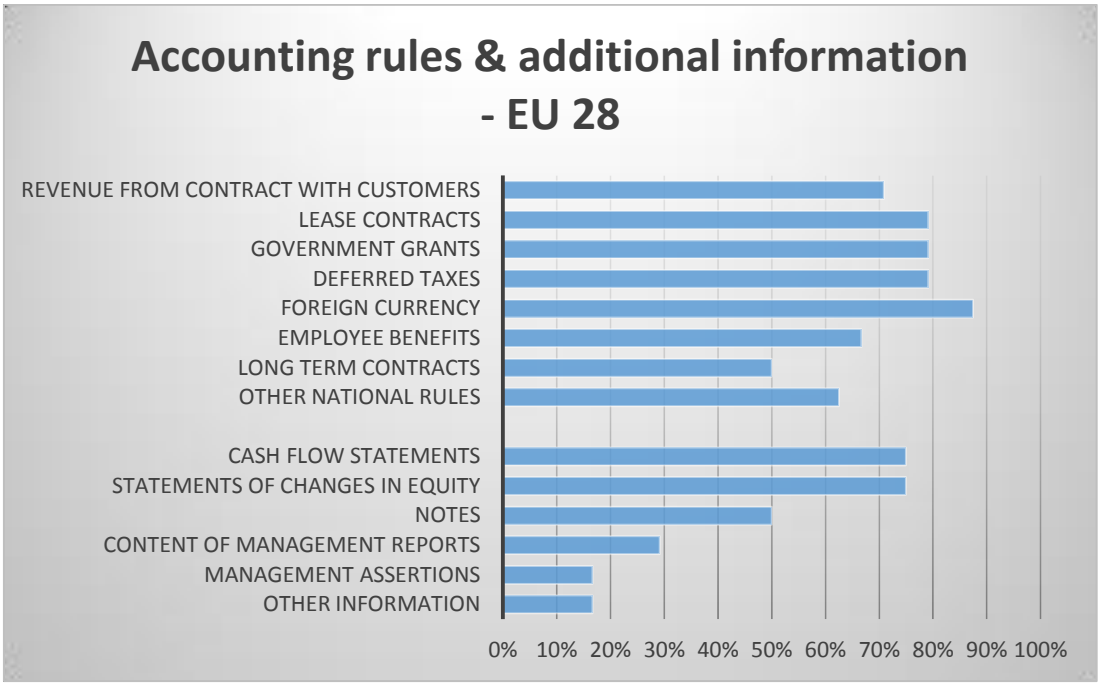
54 In general, most of the stakeholders (71%) agree on the relevance of the current EU public reporting framework. Banks, investors, institutional investors, public authorities and preparers are particularly satisfied on the subject. More sceptical respondents include academics and audit and accounting firms. Civil society and employees are particularly distrustful of the relevance of the framework however their major concerns are targeted at non-financial information (see section 7.1.2).

55 A paper from the University of Melbourne prepared for the IASB ASAF (Accounting Standard Setting Forum) provides a good overview https://www.ifrs.org/-%20/media/feature/meetings/2018/april/asaf/asaf-08a-research-paper-april-2018.pdf/.

56 Karel Van Hulle, Leo van der Tas, "European Union, Individual accounts" in TRANSACC, Dieter Ordelheide and KPMG, second edition.

57 A majority of respondents (52%), especially investors, banks and creditors, employees, authorities and preparers took the view that the EU should maintain the current framework as it is and not pursue further convergence of nGAAPs implementing the AD. Civil society, market infrastructures, auditors and individual stakeholders were more inclined to try and reduce differences between national legislations

Figure 6: Rules and additional information as per Member States' GAAPs filling in the gaps in the AD



Source: Accounting Regulatory Committee, based on 24 Member States contributing to the survey. Percentages reflect the number of Member States

Comparability

There is no conclusive evidence showing whether national supplements to the AD provisions, or the use of IFRS, have led to more or less cross-border comparability. As regards supplements brought in by Member States in their respective nGAAP, a survey[58] indicates that Member States use IFRS as a yardstick (the IFRS 'trickle-down' effect[59]), which could support comparability. On the other hand, the AD contains many options to choose from for the Member States including about 30 Articles with more than 200 detailed provisions. A survey by the Commission services indicates that the actual use of options by Member States is not negligible, ranging from 17 to 161 options, with a median of 92 options. Among these, 39 options are widely used by more than 20 Member States. These include for instance the super-simplified regime for micro companies, measurement techniques such as fair value, and prior years' adjustments[60]. On that basis, the AD seems to be effective in achieving a certain degree of cross-border comparability for limited liability companies through a common set of principles[61] and prescribed

transposing the AD. Moreover, 66% of respondents generally disagreed with the idea of addressing lacunas, especially investors, banks and creditors, employees, auditors, authorities, preparers and individuals.

58 The Trickle Down Effect - IFRS and the Accounting Treatment of SMEs, EFAA, 23 March 2017.

59 The 'trickle down' effect is the influence that IFRS can have on the design of national approaches, where the AD offers leeway.

60 Other – less widely used – options concern a variety of topics, including for instance the financial statements' layouts, participating interests, consolidation techniques, preparation and publication of abridged accounts, separate NFR and corporate governance reports.

61 These include the true and fair view, the accruals basis, prudence, consistency of policies and figures over time, historical costs, materiality, etc.

reporting lay-outs[62]. However, it tends to adequately support comparability rather in form (prescribed lay-outs) than in substance.

A suboptimal cross-border comparability of information in financial statements does not appear to be a major issue for stakeholders, which may stem from the fact that the vast majority of limited liability companies (98%) are either micro or small entities, for which cross-border activities tend to be less widespread than with larger companies. 64% of respondents (including preparers and many investors) agreed that the comparability of nGAAP is conceptually suboptimal, but that divergent accounting treatments had limited behavioural consequences on their investment and business decisions (Q8[63]-Q9[64]). A majority thought that the EU should not pursue further convergence of the nGAAP (Q12[65]). Civil society actors and academics tended to see suboptimal cross-border comparability as a hindrance to cross-border establishment but recognised that, absent any harmonisation of company tax bases within the EU, further harmonisation could entail issues for companies[66].

Suboptimal comparability is more critical for larger companies (that count for 2% of the limited liability companies in the EU), as they usually have more cross-border operations than smaller companies[67]. Stakeholders of these large companies are most likely to be interested in better comparability across the EU as well as at international level, and hence in the use of IFRS. During consultation, there was no large support for any attempt to reduce variability of nGAAP. Instead, the IFRS appeared as an anchor point (Q12[68]).

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62 Annex 3 to 6 of Accounting Directive 2013/34 provide the balance sheet and profit and loss layouts prescribed by Article 10. There are many Member State options, though. Article 9 permits some general flexibility within these layouts. Article 14 and 36 permit abridged presentation for SMEs (and super-abridged for micro companies). Article 11 permits departure to equivalent layouts for certain classes of companies (for instance when using the IFRS). As a result, Member States have implemented the Directive's layout, with national variations.

63 39% of the respondents considered that differences in national reporting rules did not hinder cross-border business. Half or more of institutional investors (57%), banks (63%), market infrastructures (50%) and preparers (51%) supported that view. Only 5% of the respondents deemed the differences in national reporting rules as a serious obstacle to cross-border business, whereas 44% perceived some hindrance.

64 Overall, 64% of the respondents agree that the EU should not pursue further convergence of the nGAAPs and that differences in national accounting standards do not constitute significant impediments to cross-border establishment in the EU. Only civil society and academics appear unconvinced and see differences in nGAAPs as a hindrance to cross-border establishment. However, 61% of the respondents see differences arising from the determination of taxable profits as a significant impediment to cross-border establishment. Institutional investors (71%), banks (81%), employees (100%), academia (67%), audit and accounting firms (75%), public authorities (60%), preparers (63%) and individual stakeholders (67%), are particularly critical on that point.

65 Most of the respondents agree that the EU should not pursue the convergence of nGAAPs and maintain the current framework as it is (52%). On the contrary, civil society, market infrastructures and individual stakeholders argue for a reduction of the differences in nGAAPs. Reducing the differences by converging nGAAPs on the basis of a European Conceptual Framework is generally the least preferred option. The least rejected one is to remove options currently available in the EU accounting legislation (AD).

66 The Commission has proposed in October 2016 a Directive for a Common Corporate Tax Base (CCTB) and a consolidated tax base (CCCTB).

67 Cross border operations at company level tend to be commensurate with size. See for instance European Commission Annual report on European SMEs – 2018/17, p. 50.

68 Except for civil society and academics, stakeholders generally disagreed on the idea of reducing the variability of nGAAP by removing options or implementing a specific EU conceptual framework.

Reliability

Reliability relies on the "true and fair view" principle[69], which is primarily the responsibility of the companies' management, and is for medium-sized and large companies confirmed by auditors. The purpose of the sanctioning regimes for non-compliance with the EU framework is also to secure the reliability of corporate reporting.

The "true and fair view" principle[70] has been recognised by the Court of Justice as the overarching principle in order to satisfy third parties' needs for information[71]. This principle is laid down in the AD, which specifies that a true and fair view should be given by complying with the provisions of the directive, but where appropriate, a company should provide as much additional information as necessary to give a true and fair view. If needed (in rare cases) any provisions set in the AD seen as contrary to the true and fair view should be overridden.

Statutory audits contribute significantly to the reliability of financial information reported by companies by determining whether a company's financial statements comply with nGAAP and the true and fair view principle[72]. EU law on statutory audit requires that at least medium-sized and large companies (i.e. 2% of all EU limited liability companies) appoint a statutory auditor[73]. Eighteen Member States have expanded the audit obligation to smaller companies, and four to micro companies as well[74]. As a result, it is estimated that up to 11% of the 16.8 million EU companies have the legal obligation to appoint an auditor, including up to one third of the 2.3 million small companies. A number of smaller companies also appoint voluntarily a statutory auditor[75]. In addition, micro and small companies often use professional external accountants to prepare their financial reporting[76], which confers a certain level of comfort as to their faithfulness. The vast majority of the audit reports conclude positively on the compliance with nGAAP and the true and fair view. There are occasional cases of failures of auditors and audit companies in carrying out their tasks.

There are concerns as to whether the judiciary system and sanctioning regime of Member States are effectively ensuring the reliability of the financial statements of

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Nevertheless, respondents were more amenable to the idea of enhancing comparability with rules based on IFRS.

69 See for instance (1) National And International Perspectives On The Quality Of Accounting Information, Alina Rusu, Revista tinerilor economişti, 2012 – (2) True and fair statement, PWC UK, 5 June 2014 – (3) The Evolution Of The Importance Of The True And Fair View Principle. The Case Of Poland, Agnieszka Piechocka-Kałużna, Sciendo, 2018, Vol. 23, No. 4.

70 Article 4 AD.

71 Court case: Tomberger, C-234/94, EU:C:1996:252, point 17, DE + ES Bauunternehmung (C-275/97), BIAO (C-306/99).

72 See for instance, The Impact Of Creative Accounting On Financial Audit, Radu Vasile, Studia Universitatis Vasile Goldiş, Arad - Seria Ştiinţe Economice, 2013, Vol.23(4), pp.56-62.

73 Article 34 AD imposes the appointment of a statutory auditor on medium-sized and large companies, as well public-interest entities of any size. Figures extrapolated from the Study on the accounting regime of limited micro companies – CEPS – 2019.

74 See Accountancy Europe – Audit exemption thresholds in Europe - 2019 – Survey results.

75 For instance, an audit could be required by funds providers or by other persons. For instance, Dr Jill Collins surveyed 419 micro companies in the UK and found that, for various reasons, 22% of these had a voluntary audit (https://realbusiness.co.uk/why-smes-choose-voluntary-audit/).

76 CEPS surveyed micro companies in eight Member States, 72% of which had an external accountant.

limited liabilities companies, and being a robust ultimate line of defence for users. The AD requires Member States to provide for effective, proportionate and dissuasive penalties, and the CLD appropriate penalties against non-compliance with the directives. But contrary to other Directives such as the TD, the AD or CLD set no indications on minimal levels or types of sanctions to be considered. This results in uneven approaches across the EU.

All Member States but one base their sanctioning regime primarily on fines. More than half of the Member States' regimes also provide for criminal fines. Some Member States' sanctioning regimes include as well administrative sanctions, for instance to address cases where companies would not fulfil their filing obligations (financial statements, statutes ...) over a few years or the ability to act before courts on this basis. For instance a company may be struck off the business register if it fails to file the financial statements over a few years in Cyprus, Poland or Belgium (non-exhaustive list) and sometimes even dissolved. The volume of applicable fines vary significantly across the EU, but as shown in table 7, could tend be overall quite low. 17 Member States set minimum fines, the median of which amounts to EUR 300. As regards maximum fines, there is clear divide with about half of the Member States in the range of EUR 500 to EUR 13 500 (natural persons and companies combined, median EUR 3,500), and the other half imposing much higher fines (sometimes unlimited). On this basis the dissuasiveness of sanctioning regimes within the EU appears to be uneven.

Table 7: Fines in Member States, EU 28

	Member States	**Range (EUR)**	**Median (EUR)**
Minimum fine	17	23 – 2 500 0.1% turnover – 3% assets	EUR 300

Maximum fine	**Member States**	**Range (EUR)**	**Median (EUR)**
No limit (e.g.% turnover)	5	-	N/A
Range starting above EUR 15 000	9	20 000 – 3 000 000	50 000
Range below EUR 15 000	13	500 - 13 500	3 500
No fine	1	-	-

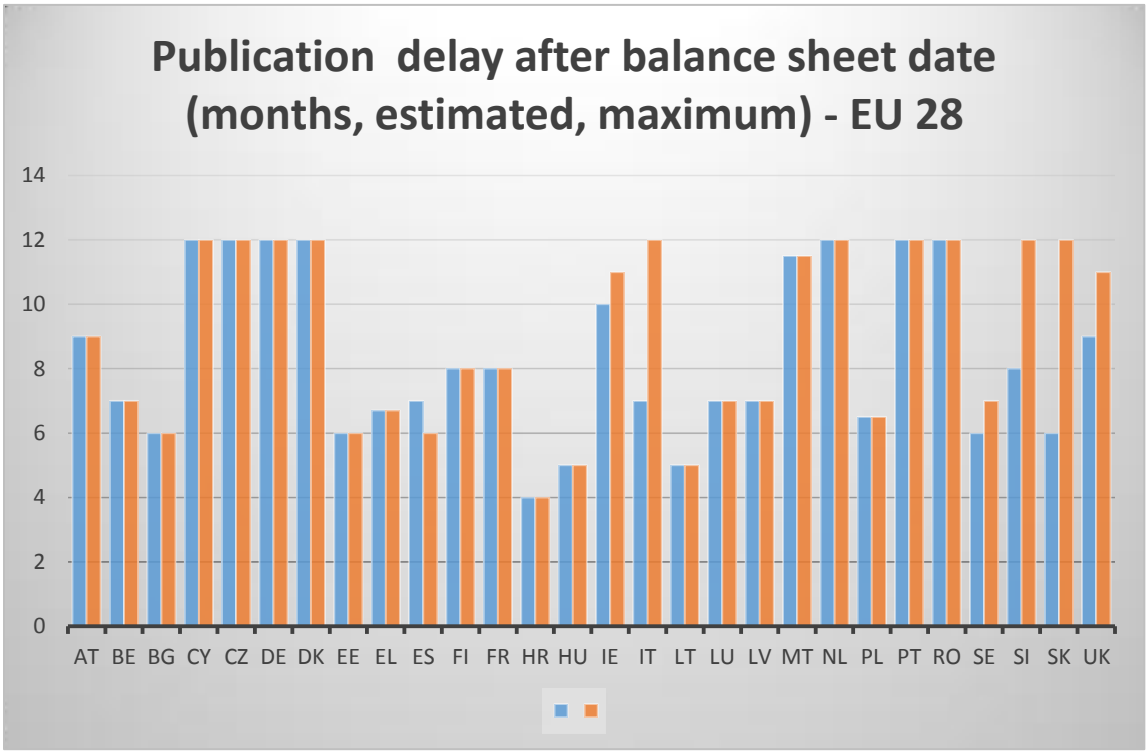
Source: European Commission

Timeliness

Information published long after the balance sheet date is less useful for decision-making. The 12 months maximum deadline for companies to file their financial statements with a national business register, as laid down in the AD, appears quite long. In particular, the relevance for trade creditors of backward looking annual information published up to 12 months after the end of the reporting period seems limited. Other than the business register, the AD does not provide for any other channel of publication, e.g. using a company's web site. Some users responding to the public consultation (Q1, Q2 and Q9) noted that the long deadline for publication of the information, combined with the lack of a single point of access significantly undermine

the usefulness of the information for their decisions. This is partly compensated for by shorter deadlines in a number of Member States and as companies can voluntarily publish financial information ahead of legal deadlines, including on their website. The figure below provides an overview of how Member States have implemented the AD deadline. These effectively range from 4 to 12 months, with nine Member States above 10 months.

Figure 7: Publication delays implemented – EU 28



Source: European Commission

In addition to long legal delays, potential issues were identified as regards the compliance with delays. Cases of companies not filing their financial statements are often reported, e.g. in the press, or are raised by the European Parliament[77] and in complaints submitted to the Commission. On a more comprehensive basis, CEPS estimated[78] that for the financial year 2016, potentially 64.3% of the active EU limited liability companies had filed their financial statements by the remittance date. The situation is not even across the EU with some Member States showing better compliance rates than others. A narrow survey carried out by the Commission with business registers tends to support this finding with a median of 81% of companies filing their financial statements on time in eight Member States.

77 For instance, see Parliamentary questions E-003714/2018 on the filing by certain companies in Ireland, P-010191/2015 about uneven publication of certain information across the EU, European Parliament's Recommendation following the inquiry on money laundering, tax avoidance and tax evasion (P8_TA-(2017)0491) paragraph 70 on the need for up-to-date and trustworthy information on companies. In addition, certain complaints were received by the Commission (ongoing).

78 On the basis of the Orbis database.

CBCR for the extractive and logging industries

As regards CBCR, given that the requirements have been in place for two (at best three) reporting cycles, data is limited, but a number of observations can already be drawn based on some studies and interaction with stakeholders.

There is no doubt in general, at least in the eyes of civil society, about the usefulness of the information provided in CBCR to empower populations of resource-rich countries. The industry is more sceptical about whether the primary objective of the policy has been met and considers that civil society has so far been using CBCR rather to challenge companies than to keep governments accountable. Besides, the legislation appears to cover very few logging industries (VVA study), which raises concerns about its effectiveness for that sector.

Stakeholders (investors, standard setters, accounting firms, analysts and NGOs (Q51-53) have pointed to issues with the timely delivery and even access to CBCR. Civil society calls upon further digitalisation to solve the issue. The UK centralised repository for disclosures established by the Business Register Companies House appears as best practice as it provides free central access to all CBC reports of UK companies in the scope of the legislation.

7.1.2 Effectiveness of the EU framework on regular public reporting by listed companies

The EU framework on regular public reporting subjects listed companies to the most demanding requirements for financial and non-financial information[79].

Table 8 summarises the EU framework requirements on regular public reporting by listed limited liability companies (around 5,000 parent companies applying IFRS, and 1 500 single listed entities applying nGAAP unless otherwise specified in national legislation). The general publication requirements of the AD are complemented by requirements from the TD, as well as from the NFRD (where the company is a large PIE with more than 500 employees), the IAS Regulation (where the company prepares consolidated financial statements – with possible extension to annual financial statement if permitted/required by national legislation), and CBCR (where the company is large and is active in the extractive or logging sector).

As at December 2018, 22 Member States had used the option to expand the scope of application of IFRS to the annual financial statements of listed entities (see Annex IV): 11 Member States required the use of IFRS for the annual financial statements of listed entities (in addition to their use for the group's consolidated financial statements) and 11 others permitted this. As at 2019, an estimated 1 100[80] listed companies were required to apply IFRS also for their annual financial statements, however no EU-wide reliable statistics were available about the number of companies electing the option to use IFRS when permitted.

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79 For a list of financial and non-financial type of information, together with the specification of the documents where stakeholders can find such information, please see Annex VI.

80 Based on Annex III of the ESMA 2020 Report on the enforcement and regulatory activities of European enforcers in 2019 (https://www.esma.europa.eu/sites/default/files/library/esma32-63-846_2019_activity_report.pdf), number of EU IFRS issuers listed in Member States who require the use of IFRS for the annual financial statements of listed entities.

Table 8: Requirements of the EU framework on regular public reporting by listed companies

Category	Size / type	The EU framework on regular public reporting by listed companies				
		AD	**NFRD**	**IAS**	**TD**	**CBCR**
Listed companies	Listed	Financial statements, management report, corporate governance statement + audit	If large and >500 employees: non-financial statement	Mandatory IFRS for consolidated financial statements (approx. 5 000 entities) (IFRS for annual financial statements = MS option)	Yearly and half-yearly "financial report" (also non-EU country issuers). Reports on payments to governments	Reports on payments to governments

Conclusion on Effectiveness of the EU framework on regular public reporting by listed companies

The *relevance of reported financial information* is good for investors and creditors of listed groups for their consolidated financial statements which under the EU framework have to apply EU-endorsed IFRS. By the same token, the relevance of reported financial information in the individual annual financial statements of listed companies drawn up according to IFRS is good (where Member States have expanded the scope of application of IFRS to annual financial statements of listed companies). For listed companies not applying IFRS for the preparation of annual financial statements, the relevance ultimately depends on the provisions from Member States' nGAAP that complement the minimum requirements of the EU framework (AD). The *relevance of reported non-financial information* is suboptimal with many listed companies failing to disclose the *non-financial information* that users (especially investors and civil society organisations) consider relevant, while also disclosing information that is not relevant. This is at least partly due to the lack of clarity of the EU framework (NFRD).

Comparability is good in substance for IFRS but could be further improved with standardised tabular lay-outs. The *comparability* of non-financial information is generally insufficient to meet users' needs.

The *reliability* of financial information is overall good due to the cascade of requirements of collective board responsibility for the true and fair view of financial statements, mandatory statutory audit for any listed company, and securities market supervision. Stakeholders perceive the information disclosed in compliance with TD rules as overall reliable. However, there are diverging enforcement practices across the EU and - as highlighted by the Wirecard case - potential weaknesses as regards the effectiveness of enforcement practices, in particular as regards the lack of coordination between national authorities and the independence of the authorities in charge of examining financial information. The *reliability* of non-financial information is in most cases not adequate, and the EU framework imposes fewer requirements to ensure the reliability of non-financial information compared to financial information.

Timeliness is good due to specific tight requirements from the TD on maximum filing delays and monitoring by competent authorities.
As regards the effectiveness of the CBCR requirements for listed companies, the same conclusions reached for limited liability companies apply.

7.1.2.1 Effectiveness of the EU framework for financial information publicly reported by listed companies

Relevance

The IAS Regulation, as directly applicable Union law has achieved that IFRS has become a common financial reporting language improving transparency, comparability and reducing the cost of capital. This is a major achievement recognised by virtually all respondents to the public consultation, although few mentioned that IFRS benefits came at cost of increased operational burden and information overload. Respondents considered the IAS Regulation as the main instrument that had contributed to an integrated capital market and reduced companies' cost of capital. Almost all investors reported that the EU framework had been effective in promoting integrated capital markets [81] and commented that IFRS had resulted in transparent financial information thus facilitating investment decisions. As a main group of creditors, banks unanimously concurred that the EU framework had been beneficial for capital markets with some of them highlighting that the adoption of IFRS had been a cornerstone of this success. Similarly, a credit agency underlined that incorporating the IFRS had been an important step in delivering transparent information to public markets. One trade union also reported a positive assessment about the EU framework for capital markets. However, representatives from the civil society overwhelmingly did not comment the question.

Based on the results of a literature review, the Commission 2015 Evaluation of the IAS Regulation also concluded that there was evidence suggesting that the adoption of IFRS in the EU had resulted in a higher degree of transparency of financial reporting. Transparency implies securing an equal access to a minimum set of relevant disclosures so as to allow interested stakeholders to exert scrutiny. Empirical studies have therefore attempted to measure the relevance of the financial information under IFRS by considering three main types of indicators:

(1) improved accounting quality and disclosures, approximated by the level of disclosures and the impact of discretionary estimates on the net income;
(2) more value-relevant reporting, approximated by correlations between accounting disclosures and changes in share prices; and
(3) more accurate analysts' forecasts of future earnings and financial targets.

The evidence was however not unequivocal reflecting the fact that the incremental benefits differed between jurisdictions depending on the framework applied prior to the adoption of IFRS. The evaluation also highlighted that enforcement regimes and firms' incentives to issue high-quality financial reports played a determinant role in enhancing transparency. More recent publications confirm that the improvements in transparency

[81] Question 1.3 of the Consultation Document "Fitness Check on the EU Framework for Public Reporting by companies".

have been uneven between jurisdictions but they do not challenge the Evaluation's conclusion (see Annex VII).

(1) As regards the assessment of accounting quality, the Evaluation highlighted some evidence of a positive impact. Academic research reported contrasted findings depending on the samples analysed and the criteria used to assess quality. The 2007 ICAEW study for the European Commission supported a positive assessment. According to the Study, most investors, preparers and auditors surveyed thought that incorporating the IFRS had improved the quality of financial statements. Some studies observed improved disclosures [82], a decrease in earnings management [83] and more timeliness in the recognition of losses[84] though to varying extent depending on the companies' corporate governance, the level of enforcement or the quality of pre-existing accounting standards. Other studies underlined the role of managerial incentives (follow-up by analysts, ownership structure or governance) in enhancing the quality of financial reporting[85] and the persistence of earnings management[86] under IFRS depending on countries' level in enforcement and supervision [87]. Some researchers did not find strong evidence of accounting quality improvement as compared to jurisdictions that did not adopt IFRS[88]. Research published after 2015 confirm that the improvements to financial reporting depend on the financial aggregates considered and on companies' compliance with the reporting framework[89].

(2) With regard to the value-relevance of financial reporting, the Evaluation also highlighted uneven incremental value for investors depending on the accounting items considered and the nGAAP applied prior to the adoption of IFRS. This was evidenced by assessments of correlations between disclosures and share prices after the adoption of IFRS. Some studies suggested a higher influence of reported earnings on investors' investment decisions[90] but a lower or stable influence of the book value of equity[91]. Another study found that IFRS adoption increased the relevance of accounting items especially in jurisdictions where the nGAAP differed most with IFRS[92]. Other research carried out at national level suggested that the relevance of accounting disclosures improved to various extent in European jurisdictions[93]. Focusing more specifically on debt markets some academics found evidence of increased relevance for credit-rating

82 Daske and Gerhardt (2006), Atanassova (2008), Verriest *et al.* (2013).
83 Zéghal *et al.* (2011), Aussenegg (2008), Cai *et al*. (2014).
84 Barth *et al.* (2013).
85 Goh *et al.* (2010).
86 Capkun *et al.* (2011, 2013).
83 Ahmed *et al.* (2013), Chen *et al.* (2010), Christensen *et al.* (2015).
88 Ahmed *et al.* (2013).
89 André, Filip and Paugamn (2015) concludes that the introduction of IFRS led to a decline in the timeliness of loss recognition, especially for firms carrying intangible assets and goodwill in their balance sheets whereas Salewski *et al.* (2014) suggests that IFRS accounting quality improves over time potentially reflecting higher compliance. Christensen et al. (2015) does not find evidence that the mandatory adoption of IFRS improved accounting quality within the context of companies previously applying German GAAP.
90 Landsmann *et al*. (2011), Barth *et al*. (2013).
91 Devalle *et al.* (2010), Ahmed *et al.* (2013).
92 Aharony *et al.* (2010).
93 Morricone *et al.* (2009), Jarva and Lantto (2012), Choi *et al.* (2013).

following the adoption of IFRS [94], whereas one found no impact of accounting information on the sensitivity of credit default swap spreads.

(3) There was more consistent evidence of improved accuracy in analysts' forecasts following the adoption of IFRS. Studies observed a significant increase in accuracy after bringing in the IFRS[95]. The benefits observed were nonetheless stronger in countries where nGAAP and IFRS differed the most and where there were strong institutions and legal systems to support enforcement[96]. Some studies also highlighted that IFRS adoption had been attractive to foreign analysts, in particular those from countries applying IFRS[97]. However, more recent studies tend to nuance the improvement[98].

IFRS financial statements provide significantly more relevant information to investors and creditors compared to financial statements prepared under the minimum requirements of the AD. EU-endorsed IFRS is a fully fledged reporting framework with standards, application guidance, formal interpretations and basis for conclusions as opposed to the minimum harmonised requirements of the AD, which lacks precise definitions and details. IFRS have kept pace with economic developments and contains principles and rules designed to account for complex transactions. IFRS financial statements include mandatory cash-flow statements and statements of changes in equity as well as detailed disclosure requirements. An illustration of the difference between the AD and EU-endorsed IFRS: the AD financial statement requirements make up approximately 25 pages, whereas EU-endorsed IFRS is approximately 4 500 pages long. However, as mentioned in the previous section, a more useful comparison of relevance would be a comparison with actual nGAAP based on the minimum requirements for financial statements in the AD.

Investors who participated in the workshop did not raise requests for additional information in the financial statements drawn up according to IFRS. They did not consider that more forward-looking estimates should be provided in the financial statements (so as to possibly reduce the "price to book ratio" gap[99]) and expressed the concern that such data could reduce the reliability and the auditability of the financial statements. However, they indicated that that type information could be given in the management report (for instance on intangibles).

According to most respondents to the consultation (Q25) and to the large majority of investors who participated in the workshop, the disclosure rules in the Transparency Directive have contributed to providing useful (relevant) financial information. The TD requirements for issuers to publish yearly (and half-yearly)

94 Wu and Zhang (2014, Florou *et al.* (2013).

95 Beuselinck *et al.* (2010), Choi *et al.* (2010), Jiao *et al.* (2012), Horton et al. (2013).

96 Houqe *et al.* (2012), Byard *et al.* (2011), Garcia-Osma and Pope (2011), Beuselinck *et al.* (2009).

97 Tan *et al.* (2011).

98 Demmer *et al.* (2015) highlights that the improvement in analysts' accuracy may be statistically only weakly significant as compared to non-IFRS publications whereas Preiato *et al.* (2015) stresses that increased accuracy is driven by the degree of enforcement in jurisdictions.

99 There can be significant differences between the carrying value of a company's net assets according to the financial statements and its quoted market price (so called "price to book ratio"). This is because the market value of shares incorporates future (expected) profits that will only be accounted for in the financial statements in future periods (if and when they are realised). This price to book ratio gap results from valuing e.g. intangible assets in the financial statements at a lower value than the total amount of future cash flows expected to be generated from their use.

financial reports (i.e. the audited financial statements, the management report and the company's responsibility statements), as well as the CBCR, have improved investors' protection and enabled them to make informed decisions.

Comparability

The respondents to the public consultation strongly appreciated the comparability of financial statements prepared under IFRS. All investors, who provided comments about the effectiveness of the financial reporting framework applicable to listed entities, emphasised that IFRS had strengthened the cross-border comparability of financial statements thus reducing research costs and facilitating investment decisions. As a major group of creditors, banks commented that IFRS as a single reporting language had enhanced comparability and helped developing cross-border markets. Almost no representatives of employees or civil society answered the question.

Based on the conclusion of the 2015 IAS Regulation Evaluation, the mandatory adoption of IFRS in the EU has resulted in greater comparability of financial reporting across countries and industries. The ICAEW 2007 Study for the European Commission highlighted a widespread agreement that IFRS had made consolidated financial statements easier to compare across countries, industries and entities. In the academic literature, several studies reported improved financial reporting comparability[100] using different proxy measures of comparability such as the variability of accounting ratios[101], price-earning expectations[102], correlations of market indices[103], consistency in accounting policy choices [104] or reduced variability of investors' forecasts [105]. However, similarly to the finding about transparency, improvements depended on the financial aggregates considered[106], the enforcement regimes and firms' reporting incentives[107]. More recent studies published after the 2015 Evaluation tend to concur that the mandatory IFRS adoption has led to improvements in cross-country comparability[108], increased the comparability of loan provisioning between EU's banks[109] and enhanced comparability at national level[110]; but also highlight that the adoption of IFRS does not automatically lead to increased cross-border comparability if compliance varies (audit quality, board independence, ownership); and results in lower comparability at national level between entities reporting under IFRS and others not applying IFRS[111].

In respect of cross-border pan-European comparability, the IAS Regulation is more effective than nGAAP based on the AD <u>on substance</u>[112], but arguably less <u>on form</u> as IFRS do not contain prescribed lay-outs for the presentation of the financial

100 Young and Seng (2010), Yip and Young (2012).
101 Jones and Finley (2011).
102 Dargenidou and McLeay (2010).
103 Cai and Wong (2010).
104 Bayerlein and Farooque (2012).
105 Andre *et al.* (2012).
106 Cairns *et al.* (2011).
107 Beuselinck et al. (2007), Lange et al. (2010), Liao et al. (2012).
108 Neel (2017).
109 Gebhardt and Novotny-Farkas (2016).
110 Hogling and Ysberg (2015).
111 Gascino and Gassen (2015).
112 Although some investors pointed out that some options within IFRS such as on the form of cash flow statements hindered comparability.

statements. Respondents to the public consultation indicated the usefulness of standardised (tabular) reporting formats for processing and comparing information (Q24). This view was largely confirmed during the investors' workshop on financial information. Almost all investors considered the comparability of IFRS in form suboptimal due to the lack of common lay-outs. This finding is also consistent with the IASB Work Plan Agenda 2017-2021, which emphasises the need for "Better Communication" as part of financial reporting. Accordingly, the IASB has undertaken a standard setting project "Primary Financial Statements" with a view to streamlining the structure of the statements of financial performance and cash flows. Most reporting companies (preparers) consider that harmonising presentation is not an issue because too rigid and detailed lay-outs would hamper portraying their business models properly. Arguably, increased use of structured electronic data in the future might mitigate the need for mandatory standardised lay-outs.

Although IFRS provides a robust basis for reporting comparable financial information in substance, its principle-based character and options leave room for judgement. Research has pointed out that there cannot be perfect comparability in financial reporting[113]. Examples of areas where management judgement needs to be made include: determining expected credit losses on loans under IFRS 9 *Financial Instruments*, determining (level 3) fair value without observable market inputs under IFRS 13 *Fair Value Measurement*, allocating fair value to identifiable assets and goodwill impairment under IFRS 3 *Business Combinations*, or determining the discount rate under IFRS 17 *Insurance Contracts*. Obviously, management judgement in IFRS financial statements is exercised in a context of management responsibility, disclosure of the essential assumptions, statutory audit, and enforcement by supervisors. The observation that IFRS has provided for a common reporting language even if management judgement is exercised in the application of IFRS is confirmed by research. Some studies also point out that cultural differences impact management judgement and hence comparability[114].

Reliability

In addition to the collective board responsibility and the statutory audit, the Member States' establishment of minimum administrative measures and sanctions for breaches of transparency rules and their enforcement by national supervisors play a key role in securing the timely and accurate disclosure of publicly reported information, underpinning its reliability.

The TD imposes the establishment by Member States of minimum administrative measures and sanctions (e.g. pecuniary sanctions, the publication of each measure and sanction issued by a competent authority[115]) that need to be effective, proportionate and

113 The ICAEW institute "The Effects of Mandatory IFRS Adoption in the EU: A Review of Empirical Research" of October 2014 concludes that there is evidence of continuing financial reporting differences also because of differences in institutions and incentives among firms and countries, and comparability may be weaker among smaller publicly traded companies than among larger ones.

114 Gregory L. Prescott, Carol E. Vann, 2015.

115 Delayed or anonymised publication of the decision is allowed where such publication would seriously jeopardise the stability of the financial system or an ongoing official investigation or cause disproportionate and serious damage to the institutions or individuals involved, or where the publication of personal data is shown to be disproportionate.

dissuasive[116], and must be applicable to both natural and legal persons. Member States are in any case allowed to provide for additional sanctions or measures and for higher levels of administrative pecuniary sanctions. Based on the responses from national experts[117] to a Commission survey carried out for the purpose of this fitness check, at least seven Member States have assessed the effectiveness, proportionality and dissuasiveness when implementing the new EU provisions on sanctioning regimes for listed companies at national level. However, stakeholders confirm that the sanctioning regimes in place across Member States are not always homogeneous in providing for effective, proportionate and dissuasive administrative measures for companies' breaches of transparency rules.

Based on our ongoing internal analysis on the transposition of the sanctioning regime by Member States, some concerns arise as regards the fact that some national sanctioning regimes do not seem to provide for the publication of all sanctioning decisions without undue delay[118]. This in particular might jeopardise the dissuasiveness of the sanctioning regime in some Member States. Moreover, some additional issues are pinpointed as it appears that a number of national sanctioning regimes may not have established minimum administrative measures and sanctions for all the key breaches set out in the TD, or may not provide for the application of the sanctions to members of the administrative, management or supervisory body of the legal entity in breach, or may not reflect all the TD provisions on the criteria for determining the minimum level of the sanctions. The latter is bound to jeopardise the overall effectiveness of the sanctioning regime from an internal market perspective.

The TD imposes a minimum list of supervisory powers that NCAs of Member States must be granted with[119]. In particular, they must have the powers to impose minimum administrative measures and sanctions [120] for breaches of the national measures transposing the TD, including the cases of non-disclosure, late disclosure and disclosure of misleading information within yearly and half-yearly financial reports, as well as within reports on payments to governments.

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116 According to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on reinforcing the sanctioning regimes in the financial services sector (COM(2010)716 final), "*sanctions can be considered effective when they are capable of ensuring compliance with EU law, proportionate when they adequately reflect the gravity of the violation and do not go beyond what is necessary for the objectives pursued, and dissuasive when they are sufficiently serious to deter the authors of violations from repeating the same offence, and other potential offenders from committing such violations*".

117 Expert Group of the European Securities Committee (EGESC).

118 Based on the responses to the EGESC questionnaire, in at least 22 Member States these decisions are made public via the website of the competent supervisory authority.

119 Under Article 19 of the TD, the authority responsible for the enforcement of the sanctioning regime towards the issuer is the supervisory authority of the Home Member State designated under the Prospectus regime (the "Central Authority"). The only exception to this rule is where the securities of an EU issuer are admitted to trading in only one Member State which is not the home Member State, in which case is the supervisory authority of the host Member State to be responsible. In any case, for the purpose of examining that the disclosed financial information is drawn up in accordance with the relevant reporting framework, and to take appropriate measures in case of discovered infringements, Member States may designate another competent authority ad hoc (the "Designated Authority"). To date, only a few Member States took up this option. In the case Member States allow the central authority to delegate some specific tasks, the Central authority (or the Designated Authority) is in any case the ultimate responsible for enforcement.

120 Such as the publication of a statement indicating the person responsible and the nature of the breach, an order to cease the conduct constituting the breach, and minimum administrative pecuniary sanctions.

In addition, under the TD, NCAs must be granted other enforcement powers such as powers to engage with auditors and issuers (and to require information to possibly be made public), to suspend trading activities for 10 days or to prohibit trading, to monitor the timely release of information by issuers, to examine that the information is drawn up in accordance with relevant standards and to take appropriate measures in the case of breaches (enforcement of financial information), as well as powers to carry out on-site inspections. Besides, NCAs should have all the necessary investigative powers. However, the TD contains no provisions as to whether, by when and how the national competent authorities should make use of those powers – which is a decision that is left to the national legislators. The implementation of different national measures across the Member States as regards the supervisory powers granted to national competent authorities has led to differences in the enforcement activities.

In order to ensure effective and consistent supervision of issuers, and to foster convergence of supervisory practices, ESMA issued in 2014 principle-based Guidelines on the enforcement of financial information[121]. In doing so, ESMA also supports the consistent application of IFRS, which is important because of the IFRS' principle-based approach and the degree of management judgement. ESMA's 2017 peer review highlights indeed a diversity of approaches among NCAs on the enforcement of financial information, underlining that in a number of Member States resources may not be sufficient or sufficiently organised to allow the enforcement of financial operation to operate effectively[122]. In particular, as shown in ESMA's 2020 Guidelines compliance table[123], 4 NCAs indicated that they do not fully comply with ESMA's Guidelines on the enforcement of financial information because of conflicts with existing national legislation and/or lack of resources.

Another example of uneven practice is that certain NCAs have limited powers to conduct investigations into non-financial statements when they are provided separately from the management reports, whereas others do have these powers.

Against this backdrop, the collapse of Wirecard [124] highlighted that some national practices may not be as effective as intended, and shed light on additional potential areas for improvement. In particular, ESMA's subsequent Fast Track Peer Review[125] identified deficiencies in the enforcement of Wirecard's financial reporting in Germany. This may have ramifications for the EU framework in general, and the TD in particular. For instance, ESMA's review shows that some national rules may not be sufficient to ensure an efficient exchange of information between national authorities and an examination of

121 ESMA's non-binding *Guidelines on enforcement of financial information* (as updated in 2020 - ESMA32-50-218) are principles-based and: (a) define enforcement and its scope; (b) set out expected characteristics of the enforcer; (c) describe acceptable selection techniques and other aspects of enforcement methodology; (d) indicate the types of enforcement actions that may be available to enforcers; and (e) explain how enforcement activities are coordinated within ESMA and reported.

122 ESMA's 2017 *Peer review on guidelines on enforcement of financial information* (ESMA42-111-4138). , 25 countries indicated that they comply with the Guidelines on Enforcement, 1 country that intends to comply by a particular date and 5 countries that they do not comply and do not intend to comply with part of the Guidelines because of conflicts with existing national legislation or lack of resources.

123 ESMA's *Guidelines compliance table* (ESMA 32-67-142).

124 Wirecard, a German company with shares listed on regulated markets, declared bankruptcy in June 2020 after revelations that €1.9 billions in cash reported in the group's balance sheet were missing.

125 ESMA, *Fast Track Peer Review on the application of the Guidelines on the enforcement of financial information (ESMA/2014/1293) by BAFIN and FREP in the context of Wirecard*, 3 November 2020.

financial information by independent competent authorities. The TD offers the possibility to designate a competent authority other than the central competent authority to examine that the information is drawn up in accordance with the relevant reporting framework, and to take appropriate measures in case of infringements. However it remains silent even as regards the need for this authority to be independent, and how to organise the respective responsibilities of both the central and the other authority. ESMA's review also touches upon other topics, such as on NCAs' enforcement practices. The Wirecard case confirms that national practices tend to remain heterogeneous from an EU perspective, for instance in terms of alertness and scoping, analyses performed and measures taken to remedy issues found in an issuer's reporting that has been reviewed ([126]). The case finally indicates that the ability to exchange relevant information between authorities and other relevant bodies is key, whereas this is not addressed in the Transparency Directive or related level 2 measures. Following up on its Fast Track Peer Review, ESMA has engaged in discussions on potential improvements to the TD and considered that the following actions could help achieving a more timely and effective enforcement of financial information: (i) enhancing the cooperation between TD NCAs and other authorities; (ii) enhancing the coordination of enforcement of financial information at national level between central competent authorities and delegated entities/designated authorities; (iii) strengthening of the independence of national competent authorities; and (iv) strengthening of harmonised supervision of financial and non-financial information across the EU ([127]).

Timeliness

Regulated financial information for companies with securities listed on EU regulated markets is generally disclosed in a timely manner. The TD requires that issuers publish financial reports including the financial statements within 4 months after the end of the financial year which is much earlier than for other companies. A few Member States have set a shorter publication period of 3 months. Large issuers often announce key results shortly after the end of the reporting period and publish their financial reports within 2 months after the end of the financial year. No concerns emerged from our consultations as regards the timeliness of publication of regulated financial information.

During the workshop with investors, some investors pointed out that the time lag between early voluntary financial communications by companies and the official publication of the financial statements had become a concern. Voluntary communication such as early earnings announcements, press releases, etc. are not regulated and bear the risk of unequal access for stakeholders and misalignment with regulated information published subsequently. Considering the sensitivity of market prices to unregulated voluntary publications, they suggested that the time lag between early voluntary announcement and the official publications of the audited financial statements should be regulated.

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126 See for instance ESMA's *Report Enforcement and regulatory activities of European enforcers in 2019*. As regards the publication of sanctions, a survey of experts at the EGESC shows that there are various practices, involving for instance the non-publication of the measures in certain circumstances, as permitted in accordance with the TD. Access remains fragmented geographically, for the lack of an EU single access point.

127 See ESMA's *Letter to Commissioner McGuinness of 26 February 2021 on the next steps following Wirecard*.

CBCR

The obligation for listed companies active in the extraction or logging sector to publish the report on payments to governments prepared in accordance with the AD six months after the end of the financial year was correctly transposed by Member States. No particular concerns were raised for listed companies compared to other companies. The same conclusion reached for limited liability companies therefore holds for listed companies.

7.1.2.2 Effectiveness of the EU framework for non-financial information publicly reported by listed companies

Non-financial information is increasingly relevant for investors/creditors, employees and civil society as main stakeholder groups. The non-financial information part of the EU framework is more recent and therefore less developed compared to the components on regular public reporting of financial information.

For investors/creditors, social and environmental risks can be highly relevant as they can affect the current financial position and undermine the future earning capacity. This is the "outside-in" direction of social and environmental risks. The "inside-out" perspective (i.e. the impact of the company on society and the environment) is relevant for stakeholders such as civil society organisations who wish to hold companies accountable, as well as for investors who need to know about the social and environmental impact of their investments. These two different perspectives for considering social and environmental factors are often referred to as "double materiality".

Companies had to report according to the requirements of the Non-Financial Reporting Directive for the first time in 2018. In spite of the relatively short time elapsed, there are a number of published reports from supervisory authorities, civil society organisations and others that collectively provide a reasonable evidence base about whether reporting under the NFRD is meeting the information needs of intended users[128].

[128] The principle studies consulted are: "Enforcement and Regulatory Activities of European Accounting Enforcers in 2018", ESMA, 2019; "Undue short-term pressure on corporations", ESMA, 2020; "New momentum for reporting on sustainability? Study on Implementation of the German CSR-Directive Implementation Act", Econsense and Global Compact Network Germany, June 2018; "Thematic review of non-financial information in management", Dutch Authority for the Financial Markets (AFM), December 2018; "In Balance 2019 - Survey of value creation and follow-up to the Non-Financial Information (Disclosure) Decree", Dutch Authority for the Financial Markets (AFM), December 2019; "The State of Corporate Sustainability Disclosure under the EU Non-Financial Reporting Directive: 2018 Research Report", Alliance for Corporate Transparency; "2019 Research Report: An analysis of the sustainability reports of 1000 companies pursuant to the EU Non-Financial Reporting Directive", Alliance for Corporate Transparency; "First Steps: corporate climate and environmental disclosure under the EU Non-Financial Reporting Directive", Climate Disclosure Standards Board and CDP, November 2018; "Falling short? Why environmental and climate-related disclosures under the EU Non-Financial Reporting Directive must improve", Climate Disclosure Standards Board, May 2020; Human Rights Reporting in France, Shift, 2018; "A Human Rights Review of the EU Non-Financial Reporting Directive", European Coalition for Corporate Justice, 2019; "Responding to the new Non-Financial Reporting Regulations", PricewaterhouseCoopers, 2018; "Analyse zur Umsetzung der CSR Berichtspflicht", KPMG, September 2018; "Integration of Sustainability into Corporate Governance: A survey of financial firms' public sustainability information", Finansinspektionen (Swedish Financial Supervisor), November 2018; "Non-financial information as a driver of transformation: Evidence from Italy", CONSOB, 2018; "Belgian

Relevance

As a result of the NFRD, more listed companies are reporting non-financial information under the EU framework. Some analyses provide evidence that a majority of companies are meeting expectations with regard to some of the disclosure requirements of the Directive. This is the case, for example, with regard to the description of company policies on the sustainability matters identified in the Directive. It may also be the case with regard to some key performance indicators, for example indicators regarding certain employee matters.

However, there is also a significant amount of evidence that many companies are failing to disclose material non-financial information. Stakeholder feedback and published studies indicate that information frequently does not address particular issues or risks faced by the company. Descriptions of company policies are often imprecise and lack measurable targets, which is one reason why information on the outcomes of company policies also tends to be inadequate. Many companies fail to comply with the requirement to provide an explanation in the case that they do not have a policy on the sustainability matters identified in the Directive. Key performance indicators are often not linked to the company's policies, targets or outcomes, reducing their relevance for investment analysts and other stakeholders. Published studies indicate that there are gaps in material information on all major sustainability matters, including environment, climate, social and employee issues, human rights, and bribery and corruption, as well as on supply-chain risks, and due diligence processes. In addition, there is lack of balance between reporting negative impacts and positive impacts, with a tendency to emphasise the positive impacts and under-report actual or potential negative impacts[129]. There is also a lack of adequate forward-looking information, which can be of particular interest to investors.

The general conclusion, from published analyses and from discussions with users of non-financial information, is that the non-financial statements of many companies omit significant volumes of information that users consider to be relevant. This conclusion holds for information about the company's impact on sustainability matters as well as for the impact of the sustainability matters on the development, performance and position of the company.

At the same time, users of non-financial information frequently state that companies disclose significant volumes of information that is not material and therefore is not relevant for decision-making. In particular, they find that there is a tendency to report on activities rather than on impacts and risks, and that much information is anecdotal rather than strategic. This reduces the value of all non-financial information disclosed by

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Framework on Sustainability must be clarified", KPMG website, 31 July 2018; "Non-financial information as a driver of transformation: Evidence from Italy", CONSOB, 2018; "Hurblev utfalletavdet nyalagkravet? KPMGs undersökningom hållbarhetsrapportering", KPMG, January 2019; "Results of a survey conducted by the Foundation for Reporting Standards and Polish Association of Listed Companies", Piotr Biernacki, 2019; "Ingmar Juergens and Katharina Erdmann (2019): Exploring non-financial reporting practices and the use of Carbon and ESG data in the context of the EU framework for public corporate reporting", DIW Policy Advice Compact, Berlin; "Respect par les sociétés cotées belges des obligations de publication d'une déclaration non financière", Autorité Belge des Services et Marchés Financiers, March 2019.

129 This appears to be case in spite of the view expressed by some business representatives in response to the public consultation on corporate reporting, that the requirements of the Directive are too weighted towards the potential negative impacts of companies compared to positive impacts.

the company, because users have to search through a lot of information in order to find the specific information they may be looking for. It also means that users cannot know which information the company itself in fact believes is important. There is some evidence that companies are disclosing some non-financial information even though they themselves do not believe that the information is useful to investors or other stakeholders[130].

One reason why many companies fail to disclose relevant non-financial information, while also disclosing information that is not relevant, appears to be that the requirements of the Directive and/or national legislation are not clear enough and/or are not well understood by companies. This may be the case, for example, with regard to the definition of materiality, and in particular the double materiality perspective. There may be a lack of accompanying guidance to help companies decide what information should be reported, in particular sector-specific guidance.

In addition, the sanctioning regime and enforcement of non-financial reporting is in many cases not adequate.

The non-financial statement of companies with securities listed in EU regulated markets falls outside the scope of supervision of some national competent authorities due to the lack of coordination between the provisions of the NFRD and the Transparency Directive [131] . Additionally, supervisory authorities themselves point out that the enforceability of the Directive is made harder by the flexibility of some of the disclosure requirements, for example in relation to the use of reporting frameworks, the location and timing of publication of the non-financial statement, and assurance[132]. **The situation regarding the disclosure of material non-financial information appears to vary to some extent according to whether the non-financial statement is published as part of the management report or in a separate report**. On the one hand, the phenomenon of disclosing information that is not material appears to be greater for companies that make their non-financial statement in a separate report rather than as part of the management report. On the other hand, if the non-financial statement is published as part of the management report, it has been observed that some information considered material by some users is no longer reported.

There is a growing interest in integrated financial and non-financial reporting, but divergent views on the extent to which EU policy should further promote or even require integrated reporting. Currently, few companies provide meaningful explanations of the linkages between information on the non-financial matters and the information presented in the financial statements, although some analyses have found

130 A survey amongst employees of 85 listed companies in Poland found that about 50% believed that the non-financial information disclosed by their company was either totally or partially not useful to investors or other stakeholders.

131 The Transparency Directive lacks an explicit reference to the non-financial statement in its mandate to national competent authorities to supervise reporting by companies (Articles 7, 24(4)h, 24(4b), 28, 28a, 28b, 28c and 29 of the Transparency Directive).

132 ESMA believes that "the optionality that characterises the non-financial disclosure requirements (e.g. in relation to the applicable frameworks, the location and timing of publication of the NFS and the assurance) does not yet allow a satisfactory convergence of disclosure practices thus undermining the consistency of supervisory approaches which is urgent to achieve in this area." (*Enforcement and Regulatory Activities of European Accounting Enforcers in 2018*, ESMA).

evidence that more companies are starting to report on these linkages, at least with regard to climate and other environmental information. The relationship between non-financial information and financial information is more likely to be addressed when the company publishes its non-financial statement as part of its management report rather than in a separate report. The public consultation revealed that users of reported information have different views on the advantages and disadvantages of integrated reporting. It also revealed a divergence of views amongst reporting companies, many of whom argued in any case that integrated reporting should not be imposed through legislation. This debate is further complicated by different interpretations of what "integrated" means in practice.

Regarding the publication of non-financial information, many respondents to the public consultation proposed that large non-listed companies should report according to the requirements of the NFRD. Other stakeholders, such as civil society, are more concerned about the impact of the company's activities on the environment and society and the lack of mandatory disclosures on large non-listed companies in this regard.

Comparability

The public consultation provided considerable evidence that users have difficulty in comparing the non-financial information that is disclosed by companies subject to the NFRD. There is a lack of consistency between companies regarding both the content and presentation of sustainability-related information. In general, few numerical indicators and targets are disclosed, and those that are disclosed are often not directly comparable between companies.

Users of non-financial information, including investors and civil society, have indicated that poor accessibility of information strongly affects comparability. The default location of the non-financial statement under the NFRD is the management report. However, 20 Member States have taken up the option of allowing the publication of the non-financial statement in a separate report. As a consequence, a large number of different formats have already emerged in the first years of the reporting obligation.

Many stakeholders have argued, in response to the public consultation and in meetings, that the Directive itself cannot adequately ensure comparability, because it does not require the use of any particular reporting framework or standard, and does not include detailed requirements with regard to the form of the non-financial statement. There is little evidence that the non-binding guidelines on non-financial reporting, published by the Commission as required by the Directive in 2017, have had a significant impact on the comparability of non-financial information. In response to the 2018 public consultation, 36% of respondents who expressed an opinion thought the guidelines contributed to improve the quality of disclosures, while 33% disagreed. An analysis by the Carbon Disclosures Standards Board and CDP found "no direct evidence from companies that the Commission's guidelines accompanying the Directive were being used or having a positive effect on NFRD […] disclosures"[133]. A survey of 55 Polish listed companies under the scope of the NFRD found that only 16% had used the

133 "First Steps: corporate climate and environmental disclosure under the EU Non-Financial Reporting Directive", Carbon Disclosure Standards Board and CDP, November 2018.

guidelines[134]. In mid-2019 the Commission published a supplement to those guidelines, focusing on the reporting of climate-related information. Because it is focused on one particular issue (climate), this supplement may have a more significant impact on the comparability of disclosed information.

The voluntary nature of the guidelines means that companies are free to apply them or not as they see fit. Overall therefore they cannot on their own ensure the comparability of information between companies or the non-disclosure of information that users believe is relevant. Therefore, the non-binding guidelines may even exacerbate the complexity faced by preparers if they are perceived as additional to the various private non-financial standards and frameworks in the market, without removing the pressure on preparers to consider each of those standards and frameworks individually and to respond in any case to additional information requests from stakeholders. **Many companies welcome the flexible approach the Directive offers**. In response to the public consultation, some business representatives questioned whether comparability was a realistic or reasonable objective. Some business representatives have stated in response to the public consultation and in meetings that attempts to promote more comparability of non-financial information could lead to the undesired consequence of companies feeling obliged to disclose immaterial information. Other business representatives have argued that more harmonised approaches have the potential to reduce transaction costs and improve the quality of data, provided that there is no requirement to disclose information that is not material. Some companies are interested in the development of generally accepted environmental accounting principles, suggesting this may help solving some of the data availability and quality issues raised above. They emphasise the need to focus on the accounting side rather than solely addressing the reporting and disclosure side. Any steps towards a greater standardisation of non-financial reporting would need to consider these possible benefits and costs, and also address potential issues regarding the governance and political oversight of any standard or framework.

Reliability

The NFRD helps to improve the reliability of non-financial information to the extent that the members of the administrative, management and supervisory bodies of companies are collectively responsible for the non-financial statement. Some analyses have shown that this provision has raised the profile of non-financial information in a significant way and in many companies has led to more rigorous internal approval procedures for the disclosure of such information. However, this phenomenon is less pronounced in companies that publish their non-financial statement in a separate report rather than in the management report.

The reliability of the information is nevertheless limited by the absence of an assurance requirement on the content of the non-financial statement under the Directive. According to the NFRD, the statutory auditor or audit firm only has to assess whether the non-financial statement has been published, without expressing an opinion on whether it has been prepared in accordance with the legal requirements[135]. In

134 Results of survey conducted at a conference on non-financial reporting organized by the Polish Association of Listed Companies, data gathered and analysed by the Foundation for Reporting Standards, September 2019. Author: Piotr Biernacki.

135 AD Art.34(3) indicates specifically that the auditor does not have to check the content of NFRD reporting, whether embedded in a management report or separate.

amending the AD, the NFRD excludes the non-financial statement from the statutory requirement that applies to the management report.

The public consultation revealed that many users of non-financial information believe that this does not guarantee the quality and accuracy of the information published. In their opinion, having non-financial information assured significantly improves the reliability of the reported information.

At the same time, many stakeholders have drawn attention to the limited development of assurance practices with regard to non-financial reporting in comparison with financial reporting. In particular, there is currently no commonly agreed assurance standard that audit firms can use when assuring non-financial information.

In addition, some stakeholders argue that the feasibility and credibility of assurance is to some extent dependent on whether or not the reporting company uses recognised reporting standards. From this perspective, the fact that the Directive does not require the use of any particular framework or standard may undermine the objective of reliability.

Other stakeholders find that the costs of assurance would play an important role: if too high, the costs would be too burdensome for companies; if too low, audit firms may not invest to increase their expertise in such topics and perform high-quality assessments. Additionally, if internal controls are immature, assurance will be more costly, and will come with a disclaimer of opinion.

Timeliness

The NFRD contributes to the timely publication of non-financial information to the extent that the default requirement is to include the non-financial statement in the management report. Companies that include the non-financial statement in the management report at least ensure that financial and non-financial information will be published at the same time, which increases the usability of information for investors in particular. Conversely, companies that publish the non-financial statement in a separate report – in those Member States that allow this option – will not provide timely information unless the separate report and the management report are published at the same time. Additionally, different publication dates of the non-financial statement would also diminish comparability between companies within and across Members States. To date stakeholders have not raised significant concerns about the timeliness of non-financial information with the exception of whether that information is published at the same time as the financial information.

7.1.3 Effectiveness of the EU framework on regular public reporting by non-listed financial institutions

The general assessment of the effectiveness of the EU framework for listed banks and listed insurance undertakings is included in the section on the effectiveness of the EU framework for listed companies (7.1.2). This section assesses the EU framework for public reporting for non-listed financial institutions.

As at December 2018, 12 Member States required the use of IFRS for the annual financial statements of banks, whereas eight Member States mandated IFRS for the annual financial statement of insurance and reinsurance companies. However, the body of

EU-endorsed IFRS does not harmonise the accounting treatment of insurance contracts issued. The current applicable standard IFRS 4 for insurance contracts allows the continuation of national practices that existed prior to the adoption of the IAS Regulation. As a consequence, the public financial information provided by insurance companies stems largely from the provisions of the Insurance Accounts Directive (IAD), even if Member States require the use of IFRS.

To the extent non-listed banks and insurance undertakings are large and with more than 500 employees, they are also subject to the obligations stemming from the NFRD, as described in the section on the effectiveness of the EU framework for listed companies as well. The conclusions drawn in section 7.1.2.2 on non-financial information reporting hold for large non-listed banks and non-listed insurance companies with more than 500 employees.

The table below summarises the EU framework on regular public reporting for non-listed financial institutions (5.000 banks and 3.400 insurance undertakings).

Table 9: Requirements of the EU framework on regular public reporting by non-listed financial institutions

Category	Size / type	The EU framework on regular public reporting by non-listed financial institutions				
		AD	**NFRD**	**IAS**	**BAD**	**IAD**
Non-listed financial institutions	Bank (any legal form)	Management report; audit	If large and >500 employees: non-financial statement	(IFRS = MS option)	Financial statement + Audit	
	Insurance underta-king (any legal form)	Management report; audit	If large and >500 employees: non-financial statement	(IFRS = MS option)		Financial statement + Audit

Conclusion on the effectiveness of the EU framework on regular public reporting by non-listed financial institutions

The *relevance* of the requirements imposed on financial institutions by the EU framework (BAD and IAD) has eroded over time, especially in comparison with IFRS and enhanced prudential requirements on bank disclosures. For banks, the loss of relevance is partially compensated for by the use of IFRS by non-listed banks which significantly decreases the relative share of banking assets reported under Member States nGAAP. This consideration however does not apply to insurance companies, because the EU-endorsed IFRS do not currently harmonise the treatment of insurance contracts. However, the IASB issued in 2020 IFRS 17 *Insurance Contracts*, with a comprehensive accounting treatment for insurance contracts. IFRS 17 is up for EU endorsement.

Comparability is suboptimal due to varying national implementations of the provisions of the sectoral directives (BAD and IAD) and Member States' options. Nonetheless, the harmonised presentation and definitions of financial aggregates in the sectoral directives contribute positively to cross-border comparability.

The *reliability* of published information seems adequately safeguarded by collective board responsibility for the "true and fair view" of the financial statements and mandatory statutory audit requirements for any bank and any insurance undertaking.

Timeliness follows the same pattern as for limited liability companies reporting under the AD with publication delays up to 12 months and insufficient dissuasive sanctioning regimes in Member States.

Relevance

Overall, around a third of the respondents to the public consultation agreed that the EU framework for public reporting for non-listed banks (BAD) is effective (34%) and relevant (35%). There are major differences between categories of stakeholders though. Whereas 80% of the (18) banks and 58% of the (19) authorities agreed that the EU framework (BAD) provided relevant information, only 33% of the (27) accounting organisations and standard setters, 18% of the (16) investors, 17% of the (27) preparers and 13% of the (8) civil society stakeholders considered this to be the case. So, where the

majority of banks and authorities considered the EU framework fit for purpose, other stakeholders disagreed with several arguing that the BAD had lost relevance due to changes in business environment and in accounting since 1986.

Respondents to the public consultation also reported very mixed views about the relevance of financial information reported by EU insurance companies. When they expressed views, the vast majority (90%) of 10 investors highlighted that the information delivered did not meet their needs and insisted that the adoption of a new IFRS to secure a consistent accounting treatment of insurance contracts should be a priority. They underlined significant differences between Member States' nGAAP that impaired the relevance and comparability of consolidated financial statements. Five trade creditors reported mixed views. Representatives of employees and civil society did not express any views. Public authorities also reported contrasted views, some highlighted that public information about insurance companies had lost relevance as compared to the Solvency II prudential framework brought in in 2016[136], while others emphasised that the EU framework allowed adequately reflecting country-specific insurance contracts and rules. A relative majority (45%) of 11 responding insurance companies considered that their annual financial statements provided relevant information to policyholders, especially in Member States where the profit share of policyholders' with participating contracts is determined on the basis of Member States' nGAAP.

The relevance of the information published by non-listed banks and insurance undertakings under BAD and IAD has eroded. BAD and IAD have been amended only twice since their adoption in 1986 (banks) and 1991 (insurance companies)[137]. As a consequence, they have not been adapted to developments in economic transactions and business practices. In their responses to the public consultation stakeholders underlined the loss of relevance of financial information disclosed by non-listed financial institutions compared to listed financial institutions. This loss of relevance is even more acute for non-listed banks not using IFRS, because listed banks started to apply the IFRS 9 standard on financial instruments in 2018, which has significantly enhanced the transparency about financial products issued by banks such as derivatives, equity instruments, risk-mitigating instruments, or banks' loans and credit risk provisioning.

The EU framework for public reporting by non-listed financial institutions has also lost relevance compared to enhanced prudential and supervisory frameworks for banks and insurance undertakings. Under the Capital Requirements Directive (CRD) and the Capital Requirements Regulation (CRR), banks are subject to minimum capital requirements overseen by supervisors to which they provide detailed reporting[138]. Banks are also required to publicly disclose information on their risks, risk management objectives and policies, own funds and assessment of capital adequacy. Likewise, under the Solvency II Directive, insurance undertakings are subject to minimum capital

136 The Solvency II Directive introduces a forward-looking and risk-based measurement approach for insurance liabilities as well as the use of fair value to measure financial instruments. The Solvency II framework which is designed for prudential supervision also includes a subset of public disclosure requirements in the so-called "Solvency and Financial Condition Report (SFCR)".

137 In 2003, an option was adopted permitting the use of fair-value accounting. In 2006, the BAD and IAD were updated to reflect the enhancement in the Accounting Directive of the disclosure requirements pertaining to related parties, off-balance sheet commitments and governance responsibility.

138 DG FISMA completed a Fitness Check Report of EU Supervisory Reporting Requirements in 2019.

requirements and extensive supervisory reporting[139]. They are also required to produce and publicly disclose the Solvency and Financial Condition Report (SFCR) on an annual basis. The SFCR describes the business and the performance of the undertaking, the system of governance and an assessment of its adequacy for the risk profile of the undertaking, risk exposures, the bases and methods used for the valuation of assets, technical provisions and other liabilities, and the capital management of the undertaking. Some respondents to the public consultation commented that public information provided by non-listed insurance companies under the IAD had lost relevance as compared to public information provided in the SFCR under the Solvency II Directive.

The loss of relevance of the EU framework for public reporting by non-listed banks (BAD) is mitigated though by the fact that non-listed banks have increasingly used IFRS on a voluntary basis or as a result of Member States options. A significant number of the 5,000 banks established in the EEA use nGAAP based on the BAD. However, due to concentration of banking assets in big banks using IFRS, the portion of banking assets accounted for under nGAAP is considerably lower than under IFRS (120 large banks hold 80% of the EU's total banking assets). In addition, where IFRS is not required or allowed, several Member States have used IFRS to develop their nGAAP beyond the minimum harmonisation requirements of the BAD. This trickle-down effect of IFRS on nGAAP for banks is one of the findings from a study on the differences in bank accounting within the Banking Union and their impact on prudential ratios[140].

There is however no robust IFRS standard for insurance contracts yet that can help mitigate the loss of relevance of the EU framework for public reporting by insurance companies. The body of EU-endorsed IFRS does not harmonise the accounting treatment of insurance contracts, because the current standard IFRS 4 for insurance contracts allows the continuation of national practices that existed prior to the adoption of the IAS Regulation. However, the IASB has issued a new standard IFRS 17 for insurance contracts in June 2020 after a long process of elaboration which should apply from 1 January 2023 onwards[141].

Comparability

Two thirds of the respondents to the consultation underlined the lack of comparability of the information n published under BAD by non-listed banks. Although the large majority[142] of banks considered comparability is fine, only 18% of the 16 investors thought this was the case. A slight majority favoured maintaining the BAD as it is and not reducing its options or updating it. Though 10 investors out of 11 considered that the number of options in the BAD hamper the comparability of financial statements and prudential ratios, 12 banks out of 18 and 15 out of 16 public authorities responding to the survey did not support that view and considered the number of options appropriate and reasonable. They highlighted that the options are supplemented by adequate disclosure requirements and allow companies to report more relevant information. Some pointed out that an analysis of the actual use of the options by

139 Also covered in DG FISMA Fitness Check Report of EU Supervisory Reporting Requirements.

140 See https://op.europa.eu/en/publication-detail/-/publication/fcd5cbc9-7f8c-11ea-aea8-01aa75ed71a1/language-en/format-PDF/source-search.

141 In May 2017, the International Accounting Standard Board issued IFRS 17 *Insurance Contracts* in order to supersede the current IFRS 4 *Insurance Contracts* and further amendments to IFRS 17 in June 2020.

142 80% of the 15 responding banks.

Member States was needed to assess the extent to which comparability might be impaired.

Responses were evenly split on replacing the BAD with EU-endorsed IFRS which would improve both relevance and comparability. 75% of the 12 investors who answered the question supported such a requirement, arguing that the BAD is outdated and rarely updated. However, 75% out of 16 banks surveyed and 60% out of 21 public authorities opposed to such a requirement highlighting that the BAD requirements are aligned with Member States' company and tax law and that the use of IFRS would be disproportionate for unlisted banks without cross-border activities. All stakeholder categories supported the view that banks should be permitted to apply IFRS (instead of nGAAP). However, some public authorities highlighted that an IFRS option would increase the clerical work to perform the reconciliations to taxable bases and to other statutory requirements such as profit distribution. They therefore considered that leaving this option to Member States was most appropriate. As the AD for limited liability companies, the BAD prescribes lay-outs for the presentation of banks' financial statements, which helps comparability in form as opposed to substance. On substance for instance the BAD contains specific Member State options that allow hidden reserves on loans and a fund for general banking risks.

Similarly the results from the public consultation highlight that a majority of stakeholders consider that financial information reported by EU insurance companies is not sufficiently comparable. Almost all investors (90%) who expressed views (10) highlighted that the consistency of Member States' nGAAP is insufficient to allow them to draw meaningful comparisons between insurance undertakings. Some commented that the lack of comparability undermines their trust and deters them from investing in the insurance industry. Most other stakeholder categories expressed mixed views. Their comments highlighted that the EU framework secures comparable presentation of annual financial statements through mandatory lay-outs, but does not sufficiently safeguard cross-border comparability due to numerous options. A majority of insurance companies and public authorities considered comparability appropriate suggesting that cross-border competition is limited within the EU industry and that nGAAP therefore provide an adequate basis to inform policyholders.

Reliability

Reliability of information provided in the annual financial statements drawn up according to the BAD and IAD is essentially the same as for limited liability companies (see section 7.1.1) albeit a mandatory audit requirement applies to all banks and insurance companies as public-interest entities.

Timeliness

As for limited liability companies publication deadlines of up to 12 months in combination with suboptimal Member States' sanctioning regimes for late (or none) publication, seriously reduces the timeliness of information reported by non-listed banks and insurance companies.

7.1.4 Contribution to the wider objectives

Public reporting by companies to stakeholders aims to contribute to the wider objectives of an EU single market, an integrated EU capital market, safeguarding financial stability

and improving sustainability. Adequate public reporting by companies to stakeholders is a very important but not exclusive factor in determining whether the wider objectives are achieved. It is difficult to isolate the impact of the EU framework on public reporting from other determining factors such as other EU financial regulations pursuing the same objectives e.g. prudential regulation, additional national legal requirements can apply to Directives with minimum harmonisation, the efficiency of the business environment including the quality of judicial systems and professional capacity to support and oversee the functioning of markets.

Nevertheless, the assessment has confirmed that the EU public reporting requirements with regard to financial information have contributed significantly to enabling stakeholders to make informed decisions so as to protect their interests and make investment choices. However, with regard to non-financial information, the assessments suggest that EU public reporting requirements are not adequate to allow stakeholders, mainly investors and/or civil society organisations, to make informed decisions and hold companies accountable.

Though the connection between the quality of public reporting requirements and its wider objectives is usually not measurable, academic research suggests empirical evidence of benefits especially with regard to enhancing the efficiency of capital markets. In that area, research highlights that enhancing the comparability of financial information contributes to lowering the cost of comparing investment opportunities[143], attracting financial analysts carrying out international comparisons[144] and fostering more efficient capital allocation by helping better investment decisions within the context of mergers and acquisitions[145]. Some academics also highlight that financial statement comparability lowers the cost of processing information[146], reduces the uncertainty about firms' underlying credit risks[147] and enhances the performance of credit agencies through timelier and more accurate default warning[148]. Studies also suggest that cost savings in processing and analysing financial information translate into a lower cost of capital for companies[149].

This existence of wider benefits arising from increased transparency and comparability of financial information is also consistent with the findings from the 2015 Evaluation of the IAS Regulation, which highlighted that academic studies usually reported positive conclusions about the impact of the mandatory adoption of IFRS on the functioning of EU capital markets. Studies evidenced positive impacts on market liquidity in jurisdictions when combined with substantive changes in reporting enforcement[150] as well as reductions in the cost of equity in countries with strong financial reporting incentives and enforcement[151]. The cost of capital is usually considered as an indicator of market efficiency with positive implications on companies' investments. Studies also reported some evidence of positive effects on cross-border investments through higher foreign mutual funds[152] and institutional investors' ownership[153] for IFRS adopters in

143 Barth (2013).
144 Simon Archer, Pascale Delvaille & Stuart McLeay (2012).
145 Ciao-Wei Chen, Daniel W. Collins, Todd D. Kravet,Richard Mergenthaler (2016).
146 Seil Kim, Pepa Kraft, Stephen Ryan (2012), Rani Hoitash, Udi Hoitash Ahmet Kurt, Rodrigo Verdi (2018).
147 Seil Kim, Pepa Kraft, Stephen Ryan (2012).
148 Rani Hoitash, Udi Hoitash Ahmet Kurt, Rodrigo Verdi (2018).
149 Michael J Imhof, Scott E. Seavey and David B. Smith (2017).
150 Daske *et al.* (2008), Barth and Israeli (2013)
151 Lee *et al.* (2008), Daske et al. (2013), Li (2010), Palea (2007), Castillo-Merino et al. (2014).
152 Covrig *et al.* (2007), Yu (2009), DeFond (2011).

countries with strong enforcement mechanisms. Some academics also provided evidence of positive impacts on foreign private investor ownership[154] driven by investors from countries that also use IFRS, as well as on foreign debt investment flows[155]. However, the conclusions about the impact of IFRS adoption on the cost of debt were more mixed with positive conclusions about the impact on the cost of bonds[156] and Credit Default Swap spreads[157] but negative findings on the cost of bank loans[158] with higher interest rates and higher collateral provision as a substitute to accounting based financial covenants.

Though research evidence differs on whether mandatory IFRS adoption reduced the cost of equity and debt funding for EU companies "*on balance, the evidence suggests that there probably were reductions in the cost of equity capital and in the cost of bonds, but that they were not experienced by all companies or in all countries. It is also uncertain how far the improvements were attributable to concurrent changes in other institutions rather than to the adoption of IFRS*"[159].

Finally, the effectiveness of the EU framework in achieving the intended wider objectives is also supported by the feedback to the public consultation. Most respondents considered that the EU framework is effective in achieving the wider objectives. There are differences between stakeholder groups though. Most of the respondents agreed upon the effectiveness (82%) and relevance (79%) of EU public reporting requirements concerning the capital markets integration. Several preparers and audit or accounting firms mentioned specifically the IAS Regulation in their comments. The few respondents that remain less convinced include academics (67%). Civil society in particular seems very doubtful on the effectiveness and relevance of EU public reporting requirements taken as a whole (the approval rate only reaches 17%).

With regard to non-financial information, the assessment suggests that the EU framework does not ensure that reporting practices are adequate to allow stakeholders to make informed decisions and hold companies accountable for their impacts. The extent to which the EU framework contributes to the wider objective of sustainable growth is therefore significantly limited.

Firstly, without proper reporting by companies, investors cannot take account of sustainability-related risks and opportunities in their investment decisions. This can lead to hidden and systemic risks that may threaten financial stability[160]. Secondly, the lack of adequate sustainability-related information limits the ability of investors to channel funds effectively to companies and economic activities that address, and do not exacerbate, the social and environmental challenges[161].

Finally, civil society, citizens, consumers and the general public large encounter greater difficulties in holding companies accountable of their impacts on the environment and society if non-financial reporting is insufficient. As a consequence, there is less pressure

153 Florou and Pope (2012).

154 Bruggeman *et al.* (2012), Amiram (2012).

155 Beneish *et al.* (2012).

156 Florou and Kosi (2014).

157 Bhat *et al.* (2014).

158 Tai-Yuan Chen *et al.* (2015).

159 ICAEW "The effects of mandatory IFRS adoption in the EU: a review of empirical research" (2015).

160 "A call for action: climate change as a source of financial risk", Network for Greening of the Financial System, April 2019.

161 This dual approach corresponds to the two imperatives for sustainable finance highlighted by the High-Level Expert Group on Sustainable Finance in their 2018 report.

on companies to behave in a responsible manner and contribute to sustainable and inclusive growth.

7.2 Efficiency of the EU framework

Conclusion on the efficiency of the EU framework on regular public reporting

The cost of regular public reporting stemming from the EU framework applicable to all limited liability companies seems a relatively modest "cost of doing business". First, the cost of annual reporting of financial information is incremental given existing national reporting obligations, for example returns for corporate taxation. Second, a portion of the costs stem from Member States "top-ups", insufficient use of simplification for smaller companies provided by the EU framework, or market practice. This especially the case for micro companies as even if the EU framework is dramatically alleviated since 2012, this does not translate in tangible savings.

For banks, the incremental costs of the EU framework for public reporting are mitigated by the commonalities between the EU supervisory reporting obligations and the financial reporting framework.

For non-financial information, the principles-based nature of the reporting requirements in the NFRD, and the fact that it does not impose the use a particular reporting standard, limits the potential efficiency gains for users and preparers.

For the part of the EU framework that is directly applicable (IFRS) for listed groups, the benefits seem to have outweighed the cost.

The benefits of digitalisation in term of efficiency should be further explored for all categories of entities (not only listed companies). The efficiency for users can be improved significantly by establishing single digital access points and by fostering machine readability for processing and analysing regulated information by companies. Digitalisation could also facilitate a file only once (or at least filing the same) principle which would reduce publication cost for preparers.

7.2.1 Efficiency from the perspective of the reporting entity

This section successively examines the case of limited liability companies, listed companies and financial institutions from a proportionality – and to the extent possible, cost-benefit – perspective. In addition, the case for further digitalisation is examined specifically, as a key driver of efficiency.

7.2.1.1 Limited liability companies

A majority of respondents agree that the EU framework strikes the right balance between preparers' costs and users' needs for medium and small companies (Q14, Q15). **Views on whether this holds for micro companies are however not homogeneous,** especially from preparers but also investors and civil society. As described in section 5.3 (limitations in the methodology), it is difficult to delineate the costs of annual public reporting from the cost of keeping records and prepare e.g. tax declarations that entities must do at national level. As a result, the cost of preparation of annual financial statements under the EU framework are incremental to other reporting requirements that exist at national level. Besides, as the EU framework for limited liability companies is largely "minimum harmonisation", Member States have imposed

accounting and disclosure requirements in addition to the EU framework (AD and NFRD). This makes it difficult to identify the effect of EU framework as a cost driver for the preparation of annual financial statements. In any case, the cost of public reporting are relatively higher for smaller companies than for large companies, because small companies have less economies of scale.

As mandated by the AD since 2013, small companies benefit from a simple regime except for one Member State that requires all companies, including the smaller ones, to comply with IFRS. Since 2013, the AD established a harmonised cap on the volume of information to be provided by small companies in the notes[162], with limited options for the Member States to extend the scale of information. Furthermore, small company size criteria defined in the AD are mandatory and harmonised, leading to a significantly higher number of small entities as compared to the previous directives (see Annex X).

The current size criteria defining SMEs in the AD do not raise major concerns. Some stakeholders (Q15) would favour a qualitative approach to categorise companies (i.e. family business for instance). Some respondents express the view that one set of size criteria would not necessarily fit all policy objectives. In order to avoid unintended consequences, such as inadvertently increased complexity or burden for entities currently categorised as SMEs under the AD, SME definitions, they believe, should remain differentiated by policy to reflect meaningful clusters under the various policies. The Commission has the possibility to revise SME size criteria along with inflation[163] (see Annex X). A slight majority of respondents to the public consultation would support more uniform metrics to define SMEs across different EU legislations. Stakeholders often cited Commission Recommendation 2003/361/EC as a benchmark for the definition of small and medium-sized enterprises. The Commission is evaluating the Recommendation in parallel.

The EU legislation offers a super-simplified reporting regime for micro companies so as to reduce administrative costs. But this objective is only partly met. For micro companies (84% of EU-28 companies), the AD has a specific option since 2012 which allows the Member States to further ("super") simplify the preparation of their financial reports[164] compared to small companies. Costs for drawing up financial statements were estimated to be EUR 1 000 per year per micro company in average in the EU in 2010[165] before the simplification. A recent study by CEPS determined that, as implemented today, the take up of the super-simplified micro regime led to a reduction on average by only EUR 9 per company on a recurring annual basis compared to EUR 90 on average per company expected at the time of the adoption of the legislation by the EU. There are indications that more needs to be done to fully use the potential for simplification offered by the AD. The main reason for this is that, even though 95% of the EU micro companies population are recognised as such by Member State legislation, only 13 Member States (representing 60% of the EU micro companies) have implemented the micro regime to a

162 Article 16 AD.

163 Art. 3(13) AD.

164 Article 36 AD.

165 EUR 1,072.86 in average per micro-company, based on impact assessment accompanying the proposal for an amendment of the AD as regards micro companies, table 19, based on Consortium study 2008 and Commission Services analysis. COM(2009) 83 - SEC(2009) 207.

fairly large extent[166]. Besides, even where a super-simplified regime is in place, many micro companies tend to not take advantage of it due to a lack of awareness or desire of changing habits. Micro companies tend to use the services of external accountants which are key market players in this respect[167].

As regards CBCR, the Commission assessed at the time of its proposal that annual recurring compliance costs of a reporting company on payments to government (on a project basis) for extractive and forestry industry would amount to an average EUR 1.4 million per parent entity annually on a recurring basis, after set up costs of EUR 3.2 million[168]. During the public consultation, two large companies provided an estimation of their actual costs, ranging from EUR 26 000 to EUR 500 000 (recurring) and from EUR 47 000 to EUR 1 000 000 (set up). Overall, **stakeholders including companies surveyed in the study considered overall compliance costs not to be a disproportionate burden**[169]. Small companies or groups are exempt from CBCR.

7.2.1.2 Listed companies

The 2015 review of the IAS Regulation estimated companies' annual recurring cost per company of using IFRS ranging between 0.06% and 0.008% of the annual turnover whereas the cost of first adoption of IFRS was estimated between 0.31% and 0.05%. The relative (and relatively low) recurring cost largely depends on the size of the company whereby for smaller companies (with less than EUR 500 million turnover) the average recurring cost would be 0.06%, for "medium" sized companies (with a turnover between EUR 500 million and EUR 5 billion) 0.01%, and for companies with a turnover higher than EUR 5 billion 0.008%. So, the smallest companies have relatively the highest burden. One of the reasons for these differences is that small companies cannot benefit from the economies of scale of having in-house IFRS expertise and therefore rely on external support.

According to the EU framework, the use of IFRS is mandated only for the consolidated financial statements of listed parent companies, whereas the annual financial statements of the subsidiaries included in the group's consolidated financial statements are prepared according Member States nGAAP[170]. This therefore increases the cost of producing consolidated financial information as the subsidiaries are required to prepare two sets of financial statements: one set under nGAAP and one set under IFRS for consolidation purposes. One EU Member State requires the use of IFRS for annual financial statements and 19 Member States provide an option for subsidiaries of groups to apply IFRS in order to reduce the consolidation cost. In the Member States that do not allow IFRS, a company option (as opposed to a Member State option) for subsidiaries of listed groups to use EU-endorsed IFRS could reduce the cost of internal control and consolidation. However, it would increase the cost of reconciliation to national tax or other company law requirements.

166 Annex X.

167 Accountants Instrumental to Micro-Entities simplifying their Accounting, EFAA, 16 May 2019.

168 Impact assessment accompanying the legislative proposal, Annex 8 and 9 – SEC(2011) 1290 final.

169 Source: Review of country-by-country reporting requirements for extractive and logging industries, study by Valdani, Vicari & Associati, 26 November 2018.

170 I.e. under to EU law, each subsidiary of a group must publish annual financial statements at individual level in accordance with the relevant national GAAP.

The cost of preparation of annual financial statements is reduced for a small subset of companies: EU global groups with multi-listings of securities. Major non-EU country jurisdictions allow EU companies to use IFRS for listing on their capital markets. This is for example the case for the 90 EU companies with a dual listing in the US that as "foreign registrants" can use IFRS for US listing purposes, without needing to prepare separate US GAAP financial statements (or complex reconciliations to US GAAP).

As regards transparency rules for listed companies, most respondents to the public consultation found that the disclosure regime of the EU framework (the TD) was overall efficient and no unnecessary requirements were flagged (Q 26). In particular, as regards SMEs, transparency rules are perceived by most respondents to our consultations[171] as overall proportionate and accurate[172].

Quarterly reporting was abolished[173] for all listed companies but in particular to alleviate the burden on small and medium-sized issuers. The Commission services had estimated[174] the average direct monetary costs to produce quarterly information linked to editing, printing and translating reports as varying from EUR 2 000 per year/ to EUR 60,000 a year/ per small and medium-sized issuer. The abolishment of quarterly reporting aimed to encourage longer-term oriented investments, as the Commission estimated that disclosing quarterly information could encourage short-termism and have negative consequences for all issuers, in particular for small and medium-sized issuers. To provide additional flexibility and increase small and medium-sized issuers' visibility, the deadline for publishing half-yearly financial reports was also extended to 3 months after the end of the reporting period[175].

According to our findings, at least five Member States[176] still require the disclosure of quarterly reports, and in at least seven of the Member States where quarterly reporting is not mandatory such disclosure is required by regulated markets[177]. In addition to this, the Commission services obtained reports that in at least 15 Member States, issuers have continued to publish on a voluntary basis quarterly reports so as to provide customised information to investors or simply in reaction to peer pressure. These issuers mainly include large companies and equity issuers.

Despite the fact that quarterly reporting remains deeply anchored in the EU market practice, the abolishment of quarterly reporting is perceived overall as alleviating the

171 See the Commission's Public consultation on public corporate reporting by companies and the responses to the EGESC questionnaire.

172 21 out of 23 respondents in the Expert Group of the European Securities Committee stated that the TD rules are proportionate and accurate for SMEs.

173 Although the TD allows for quarterly publication of financial information, to be required by a regulated market or national law, if such requirement is proportionate and does not constitute a significant financial burden.

174 Staff Working Document accompanying the Commission proposal for the 2013 TD amendments.

175 As regards the extension of the deadline for publishing half-yearly financial reports, the rationale was to leave more time for analysts and investors to look at and analyse the half-yearly results of issuers, including small and medium-sized issuers, and to allow small and medium-sized issuers to publish their reports not necessarily at the same time as large listed companies.

176 Governmental experts consulted explained that in at least 5 Member State, quarterly reporting is still required.

177 10 respondents to Q4 of the EGESC questionnaire declared that regulated markets still require quarterly reporting. Seven of them impose such obligation despite the abolishment of the requirement in their Member State.

administrative burden on listed companies without any detrimental impact on investor protection.

Very few companies provided figures for the cost of compliance with the NFRD in response to the public consultation, and the figures that were provided vary over a very wide range, from less than EUR 100 to over EUR 1 000 000. A survey of 90 reporting experts representing Polish listed companies also shows a wide variation in estimated costs of compliance, ranging from EUR 2 500 to EUR 125 000. The impact assessment for the NFRD estimated the costs of compliance at EUR 600 to EUR 4 300 for the chosen option of requiring companies to provide a non-financial statement in the annual report. It also cited a figure of EUR 33 000 to EUR 604 000 for the option – which was not selected – of requiring companies to produce a detailed, separate sustainability report. Although it is not possible to draw general conclusions from the very limited data available, the estimated costs of compliance given by some companies are significantly higher than the estimate of EUR 600 to EUR 4 300 made in the Impact Assessment. Further research is necessary to provide reliable figures for the actual costs of compliance incurred by companies. The Impact Assessment recognised that companies may need to collect some additional data, but assumed that the NFRD "would merely strengthen an already existing legislative requirement (on management reports) and the necessary systems and procedures should already be in place in many companies."

The large differences between companies in the estimated costs of compliance depend on several factors, including whether or not the company was reporting non-financial information before the NFRD came into force. This in turn may depend in some cases on the pre-existence or not of detailed national requirements on disclosure of non-financial information. First time reporters may face higher costs, related for example to the establishment of internal systems to collect information, in which case their costs may fall in subsequent years. Other factors explaining the large differences between companies regarding the estimated costs of compliance with the NFRD include: whether or not the company has decided voluntarily to publish a detailed, separate sustainability report and whether the costs of such a report are being included in the estimate; the assurance of non-financial information, either on a voluntary basis or as a result of the requirements of national legislation; the resources dedicated to compliance by the company and whether it hires a consultancy firm to assist it with the reporting of some of its items; and the ability of the company to differentiate between the costs of new reporting requirements resulting from the NFRD and the costs of collecting non-financial information that is necessary in any case for the correct management of the company's performance and impact.

There may be a risk of increased burden for SMEs as a result of the NFRD, as large companies in scope may require more information from SMEs involved in their supply chains. The public consultation showed consensus about the fact there were increasing demands on SMEs to provide non-financial information to their business clients, mainly larger companies, but divergent views on the extent to which the NFRD was a significant driver of this trend.

There is some evidence that the NFRD has brought some benefits to companies under its scope. For example, some companies have initiated more robust integration of sustainability in their operations and governance systems, and in some cases there is a higher degree of involvement of management boards in sustainability matters, partly as a result of their collective responsibility for drawing up and publishing the non-financial

statement. Some analysis suggest an increasing number of internal communications regarding these matters, and company representatives have confirmed in meetings that the Directive is leading to an intensification of the dialogue across departments within companies (e.g. risk management and finance departments).

The principles-based nature of the reporting requirements in the NFRD, and the fact that it does not impose the use a particular reporting standard, may limit some efficiency gains for users and preparers. In response to the public consultation, some business associations and other stakeholders noted that, in spite of the NFRD, companies still have to provide additional information in different formats to different users, in particular to data providers and rating agencies. In meetings, some business representatives pointed to the cost and difficulty of trying to meet the expectations of different stakeholders groups, and of different reporting frameworks, principles and standards which overlap and are not always consistent. At the same time there is little evidence to suggest that the NFRD is reducing costs for users of non-financial information, especially investors, who still have to invest resources in collecting additional data from other sources and analysing data produced in different formats and that is often not easily comparable.

7.2.1.3 Financial institutions

Costs for preparation of financial statements for banks are very incremental due to prudential requirements. Regulated entities must submit detailed supervisory reports which they can use as a basis for preparing annual financial statements and management reports. They are also subject to (proportionate) prudential annual disclosure requirements which in some instances go well beyond the granularity of the annual reporting requirements of the EU framework on public reporting. There are examples where small banks use the prudential FINREP[178] lay-outs or actual reports as the basis for their annual financial statements. Against this background the incremental costs of the EU framework on public reporting seem almost negligible.

Respondents to the Public Consultation expressed overall a positive assessment about the cost of producing the financial information delivered by insurance companies. They highlighted that the EU framework was not a source of significant incremental compliance cost as financial statements were also used as a basis for determining the taxable income, the amount of distributable dividends or policyholders' profit share in some participating contracts. This positive assessment was particularly conspicuous in three Member States.

Unlike banks, the supervisory reporting requirements for insurance companies are not aligned with the annual financial statements because the Solvency II Directive provides for its own presentation and measurement rules for insurance contracts and partially requires the use of IFRS for the measurement of other classes of rights and obligations. However, a significant majority of the respondents to the public consultation[179] did not support harmonising the public and supervisory reporting frameworks as they considered that they pursued different objectives thus warranting different sets of requirements.

178 FINREP is part of the supervisory reporting by banks. FINREP consists of several templates requiring structured financial information including an overall balance sheet and Profit and Loss statement.

179 Question 38 of the Consultation Document on the EU Framework for Public Reporting by Companies.

Since all undertakings under the scope of the NFRD have been jointly analysed, **conclusions for section 7.1.2.2 regarding the efficiency of non-financial reporting by listed companies also hold for non-listed banks and non-listed insurance companies under the scope of the NFRD** (large limited liability banks and insurance companies above 500 employees).

7.2.2 Digitalisation as a source of efficiency for both users and preparers

Digital technology developments increase users' demand for quicker and easier access to company information via for instance a personal computer or a smartphone. In response companies increasingly provide online access to financial and non-financial information on their website. A range of public and private-sector actors contribute to the digital dissemination of company information. Private data providers[180] are commonly used but are a costly source of information for small investors. Each Member State has a public Business Register, as mandated per Union law. These fulfil collection, storage and dissemination functions. The Company Law Directive (CLD) allows business registers to charge a fee for providing company information (which must not exceed the administrative cost incurred by the business register). The majority of business registers are self-financed and therefore charge a fee for providing company information. Nonetheless, the CLD requires Member States to ensure that a minimum set of company information is made available free of charge[181]. This is achieved via the Business Registers Interconnection System (BRIS). Access to such information is through the European e-Justice Portal which is available in all EU languages. The EU framework (TD) requires Member States to establish Officially Appointed Mechanisms (OAMs) with a storage and dissemination functions for information published by listed companies (issuers). Many OAM offer, via a web platform, documents to be downloaded for free on an itemised basis, in PDF format. National business registers and OAM's generally offer electronic (web) access with search functionality. For a number of reasons, investors and analysts assert that their consumption of information via public access means is only occasional. Private data providers generally offer central access to data, with predetermined analysis and structure, based on annual subscription. Certain smaller and retail investors reported their reluctance or inability to use these services, considering the subscription price.

Consultation of stakeholders showed that digitalisation could play an essential role in increasing users' efficiency. For users, key features are whether data is i) digitally readable (enabling easier use); ii) properly disseminated (where and when information can be accessed); and iii) secure (i.e. ensuring reliability, identification and integrity of information). The table below provides an overview of progress made so far in the EU framework as regards the digitalisation of corporate reporting. It shows that digitalisation remains work in progress in many areas.

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180 Bloomberg, Thomson Reuters, Factset, S&P/CapitalIQ, CalcBench, RankAndFiled.com are well known private players. Alternative open access initiatives also exist, such as Opencorporates.

181 Directive 2012/17/EU now codified in Directive (EU) 2019/1151. The recently adopted Directive (EU) 2019/1151 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law broadens the set of information free of charge (see Article 19 as modified).

Table 10: Digitalisation, mapping of EU action

	Structured Data	Dissemination channels	Security	Other(*)
Financial statements / Management report / Responsibility statements *Listed companies*	☺ *ESEF*	Ω *EEAP, e-publication*	✕	Ω
Financial statements / Management report *All limited liability companies / groups*	Ω *CLD / BRIS*	☺ *CLD / BRIS*	☺ *CLD / BRIS*	Ω *CLD / BRIS*
Audit report *Listed / non-listed companies / groups*	✕	Ω *CLD / BRIS*	✕	✕
Non-financial information *(if in a separate report outside management report)*	✕	Ω *AD- web*	✕	✕
Corporate governance *(if in a separate report outside management report)*	✕	Ω *AD - web*	✕	✕
CBCR *Extractive and logging industries*	✕	✕	✕	✕

Source: European Commission – see also Annex VIII

☺ addressed Ω partly / being addressed ✕ not addressed

(*) *Other angles to digitalisation include inter alia data re-use, the management and auditors' responsibilities over digital formats, policies applicable to non-EU countries, etc.*

The EU framework provides large leeway to Member States in developing national digital approaches and solutions (Annex IX). These have used their powers to varying extent, many times with tax reporting purposes as the primary trigger[182]. Estonia is one of the most advanced Member States in terms of e-government[183] especially, in terms of company reporting. It includes digital identification, online filing, and the file only once principle. National approaches however are not prone to being interoperable at EU level.

More could be done at EU level to develop digitalisation of both financial and non-financial information in order to enhance preparers and users' benefits. Investors often refer to the US system for the storage and dissemination of listed companies (EDGAR) as a point of reference[184]. In the Tallinn declaration on e-government[185] of October 2017, Member States expressed their support for increased availability and quality of open government data. Users, but also a number of preparers expressed a number of views during the consultation (Q57):

182 See for instance Answers to questions raised by ESMA on eXtensible Business Reporting Language (XBRL), XBRL International and XBRL Europe, 30 march 2014, Annex 1.

183 https://e-estonia.com/.

184 EDGAR (Electronic Data Gathering, Analysis, and Retrieval) is an online public database from the U.S. Securities and Exchange Commission (SEC). EDGAR performs automated collection, validation, indexing, acceptance, and forwarding of submissions by companies and others who are required by law to file forms with the SEC. All companies, foreign and domestic, are required to file registration statements, periodic reports, and other forms electronically through EDGAR. Anyone can access and download this information for free.

185 Tallinn Declaration on eGovernment - European Commission – October 2017.

- Except for the BRIS access point on the e-Justice Portal, there are no **central pan-EU access portals,** which undermines the public good character of listed companies company reporting. Users consider an EU central access point to listed companies' financial information a necessity [Q62]. The EEAP provided for in the TD is not yet in place. The Commission services have explored the prospects of distributed ledger technologies[186] to achieve it. The European Commission adopted in addition in September 2020 the new action plan on the Capital Markets Union[187]. The plan contains 16 legislative and non-legislative actions towards completing the CMU including setting-up an EU-wide platform – the European Single Access Point (ESAP). Likewise, the Digital Finance Strategy[188] aims to create a European financial data space in order to promote data-driven innovation, building on the European data strategy, including enhanced access to data and data sharing within the financial sector.
- **Data is seldom digitally structured**, and systems in place generally offer limited search capabilities (for instance no search on metadata or text strings), let alone enable online database mode access techniques such as with APIs;
- **Access** to financial information **is often made uneasy by a number of small barriers.** Information is usually accessible on an itemised basis. Business registers may require to have an account, and/or to pay fees, etc. This discourages the broad use by the public, especially when cumulated[189].
- Financial information is often provided in **the registered office's national language**. Little use of digitalisation is made to overcome language barriers;
- **Lack of file only once** culture. There is broad support, especially by preparers, for the principle (Q59-63)[190], but wide variation in maturity in the Member States, let alone at EU level[191]. The recently adopted Directive (EU) 2019/1151 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law[192] brings in a 'once-only' principle in respect of information filed with business registers. This would for instance not address multiple filings by issuers (OAM, NCA, media ...).
- **Preparers are wary of the multiplication of digital reporting standards**, which multiply compliance costs.

186 European Financial Transparency Gateway (EFTG).

187 CMU-action-plan - https://ec.europa.eu/info/publications/200924-capital-markets-union-action-plan_en.

188 Digital Finance package - https://ec.europa.eu/info/publications/200924-digital-finance-proposals_en.

189 At the national level, the OAMs generally offer free access online to national regulated information of issuers with search tools, on an itemised basis, however no full access in database mode. Most business registers offer access on line to limited companies regulated information online with search tools too. However, based on 5 business registers that provided figures, a financial statement was on average downloaded 10 times in a given year, and had more chances to be downloaded where free unencumbered access is offered. Interest remains somehow still national centric. One business register reported that downloads of financial statements was done 96% of the time from within the country, 4% from another EU Member State, and 1% from a third country.

190 The Digital Single Market strategy calls for improved cooperation among national systems to ensure that "businesses and individuals only have to communicate their data once to public administrations" (Action 16).

191 Commission study: "EU-wide digital once-only principle for citizens and businesses", December 2017.

192 Directive (EU) 2019/1151 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1151

As regards the usability of regulated information, investors welcome the progress made in incorporating the ESEF as from year 2020 in the EU[193]. With enhanced digital structuring come higher prospects of easily analysing and comparing financial information. ESEF offers a solution to several problematic issues: (i) today, most information is provided in PDF format and in the original language which requires re-encoding by users wishing to carry out automatic analyses including EU cross-border analysis; (ii) users report that extracting datasets from PDF documents requires a high degree of manual intervention which is prone to error[194]; (iii) data providers may offer a solution to these concerns, but the delivery to final users of structured data comes with non-negligible costs[195] and it also entails a level of standardisation determined by the provider. Although a number of Member States have already brought in data structuring of financial information at national level, ESEF's EU-wide interoperable approach unlocks the potential of digitalisation for the EU single market and the integrated capital market.

Based on our consultations, bringing in the ESEF Regulation raised a number of questions[196] about the audit of ESEF-compliant financial statements, the legal value of the ESEF-compliant financial statements, and the acceptance of ESEF-compliant financial statements by Business Registers.

The main concerns raised by some issuers, national regulators and oversight bodies on the mandatory audit of financial statements prepared in accordance with the ESEF Regulation[197] relate to the absence of an explicit audit obligation at national level and the absence of a relevant auditing standard. In order to provide guidance to the market and to ensure convergence of national auditing practices, in November 2019 the Committee of European Auditing Oversight Bodies (CEAOB) published non-binding guidelines on how to audit ESEF in practice[198]. In addition, the Commission published an interpretative Communication in November 2020 ([199]).

As regards the legal value of the ESEF-compliant financial statements, once the ESEF Regulation becomes applicable, these annual financial reports will be the only ones fulfilling the relevant disclosure requirement under the Transparency Directive. Under Article 7 of the Transparency Directive, the responsibility to draw up and make public

193 Article 4(7) of the Transparency Directive was amended by Regulation (EU) 2021/337 of 16 February 2021 in order to grant Member States the option to allow their issuers to apply the ESEF requirements starting from 1 January 2022. 23 Member States notified the Commission in early 2021 of their intention to do so.

194 Ad hoc Commission User Workshop, Answers to questions raised by ESMA on eXtensible Business Reporting Language (XBRL), XBRL International and XBRL Europe, 30 march 2014.

195 Subscription on the US market with Facset, S&P/ Capital IQ, Bloomberg range from $12,000 a year to $24,000 a year. Source: WallStreetPrep.

196 These issues were raised by respondents to the public consultation and by issuers during the ESEF workshop jointly held with ESMA in June 2018.

197 Article 28(2)(c)(ii) of the Audit Directive specifies that the auditors shall include in the audit report – inter alia - an opinion on whether the annual financial statements comply with the statutory requirements. Considering that the ESEF Regulation is a binding legal instrument, the provisions included therein shall be considered as "statutory requirements" within the meaning of Article 28(2)(c)(ii) of the Audit Directive. This will ensure a homogeneous level of protection for all investors as all users of annual financial reports, regardless of whether they use the human readable or the machine-readable representation of the ESEF-compliant financial statements.

198 *CEAOB guidelines on the auditors' involvement on financial statements in ESEF*.

199 *ESEF Interpretative Communication*.

the annual financial reports in accordance with Article 4 of that Directive[200] lies at least with the issuer or its administrative, management or supervisory bodies. This means that the issuer is in any case responsible for preparing and publishing the annual financial reports – therefore the financial statements – in compliance with the ESEF Regulation.

Under the Company Law Directive, and in conjunction with the AD, limited liability companies (regardless of whether they are listed or not) must file the audited financial statements with the national Business Register. Considering that the Company Law Directive does not specify the format of such audited financial statements ‑ which can be electronic ‑ listed limited liability companies are not prevented by Union law from filing their ESEF-compliant financial statements with a Business Register.

Investors on the other hand fully support the ESEF as an efficient policy and suggested to expand it (or at least encourage it) to additional information such as intermediate financial reporting. Preparers and governments generally would favour no further expansion before any proper evaluation of existent provisions is conducted. Some stakeholders would also favour the structuring of information in the management report, which would enable better usability and machine readability of some non-financial information so that it could be key to facilitate the processing of this information and its digitalisation.

As regards CBCR, civil society is concerned about the lack of machine readability of the information, which makes processing cumbersome. The UK system is considered as best practice as payment data are provided in XML format with CVS output directly usable in spreadsheets. A number of privately-led initiatives seek to solve the problem[201][202] The IMF and the EITI also collaborate on the design and implementation of a standard template to classify government revenues in EITI reports, in an open data format (for instance XLSX or CSV)[203].

Cost/benefits analysis of enhanced digitalisation of public reporting for preparers

Preparers' predominant view is that electronic reporting would increase compliance costs (preparation and filing costs). A number of standard setters and users believe on the contrary (Q59-63) that digitalisation could benefit preparers in the long run, one pointing to a reduction of 7% to 15% in compliance costs. But in order to reduce or at least avoid undue costs, the combined views of certain users, preparers and standard setters were that certain conditions should be met:

- That electronic reporting becomes the trusted primary source of information. It should not come on top of other (e.g. paper-based, pdf ...) reporting requirements that would break the digital chain of preparation or add unnecessary manual process;

- That regulators / standard setters ensure that there is no multiplication of standards. For instance, the Netherlands uses the same definitions of structured data to prepare

200 Article 4(7) of the TD prescribes the use of the ESEF.

201 Public Country-by-Country Reporting, A template for disclosing corporate tax information – Accountancy Europe, July 2016.

202 Resource project of the Natural Resource Governance Institute - Open source data on oil, gas and mining payments - http://www.resourceprojects.org/, launched in Q1 2019.

203 See EITI Summary Data Template. The template also supports the International Monetary Fund's surveillance work.

both financial statements, company tax declarations as well as credit / statistics reports.

On the user side, certain professional associations and standard setters estimated overall reduction in access costs to regulated data with ready made accessible digital structured data could reach 25% to 75% over time. This is especially true in cross-border situations. Digitalisation can also help overcome language barriers in cross-border situations. A potential downside is that digitalisation comes with higher standardisation, which is prone to reducing the relevance of information due to less flexibility.

The ESEF is acknowledged as a primary step for an EU approach. According to a cost-benefit analysis by ESMA[204], the implementation of ESEF might carry some operational challenges, including possible limited extra costs for issuers at the initial stage. In any case, costs will significantly depend on whether an issuer tags the Annual Financial Reports in iXBRL internally[205] or by outsourcing it to a third party[206]. Software providers are developing software that will assist issuers in standardising and automatising the application of ESEF, thus lowering effort and costs.

Digitalisation contributing to the wider objectives

Easy access to company information is essential for stakeholders. Optimal use of information technology with single points of electronic access underpins the public good character of company reporting and unblocks fuller potential for the single market. The use of structured electronic data formats at EU level would allow stakeholders to make quicker and fuller analysis of EU companies' information facilitating informed cross-border investment decisions.

7.3 Relevance of the EU framework

Conclusion on the relevance of the EU framework on regular public reporting

The wider objectives of the EU framework for public reporting, namely: (i) an efficient functioning of the EU single market, (ii) an integrated EU capital market, (iii) financial stability and (iv) sustainable growth, have not lost any relevance. The EU framework for public reporting by companies might nevertheless need to be adapted to continue to contribute to meeting these wider objectives. With regard to the sustainability objective in particular, the context has evolved in such a way that the NFRD no longer represents an adequate response to new needs and challenges.

CMU policies seek to enhance EU capital market integration, on which the use of IFRS has had positive impact. From that perspective, the mandatory scope of IFRS could be expanded to listed entities that do not publish consolidated financial statements in order to enhance the comparability of financial statements. Facilitating access to public markets

204 ESMA Feedback Statement on the Consultation Paper on the Regulatory Technical Standard on the European Single Electronic Format (ESEF), 2016, page 65, available at https://www.esma.europa.eu/sites/default/files/library/2016-1668_esma_feedback_statement_on_the_rts_on_esef_0.pdf.

205 Implementation costs per issuer are estimated around EUR 8,200 for the first filing and around EUR 2,400 for each subsequent filing.

206 Implementation costs per issuer are estimated around EUR 13,000 for the first filing and around EUR 4,600 for each subsequent filing.

for SMEs wishing to scale up is also a key goal of the CMU. In that respect, allowing SMEs to use IFRS could help reducing their barriers to seeking public funding. However, this may require further work on making IFRS disclosure requirements commensurate to the size and complexity of SMEs.

Although the EU framework overall remains relevant for SMEs and large companies, it appears far less relevant for the 14.2 million micro companies which tend to operate locally and at a smaller scale.

The relevance of the EU framework applicable to non-listed financial institutions (BAD and IAD) has also become questionable.

7.3.1 Continued relevance of the wider objectives

The wider objectives of the EU framework for regular public reporting of information have not lost any relevance. The wider objectives of establishing a single market, an efficient functioning of the EU single market, financial stability and sustainability have not lost any relevance compared to when the EU adopted the legal instruments that constitute the EU framework on regular public reporting by companies.

7.3.2 Continued relevance of the EU framework

7.3.2.1 Continued relevance of the EU framework for the sustainability objective

Although the initial objectives of the EU framework on non-financial reporting (NFRD) are still highly relevant, the Directive no longer represents an adequate response to a new context. This new context is characterised by other policy and legislative developments, a growing demand for information from investors, and developments in internationally recognised reporting frameworks and guidelines. Coverage of sustainability aspects in financial data is limited, notably providing insufficient information to the market about financial exposure to climate risks and other sustainability risks.

A large majority of respondents to the public consultation believed that the objective of increasing the quality and quantity of non-financial information disclosed by companies remains relevant. A common argument made in support of this view is that current disclosure practices do not meet the growing demand for data and information from investors and other stakeholders. The growing demand for non-financial data and information from companies is itself driven by the increasing amount of evidence regarding the urgency and seriousness of the sustainability crises we face.

The context in which companies report non-financial information has evolved significantly since the approval of the NFRD in 2014. At a global level, agreement on the UN Sustainable Development Goals (2015) and the Paris Agreement on climate change (2016) have given a stronger political impetus to the transition to a sustainable economy, and have contributed to a growing awareness of the strategic importance of sustainability issues amongst businesses and investors.

There have been some significant developments regarding non-financial reporting frameworks and guidelines. In 2016 the Global Reporting Initiative (GRI) published its first standards, building on its previous generations of guidelines. In 2018, the

Sustainability Accounting Standards Board (SASB) published 77 industry standards for the disclosure of financially-material sustainability information. The Task Force on Climate-related Financial Disclosures (TCFD), established by the G20's Financial Stability Board, published its recommendations in 2017 and they have attracted widespread interest in the market. In June 2019, the Commission published a new supplement to its existing non-binding guidelines on non-financial reporting, specifically on climate-related information and integrating the TCFD recommendations. Other developments since 2014 include: a Statement of Intent from five international sustainability reporting initiatives to cooperate more closely; an initiative by the World Economic Forum and to develop common reporting indicators; the development of national reporting standards in Poland and in Germany; and the launch in 2020 of a public consultation by the International Financial Reporting Standards Foundation on the possible extension of its work to non-financial reporting. Overall, compared to 2014 the new context is defined by the proliferation of different initiatives that partially overlap and are not always consistent between each other.

At EU level, the Sustainable Finance Action Plan (2018) and the European Green Deal (2019) have significantly increased Europe's political ambition to move as rapidly possible to a sustainable economic and financial system. As part of the Sustainable Finance Action Plan the EU has adopted the Taxonomy Regulation and the Sustainable Finance Disclosure Regulation (SFDR). Both pieces of legislation have important implications for the non-financial information that companies should disclose. By imposing sustainability disclosure requirements on financial market participants, the SFDR will have a direct impact on the information that financial market participants need from investee companies. The Taxonomy Regulation, meanwhile, imposes new requirements on companies under the scope of the NFRD to disclose their alignment with activities that qualify as environmentally sustainable according to the taxonomy. In the European Green Deal, the Commission announced its intention to review the Non-Financial Reporting Directive.

7.3.2.2 Continued relevance of the EU framework for the integration of EU capital markets

For listed companies, the EU framework continues to be of high relevance for financial information. The permanent update of IFRS including major standards on financial instruments, revenue from multiple-element-sale contracts and leases for example imply continued relevance in a changing business environment. Also the widespread international use of IFRS (although below initial EU policy expectations; see section 7.4.2.1 in EU added value) adds to the continued relevance for EU companies operating internationally.

Considering the benefits of applying IFRS in terms of relevance and comparability of financial information, some stakeholders highlighted that the mandatory scope set by the IAS Regulation may be too narrow, because it does not require individual (non-group) companies issuing securities on an EU Regulated market to use IFRS. As outlined in section 7.1.2.1, the use of IFRS by listed entities has resulted in greater comparability of the financial information delivered by listed entities while also providing significantly more relevant information than financial statements prepared in accordance with the minimum requirement applicable to all limited liability companies. However, the mandatory scope of the IAS Regulation only applies to the consolidated financial statements whereas some listed companies only publish annual financial

statements. As a result, cross-border comparability among listed entities is not achieved for this subgroup of single listed entities.

In that regard, the 2000 EU Financial Reporting Strategy[207] had concluded that, though desirable, a requirement to use IFRS for the annual financial statements of listed entities should remain a Member State option in order to circumvent possible inconsistencies with national regulatory and tax requirements. As at December 2018, 11 Member States required the use of IFRS for the annual financial statements of listed entities and 11 others permitted this. An indicative maximum estimate of the number of listed entities using the IFRS for their annual financial statements can be drawn from a 2014 ad hoc consolidation performed by ESMA. It highlights that out of 7 400[208] sets of annual financial statements filed by issuers on EU regulated markets as at December 2014, an estimated 6 000 were drawn according to IFRSs[209].

Investors and preparers at the investor workshop signalled support for a path to be devised for allowing SMEs envisaging issuing securities to report only under IFRS. At the end of June 2019, European Issuers published a report on their vision for the years 2019-2024[210]. The report outlines their interest for an IFRS option for SMEs wishing to be listed on SME Growth Markets and MTFs (Multilateral Trading Platforms): "Companies on SME Growth Markets and MTFs should have the choice to use their local accounting standards (GAAP) or full IFRS." They consider that this option would improve access to finance for small companies. They also underline the importance of a proportionate approach for SMEs. This could be a gradual passage from local GAAP to IFRS as SMEs grow, start to be listed on SME Growth Market and subsequently might want to be listed on regulated markets where full IFRS are required for consolidated financial statements. Such views were also supported by participants to DG FISMA workshops (March 2019 Workshop with investors on financial reporting, June 2019 Workshop organised by DG FISMA to take stock on the CMU).

However, as highlighted in section 7.2.1.2 about efficiency, the transition towards full IFRS may be too burdensome. UK GAAP was given as potential best practice example as Financial Reporting Standard 101 permits disclosure exemptions from EU-endorsed IFRS for certain qualifying entities. Several respondents to the consultation (Q12, Q13) also mentioned that IFRS had become too complex with too many disclosure requirements. In order to respond to this concern raised in a 2015 public consultation, the IASB published in 2017 a discussion paper on the disclosures in financial statements[211]. The Paper recognised the practical difficulties that entities encountered in applying the disclosure requirements laid down in IFRS.

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207 COM(2000) 359 final.

208 ESMA – Consultation paper on the Regulatory Technical Standard on the European Single Electronic Format page 26 – Number of financial statements on regulated markets by financial reporting framework according to National Competent Authorities.

209 Only a rough estimate can be established due to the absence of an EU consolidated list of issuers with information about their public reporting practices.

210 EuropeanIssuers Vision 2019-2024, Competitiveness is the Core for a Sustainable Europe, Serving Quoted Companies, EuropeanIssuers, http://www.europeanissuers.eu/ourvision.

211 Disclosure initiative – Principles of disclosure Discussion paper.

Since then, the IASB has undertaken a targeted Standards Level Review of the disclosures requirements in two existing IFRS standards[212] with the objective of making disclosures more relevant and reducing irrelevant disclosures. In parallel, the IASB is developing guidance and examples to help entities in applying materiality judgements on disclosure, which would result in less disclosure and improve usability and accessibility of the full IFRS in respect of SMEs[213]. In 2018, the IASB issued an amendment to clarify the definition of materiality in financial statements and, in 2019 the IASB published an exposure draft about its proposed changes to accounting policy disclosures. In January 2020, the IASB decided to start a standard setting project to allow companies that are non-listed subsidiaries of listed companies to prepare individual financial statements with significantly reduced disclosures whilst applying the full IFRS recognition and measurement rules.

7.3.2.3 Continued relevance of the EU framework for micro companies

Stakeholders recognise the relevance of the EU framework for limited liability companies (section 7.1.1) as well as the need for a proportional approach (section 7.2.1). The continued relevance of the EU framework for micro companies, surveyed specifically by CEPS, is however questionable. Micro companies are often management-owned companies, with little or non-existent cross-border business activities[214].

Consultation indicated that a few specific users (data aggregators, rating agencies) regretted the scarcity of information provided by micro and small entities. They argued that scarcity of information hindered big data analysis and access to funding. They also pointed out that the benefits of simplification may not be achieved if companies had to frequently provide ad hoc or recurring data in order to obtain funding. However, there does not seem to be a pressing need for standardised information about micro entities to be readily available for processing by market suppliers of information. When surveyed (CEPS), banks also emphasised that micro companies provided information directly to them, there was no need for additional public information.

Micro companies themselves do not perceive the benefits of preparing financial statements, which they tend to see as a duplication of other reporting requirements in national laws (usually tax). The possibility to link or combine financial reporting with tax reporting obligations ("one stop shop" or "file only once" principle) as permitted by the AD (Art. 36(1)(d)) was taken up by only five of the 22 Member States implementing a micro regime[215]. The uneven implementation by the Member States of a super-simplified financial reporting regime (section 7.2) combined with a lack of awareness of existing simplification tend to reinforce this perception by micro companies[216].

In light of the above considerations, the Commission proposed in 2009 a blanket exemption of micro companies from the EU framework (AD). But then, the co-legislators

212 IFRS 13 (Fair Value) and IAS 19 (Pension).

213 A set of case studies to help entities understand how they can already reduce disclosures.

214 See for instance European Commission Annual report on European SMEs – 2018/17, p. 50.

215 Source: Commission services, review of options used by the Member States.

216 Study on the accounting regime of limited micro companies – CEPS – 2019.

agreed to keep minimum EU requirements for micro companies[217]. Abolishing the (limited) public reporting requirements at EU level may not result in immediate major reduction in administrative costs for micro companies, though. First, because Member States could maintain extant national laws on regular reporting despite a repeal in Union law, considering that there are benefits in doing so. Second, because even if financial reporting were repealed, national tax laws (corporate tax) would probably continue to drive to a large extent micro companies' reporting efforts and costs.

7.3.2.4 Continued relevance of the framework for non-listed financial institutions

The relevance of the BAD and the IAD for non-listed financial institutions has become questionable. As described in section 7.1.3 their relevance has eroded because they did not keep pace with business and regulatory developments. For banks EU stakeholders have perceived a significant loss of relevance as compared to IFRS and the supervisory framework. For insurance companies EU stakeholders have also perceived a significant loss of relevance as compared to the supervisory framework.

For banks, the loss of relevance has been partially addressed by Member States through their use of options to permit or require the use of IFRS. Eight Member States out of the 19 participating Member States in the Banking Union require the use of IFRS for banks, whereas in the remaining 11 Member States many non-listed banks use IFRS in practice. In terms of banking assets covered, nGAAP is used for relative modest fractions of banking assets on a consolidated basis (with the exception of Germany). However, this observation is not applicable to insurance companies because EU-endorsed IFRS do not provide for a harmonised accounting treatment of insurance contracts. The current applicable standard IFRS 4 *Insurance Contracts* was devised as an interim solution and allows the continuation of Member States existing accounting treatments prior to the adoption of the IAS Regulation. As a result, IFRS does not offer an alternative to the IAD yet.

A repeal of the Bank and Insurance Accounts Directives warrants further examining the consequences for users. The annual financial statements of banks are used as a basis for the calculation of the prudential capital requirements and eligible capital. Therefore, differences in Member States nGAAP can lead to different prudential outcome thus hampering the comparability of prudential ratios within the Banking Union. In that regard, the minimum harmonisation of nGAAP under the BAD ensures a minimum level playing field among European banks. The situation is different for the insurance sector, where capital ratios are based on Solvency II valuation rules and therefore unaffected by the minimum level of harmonisation under the IAD. However, a repeal of the IAD could further impair comparability by removing the harmonised presentation of the financial statements of insurance companies as EU-endorsed IFRS currently does not provide an alternative to nGAAP for the sector.

Respondents to the public consultation also expressed mixed views about whether and how to improve the content of the BAD and IAD, which highlights the need to

[217] This proposal has led to Directive 2012/6/EU, which was subsequently retained in Article 36 of the Accounting Directive 2013/34/EU. The co-legislators did not agree on a full exemption as proposed, but have retained instead selective exemptions leading all micro companies to continue to prepare general purpose financial statements with certain minimum requirements (balance sheet, profit and loss, etc.).

assess more in depth the potential areas, costs and benefits of an upgrade. As a starting point, the Commission launched in December 2018 a study on the main differences between EU-endorsed IFRS and the nGAAP for banks established within the Banking Union. The study provides data on the actual use of nGAAP compared to IFRS, an analysis of the main differences between IFRS and nGAAP; and their impact on prudential ratios. The study should form a robust basis to further consider the need for reviewing the BAD. The results of the study were presented to the Commission in February 2020[218].

First of all, the study shows that EU-endorsed IFRS have a very significant impact on financial reporting by banks in the Banking Union and the determination of prudential ratios. The IFRS impact is due to Member States' use of options to extend the scope of IFRS to all banks as well as due to the "trickle-down effect" of transposing IFRS accounting treatments into nGAAP. Second, there is overall a very modest impact from accounting differences on prudential ratios. Third, the share of banking assets under nGAAP in comparison to the total assets is only 17.5% and therefore less likely to raise overall financial stability issues within the Banking Union. Fourth, due to the application of the prudence principle under nGAAP, it can be generally assumed that financial institutions underestimate their own capital position compared to IFRS (fair value) in relatively good economic conditions. In summary, the overall impact on prudential ratios was indeed very modest. Therefore, a possible review of the BAD would have only a limited practical impact.

Concerning insurance companies, the IASB issued a new IFRS for insurance contracts (IFRS 17) in June 2020, which will apply from 01 January 2023 onwards. The European insurance industry has already made significant efforts and investments to prepare its implementation. As a result, most respondents to the public consultation highlighted that an overhaul of the EU financial reporting framework for insurance companies should be postponed at least until the EU reaches an endorsement decision about IFRS 17. Most insurance companies argued that time was needed to assess the implications of the new standard on the industry and whether it might provide a suitable alternative to nGAAP for the annual financial statements of insurance companies.

7.4 EU added value of the EU framework

Conclusion on the added value of the EU framework on regular public reporting

The EU is generally the right level to set public reporting policies for developing an internal market, promoting an integrated capital market, safeguarding financial stability and improving sustainability. This was overwhelmingly confirmed by the respondents across types of stakeholders. The EU added value of the EU framework for listed companies is widely confirmed by respondents for financial and non-financial information. With regard to non-financial reporting, the EU framework has increased the EU's potential to shape global norms in the field of non-financial disclosures and to some extent reduced the risks of major divergence in national approaches and associated risks for the single market.

218 See https://op.europa.eu/en/publication-detail/-/publication/fcd5cbc9-7f8c-11ea-aea8-01aa75ed71a1/language-en/format-PDF/source-search.

The EU added value is a key evaluation question with two dimensions in the context of this fitness check, which are examined for each policy at stake:

- Is the EU the right level to design policies in order to obtain valuable results over and above unilateral and non-coordinated action by each Member State?
- Could certain policies be better achieved at the international level?

The Treaty on the European Union (article 3(3)) sets out the ambition for the wider objectives to which the EU framework on public reporting by companies aim to contribute[219]. Virtually all respondents to the consultation considered the EU as the right level to set public reporting policies regarding the objectives of developing the single market and promoting an integrated capital market. As regards the wider objectives of financial stability and sustainability, while many considered that these could be better dealt with at global level, many supported an EU leadership role. Several respondents also pointed out that whilst the EU level is appropriate for many of the objectives, there should be room for Member States to go beyond EU requirements, for example in the area of sustainability. International investors and international businesses emphasised that gold-plating by Member States created complexity and hindered comparability. Some respondents emphasised the need for action at EU level on digitalisation and open company registers to secure efficient (free) access to company information.

7.4.1 EU added value for all limited liability companies

The EU added value is recognised by stakeholders to ensure that public financial reporting by limited liability companies protects stakeholders as a cornerstone of the single market (Q7). The EU level of action continues to be appropriate with regard to the TFEU's objective of safeguarding the freedom of establishment. Even if the importance of the EU framework (AD) to provide relevant financial information has eroded over the years and has become nearly irrelevant for micro entities, the AD provisions have ensured a minimum level of disclosure requirements in the EU. Having regard to the baseline scenario, there is no guarantee that key principles underpinning stakeholders protection in the AD, such as the overarching principle of true and fair view, the principle of prudence, the information to be provided as per lay-outs and notes to the financial statements, assurance provided by the audit and publication would exist across the EU and to such a harmonised extent.

On CBCR for extractive and logging industries, stakeholders recognise the EU added value of the policy (Q51-53). The EU action contributes to a coordinated approach by the Member States. Nowadays, Canada, Switzerland, the United Kingdom and the European Economic Area are front runners for this CBCR. The US adopted section 1 504 of the Dodd-Frank Act, which pursues a similar policy objective as EU law[220]. But absent implementing rules by the Securities and Exchange Commission, it does not apply. There are no similar rules in other jurisdictions, except Norway and Switzerland?. This results

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219 The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.

220 The Dodd–Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111–203, H.R. 4173, was signed into United States federal law on July 21, 2010.

in an un-level playing field globally. Both business and civil society would support further levelling of the playing field at the global scale.

The **Extractive Industries Transparency Initiative (EITI[221]),** with a fair coverage of 52 implementing countries, contributes to levelling the playing field. EITI reports contain the payments received by governments from extractive companies active in their jurisdiction, are public, and display payments broken down per project similarly to the EU legislation. The EITI is however a voluntary regime for countries meaning that not all resource-rich countries are members. The EU action and the EITI therefore appear as complementary for now, leaving potential for EU added value.

7.4.2 EU added value for listed companies

7.4.2.1 IAS Regulation

Overall, the EU action requiring IFRS for the consolidated financial statements of EU companies with securities listed on an EU regulated market has contributed to the integration of the EU capital market. As outlined in section 7.1.2, the effectiveness of the EU IFRS action in creating an integrated capital market was confirmed overwhelmingly by respondents (Q1 and Q2) as well as the results of the evaluation of the IAS Regulation in 2015. Without EU intervention on a capital market-oriented financial reporting strategy based on international accounting standards, the EU would probably not have a single reporting framework today.

The EU added value of EU action in relation with IFRS is considered in more detail from two different perspectives, namely: (i) EU added value in monitoring that IFRS is conducive to the EU public good; and (ii) EU added value in IFRS becoming the single global accounting standard.

(i) EU added value in monitoring that IFRS is conducive to the EU public good

The conditions that must be fulfilled by IFRS in order to be incorporated into EU law include their conduciveness to the "EU public good". EU public good involves broader considerations than those underpinning the development of financial reporting standards by the IASB. The EU should safeguard that IFRS does not have adverse impacts on achieving its broader policy objectives. In 2002, the IAS Regulation established a process for incorporating the IFRS into EU law ("endorsement") based on impact assessments carried out by experts under the oversight of the co-legislators.

Currently, the IAS Regulation provides limited flexibility to amend standards as issued by the IASB[222] in case a standard would not meet the technical endorsement criteria or not be conducive to the EU public good. Introducing greater flexibility in the IAS Regulation's endorsement procedure could in principle be considered beneficial to address situations in which only some aspects of a standard would not meet the technical endorsement criteria or not be conducive to the EU public good. However, the EU has so

221 See https://eiti.org/ - One of the objectives of the EU intervention is to promote the EITI

222 However, the Union has exercised some flexibility in endorsement in very few occasions by deleting identifiable and separable provisions of a standard (also known as "carve-out"), delaying the application date or extending the scope of an option.

far been able to deal with such situations using the limited flexibility available within the confines of the IAS Regulation (the so-called "carve-out" power and the "top-up"[223]) and has only needed to do so sparingly on only two occasions since 2003 to cover very limited elements of two standards. This suggests that the endorsement procedure foreseen in the current legal framework provides sufficient flexibility in most cases.

EU endorsement of IFRS

As set out in the IAS Regulation, IFRSs can only be incorporated into EU law if: (i) they meet certain technical criteria (comparability, relevance, reliability and understandability); (ii) they are not contrary to the true and fair view principle set out in the AD; and (iii) they are "*conducive to the European public good*". For each new or amended IFRS issued by the IASB, the European Commission requests EFRAG to carry out an assessment of the standard against these criteria[224]. Based on EFRAG advice, the Commission prepares a draft endorsement regulation, which is adopted only after a favourable vote of the Accounting Regulatory Committee (the comitology committee "ARC") and favourable opinions of the European Parliament and Council. Based on the terms of the 2016 working arrangement with the European Commission, EFRAG also carries out macroeconomic analyses to support its conclusions on the cost-benefits and broader impacts of IFRS where relevant.

The endorsement criterion that IFRS should be conducive to the "EU public good" is essential to cater for the broader impact of IFRS for the EU. EU public good is not defined in the IAS Regulation. Based on the Maystadt recommendations (2013), the European Commission and the ARC usually consider that the EU public good criterion should be understood as "not endangering financial stability", "not hindering the economic development of the EU" and "not being detrimental to the competitiveness of European undertakings". The wider Union objectives have evolved over time, and it may include nowadays as well for example sustainability objectives.

The EU endorsement criterion of public good is much broader than the IASB's capital provider focus in developing IFRS. At the time of adoption of the IAS Regulation in 2002, the IASB (conceptual) framework had a broad stakeholder perspective for identifying information needs including investors, employees, lenders, suppliers and other trade creditors, governments and their agencies. But in 2010, the stakeholder perspective of IASB conceptual framework was reduced to: present and potential investors, lenders and other creditors making funding decisions. The IASB's 2018 revised Conceptual Framework for Financial Reporting maintains the reduced scope by highlighting that IFRSs are designed to meet the information needs of investors, lenders and other creditors and are not primarily directed to the governance bodies, the regulators or the general public. The conceptual framework applies a narrow definition of performance that focuses on the prospect for future net cash inflows. This means that broader areas of corporate or public responsibilities or economic impact are not considered. The objective of corporate reporting may be reduced to the assessment of short-term generation of cash flows. Accordingly, the IASB's impact assessments are

223 A carve out refers to a situation where a specific requirement of an IFRS standard does not have to be applied. A top up (optionally) extends the scope of application of an IFRS standard. It was used to allow the insurance sector of financial conglomerates to defer the application of IFRS 9 *Financial Instruments* until IFRS 17 *Insurance Contracts* becomes mandatory.

224 Based on the terms of the 2016 working arrangement between EFRAG and the European Commission.

much narrower than those used for EU policy making. The IFRS Foundation Due Process Handbook currently only requires assessing the qualitative improvements to financial reporting against the likely effects on the compliance costs for preparers and analysis costs for users.

Whereas the IASB has a very transparent due process for standard setting with ample public consultations this does not mean there is complete stakeholder involvement. The European Parliament research paper 7 on the IASB[225] that was prepared in the context of the European's role in International Economic mentions: *"Empirical studies indicate that societal stakeholders that are not equipped with in-depth accounting expertise (such as employees and their representatives, non-governmental organisation or non-business associations) are largely absent from the consultations. In contrast, financial market actors, in particular auditors and investors, dominate standard setting within the IASB, with the former being well represented at all levels within the organisation. The latter, that is investors and other capital providers, are singled out as the core constituency addressed by IFRS"*.

The difference in focus between the broader public good notion set out in the IAS Regulation and the narrower IASB focus of qualitative improvement may create difficulties for the EU to endorse IASB standards, especially against the broader objective of EU transition towards a more sustainable economy. The 2018 report of the High Level Expert Group on financing sustainable growth highlighted that IFRS 9 *Financial Instruments* might not be conducive to long-term financing and required an assessment against the criterion of sustainability. In response to this, the Commission has committed to asking that possible adverse "sustainability impacts" of an IFRS standard be considered in the request for endorsement advice to EFRAG, where relevant. The focus would be on preventing that IFRS accounting treatments contain disincentives to the allocation of long-term funding needed for the transition to a sustainable economy. This is particularly relevant for life-insurers that make long-term investments to meet their long-term insurance liabilities. The issue is not pressing today, because insurers currently benefit from the optional deferral of IFRS 9 until IFRS 17 *Insurance Contracts* is scheduled to become applicable in 2023. An example of this is the IFRS 9 prohibition to "recycle" into Profit or Loss the profits made upon the disposal of equity instruments optionally measured at fair value through "other comprehensive income" (FVOCI).

In 2018, the Commission issued two calls for technical advice on the non-recycling of profits made realised on equity instruments measured at FVOCI in IFRS 9. EFRAG recommended the Commission to ask the IASB to reconsider the re-introduction of recycling. The Commission sent a letter to the IASB on 13 March 2020 following-up on EFRAG's advice, but the IASB response on 30 April makes it not very challenging to address the IFRS 9 non-recycling of equity instruments will be addressed before IFRS 17 will become applicable (in 2023). This matter is also addressed in the final report of the High Level Forum on the Capital Markets Union – A new vision for Europe's capital markets, published on 10 June 2020[226].

Although the EU should safeguard that IFRS should not have adverse impacts on sustainability, promoting sustainability should not lead to undermining the faithful

[225] http://www.europarl.europa.eu/RegData/etudes/STUD/2015/542196/IPOL_STU%282015%29542196_EN.pdf.
[226] https://ec.europa.eu/info/files/200610-cmu-high-level-forum-final-report_en

representation of economic transactions under IFRS. Sustainability considerations should not override market-based valuations to cater for negative externalities that are not adequately captured by market pricing. Doing so would introduce a level of subjectivity in accounting treatments that would undermine the comparability and reliability of financial statements. Many respondents to the public consultation considered sustainability and long-term investments beyond the purpose of IFRS financial reporting and provided little support to including "sustainability" as a separate endorsement criterion in the IAS Regulation. However, most of these responses came from preparers, standard setters, and accounting firms but not from civil society organisations or investors.

EU incorporation of IFRS into EU law

The 2013 Maystadt report and the review of the IAS regulation in 2015 considered allowing changes to IFRSs at Union level without concluding that the EU should be able to do so. The possibility of divergences from IFRSs as issued by the IASB was deemed to be contrary to the ultimate objective of global comparable financial statements. Most recently, the 2018 High Level Expert Group report on sustainable finance recommended empowering the EU to amend the IFRS. DG FISMA has posed the question in the public consultation carried out for the fitness check on public reporting by companies (Q19). As mentioned in the summary of responses to the public consultation, a majority of the respondents would not be in favour of changing the IAS Regulation so as to provide more flexibility via carve-in powers[227]. A common theme in the responses seems a general concern with "political" influence over IFRSs setting. Several types of stakeholders consider the absence of such influence in combination with reflecting economic substance over form as an important feature of high-quality accounting standards.

The IAS Regulation currently provides very limited flexibility to overcome a possible deadlock situation where an IFRS would be deemed to pass the endorsement criteria provided some minor changes were made to address specific EU concerns not considered by the IASB. The EU has always endorsed all standards and interpretations issued by the IASB except in one occasion, where the EU decided on the partial application of a standard ("carve-outs"[228]) by carving out some restricting hedging criteria so to allow the hedging of *portfolios* of core deposits. The (only) other example without amending the text of the standard as issued by the IASB though, is where the EU has in 2017 increased the scope of the optional deferral of IFRS 9 *Financial Instruments* to the insurance sector of financial conglomerates (a "top-up") so as to align the implementation date of IFRS 9 with the (to be endorsed) IFRS 17 *Insurance Contracts*. Similar situations might occur in the future, where specific provisions of a standard contradict the endorsement criteria laid down in the IAS Regulation. Absent the possibility for the EU to amend the problematic provisions, the standard could not be endorsed at all, leaving a gap within the EU framework for capital market oriented entities. Providing the EU with endorsement flexibility by amending the

227 The actual number of respondents is slightly higher than is mentioned because some respondents answered in favour of having carve-in flexibility but the substance of their comments showed the opposite view.

228 In 2004 the European Commission endorsed IAS 39 *Financial Instruments: Measurement and Recognition* with the exception of certain legally distinct and separable parts that were removed from the standard issued by the IASB. This is also known as the IAS 39 carve-out. There was another carve-out to prevent applying the fair value option to own debt instruments that was later addressed by IASB amendments to IAS 39.

IAS Regulation could overcome such exceptional deadlock situations. However, the approaches of endorsement flexibility exercised in the two cases mentioned above could suffice to overcome possible future deadlock situations reducing the need to change the IAS Regulation.

The IASB due process has been designed with a view to ensuring that all interested parties express their views. As a result, regional specificities should be duly considered in the IASB standard setting process. EU influence on the IASB standard setting and governance is fairly limited though[229]. There is no link between the EU funding of the IFRS Foundation (20.7% of the IFRS annual budget) and its role in the IASB standard setting (and governance). Research suggests that most EU influence on standard setting comes from EFRAG's early publication of draft endorsement advices and draft comment letters, which focus on the technical criteria for endorsement. The combination of the IASB narrow investor focus and EFRAG's general emphasis on the technical endorsement criteria also implies that the broader impact of IFRS may not always be considered properly upstream. Some respondents (Q19) considered that EU carve-in power would provide more weight to EU concerns during the IASB standard setting process compared to the current binomial "yes-no" endorsement situation with non-endorsement as a too remote probability. Other respondents held an opposite view.

(ii) EU added value in IFRS becoming the single global accounting standard

The ultimate EU objective that IFRS would become the single set of global accounting standards[230] has not been achieved. Although IFRS are used by many companies worldwide, only a few non-EU major capital markets and large jurisdictions have made the use of IFRS as issued by the IASB mandatory. Some non-EU country jurisdictions allow the use of IFRS by domestic listed companies (e.g. Japan), others restrict the option to foreign issuers (e.g. the US). Many other jurisdictions, such as China, have transposed IFRS into nGAAP, which then have become "substantially converged" with IFRS as issued by the IASB. As a result, the level of global convergence achieved is suboptimal compared to the initial objective on global use.

Repeated calls and declarations from the G20 have not led to a single global accounting standard. Currently, US GAAP and IFRS are diverging as opposed to converging. The call for creating a single high-quality global standard was made for the first time at the Summit on Financial Markets and the World Economy in Washington DC in November 2008. At subsequent summits in Pittsburgh (2009), Toronto (2010), Seoul (2010), Cannes (2011) and Los Cabos (2012) the G20 leaders reaffirmed their support in pursuit of that objective. During the investors' workshop on financial information, the divergence between IFRS and US GAAP was acknowledged, and some emphasised their preference towards IFRS solutions compared to US GAAP.

229 The European Parliament organises once a year an ECON session with the chair of the IASB Board and the chair of the Trustees. The Commission staff attends EFRAG Technical Expert Groups meetings and EFRAG Board meetings as an observer. The Commission meets on a regular basis with the European Parliament IFRS team to discuss priorities. The Commission is a member to the Standard Advisory Council and the Monitoring Board, which is overseeing overall governance processes and funding.

230 See the 2000 Commission's Communication on the EU Financial Reporting Strategy and Recitals (2) and (6) of the IAS Regulation.

7.4.2.2 EU added value for issuers, shareholders and investors

As regards the Transparency Directive, the establishment of an EU harmonised regime for disclosure rules was crucial to enable comparison of, and access to corporate information. Although the TD provides for a minimum harmonisation regime – which in most cases allows Member States to impose more stringent requirements than those laid down in the TD – the existing transparency rules are perceived by the respondents to our consultations as necessary to allow comparison and access to listed companies' information. With a view to establish a more harmonised regime in certain areas, some of the respondents to our consultations also called on the Commission to exercise its delegated powers as regards the specification of the minimum standard for the storage within the OAMs, the specification of a list of means not to be considered electronic and of a list of media for the dissemination of the information to the public.

7.4.2.3 EU added value for non-financial information

The NFRD has contributed to the EU's global leadership in sustainability and increased the EU's potential to shape global norms in the field of non-financial disclosures. There has been a notable increase in the number of regulatory approaches to non-financial disclosure worldwide since the adoption of the NFRD in 2014[231]. The NFRD has been, for example, a factor in the EU's global leadership in the implementation of the UN Guiding Principles on Business and Human Rights.

The NFRD has also enabled minimum harmonisation amongst Member States and to a certain extent reduced the risks of major divergence in national approaches and associated risks for the single market. Without the NFRD it is reasonable to assume that some Member States would still not have adopted any non-financial reporting requirements at national level, and that the degree of divergence between any national requirements would be greater than it is today. However, the lack of precision of NFRD rules and the degree of freedom given to Member States in the Directive nevertheless undermines the objective of ensuring that disclosed information is comparable between companies across the EU. In addition, policy-makers in many Member States are giving increasing attention to non-financial reporting. The risk of unilateral policy or legislative actions by Member States, to the detriment of the Single Market, is therefore significant and growing.

7.5 Coherence

Conclusion on the coherence of the EU framework on regular public reporting

Requirements on the preparation, publication and dissemination of information by companies stemming from the legal instruments that constitute the EU framework on public reporting are highly consistent. There are some minor overlaps and inconsistencies between those requirements and other relevant Union legislation, but these seem not to have a big impact in practice. In the area of non-financial reporting, there are coherence challenges for reporting on non-financial information between the NFRD and various pieces of Union legislation that have been adopted subsequently or that are currently being developed.

231 "Insights from the Reporting Exchange: ESG reporting trends", WBCSD and CDSB, 2017; "Carrots and Sticks: Global trends in sustainability reporting regulation and policy", GRI, 2016.

This section examines the possible significant inconsistencies, overlaps or synergies as regards the preparation, publication and dissemination of information by companies, stemming from:

- Requirements within the EU framework on public reporting by companies;
- Requirements from the EU framework and from other Union legislation.

Most respondents considered the EU framework generally consistent. Several pointed out that coherence is generally weaker for areas or components based on "minimum harmonisation" or in combination with Member State options. This affects specifically the management report, the corporate governance statement and the reporting of non-financial information.

7.5.1 Coherence of the requirements within the EU framework on public reporting by companies

The EU framework requires the use of EU-endorsed IFRS for the consolidated financial statements of groups of companies that have issued securities on an EU regulated market. Requirements from the AD, BAD and IAD apply in conjunction. In general, the recognition and measurement rules prescribed by IFRS are acceptable under the AD and BAD (with the exception of depreciation of goodwill). Therefore, in practice, listed entities preparing financial reports under IFRS would comply with the requirements of the AD and BAD. The reverse is not the case, as the AD and BAD are generally less prescriptive than IFRS. Regarding the form (or presentation of the financial statements), the prescribed minimum lay-outs for balance sheets and profit or loss accounts of the AD and BAD differ from the presentation requirements in EU-endorsed IFRS, which creates a lack of coherence. This though seems not to have a major impact in practice and was not mentioned by respondents as an important issue.

As regards the IAD, some respondents to the consultation expressed concerns about inconsistencies between some provisions of the IAD, such as the restrictions to discounting claims outstanding or the presentations requirements, and the features of the new standard IFRS 17 on insurance contracts**.** The IASB completed the IFRS 17 in June 2020 with mandatory application from 1 January 2023 onwards. Therefore, it is too early to conclude on potential inconsistencies with nGAAP implementing the IAD.

The 500 employee threshold of the non-financial reporting requirements brought in by the NFRD differs from the threshold defining large limited liability undertakings in the AD. The threshold in the NFRD, that was intended to strike a balance between the costs and benefits of non-financial reporting requirements, can nevertheless be considered to undermine the coherence of the EU framework. In fact some Member States have lowered this threshold to 250 employees to align it with the definition used in the AD.

The use of **different terminology between the AD, the IAS Regulation and the TD to indicate the same concept could hamper compliance with reporting requirements.** For example, the use of the term "accounts" in the IAS Regulation and the use of "financial statements" in the TD and the AD. Also, regarding the terminology used to formulate disclosure obligations, the AD and the TD both use terms such as "disclose"[232],

[232] E.g. Article 4(5) AD.

"publish"[233], "file"[234], "disseminate"[235], "make publicly available"[236], and "make public"[237], which could be interchangeable and therefore confusing for stakeholders referring to the EU law. To date there seems to be no issues in practice.

7.5.2 Coherence between the requirements imposed by the EU framework on public reporting by companies and the requirements imposed by other Union legislation

The CRR requires banks to make what is known as Pillar 3 disclosures on prudential requirements and risks, which potentially overlaps with similar disclosures under the AD, IFRS and the BAD. Under the CRR II the Pillar 3 information will be highly structured by use of common templates to be developed by EBA as implementing technical standards and adopted as directly applicable EU law. The CRR allows banks flexibility on the medium (separate Pillar 3 report or included in the annual financial statements) and linking disclosures to other (parts of) documents that "may be deemed to constitute compliance with the disclosure part of the CRR". This setup enables banks to efficiently deal with potentially overlapping requirements in practice.

As regards the interaction between the IAD and the Solvency II framework, the current EU legislation requires insurance and reinsurance undertakings to prepare two statements of financial positions based on different measurement rules for prudential (Solvency II) and general accounting purposes (IAD). However, two third of the respondents to the public consultations argued against convergence between the prudential framework and the IAD as their different objectives were deemed to justify different sets of requirements. Respondents usually favoured maintaining two separate autonomous frameworks and did not consider that their duality resulted in inconsistencies. Nonetheless, some of them pointed out to duplications between the public disclosure requirements of the IAD and the prudential "Solvency and Financial Condition Report" (SFCR).

There are some duplicative disclosure requirements between the management report (AD) and the SFCR as regards the information pertaining to business performance and risk profile of insurance undertakings. However, the metrics for the substantive disclosure requirements are aligned between the SFCR and the management report and companies do not seem to incur additional costs to produce the required information. In addition, some overlaps were noticed between the corporate governance statement and the SFCR disclosures about the "system of governance". However, the AD already provides a Member State option to disclose the information required under the corporate governance statement through a document publicly available on the undertaking's website such as the SFCR. Finally, similar requirements with regard to the breakdown of performance indicators between business segments and geographical areas were considered. Overall the Commission's services assess that duplicates remain fairly limited but that consistency might nonetheless be improved by providing an exemption in the annual report when information on performance and risks are already reported in the SFCR.

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233 E.g. Article 4(6) TD.
234 E.g. Article 19(1) TD.
235 E.g. Article 21(1) TD.
236 E.g. Article 20(2)(b) AD.
237 E.g. Article 4(1) TD.

There are certain coherence challenges regarding the NFRD and other pieces of EU legislation that require sustainability disclosures, in particular regarding the financial sector. Under the Sustainable Finance Disclosure Regulation (SFDR), financial market participants and financial advisers will be required to publish on their websites their policies on the integration of sustainability risks in their investment decision-making process[238]. In addition, those entities above the threshold of 500 employees will also have to disclose how they consider the principal adverse impacts of their investment decisions on sustainability factors. Financial market participants can only meet the requirements of the SFDR if they have access to adequate information from investee companies. Since the NFRD governs reporting by investee companies, there is an obvious case for ensuring alignment between the disclosure requirements of the NFRD and the SFDR.

The Taxonomy Regulation creates a classification system of environmentally sustainable economic activities with the aim of scaling up sustainable investments and combating greenwashing of 'sustainable' financial products[239]. It requires companies under the scope of the NFRD to disclose the extent to which their activities are considered environmentally sustainable according to the taxonomy. Financial market participants subject to the SFDR must disclose the extent to which financial products marketed as sustainable are aligned with the taxonomy. The taxonomy therefore represents an important reference point that further strengthens the interactions between the SFDR and the NFRD.

Similarly, in the context of the **new prudential rules under the CRR on disclosure of ESG-related risks by large listed banks, and the recently amended CRD**, the European Banking Authority (EBA) may in the future adopt guidelines for the inclusion of ESG risks in the supervisory review and evaluation process performed by supervisory authorities.

Risks of incoherence could also arise from the diverse terminology used in different pieces of legislation. For example, while the CRR and CRD use the term "ESG risks", the Sustainable Finance Disclosure Regulation (SFDR) uses the term "sustainability risks", when referring to the financial impact of sustainability factors in the value of the investment. The NFRD refers to "principal risks" related to environmental, social and employee matters, human rights, anti-corruption and bribery, to address both the financial risks of these factors on the performance of the company and the risk of the company's activities having a negative impact on the environment and society. As far as possible, consistency in the terminology and concepts should be ensured to facilitate compliance with reporting requirements.

Corporate transparency regarding sustainability matters is a major global challenge and therefore coherence between EU and international approaches should be sought, too. The NFRD encourages the use of internationally recognised frameworks, contributing to a certain extent to the alignment of sustainability disclosures at international level.

238 Regulation (EU) 2019/2088. Financial market participants have to comply with the SFDR as from 10 March 2021.

239 Regulation (EU) 2020/852.

Some investors were also concerned with the **coherence and interplay of the risk factors to be disclosed in prospectuses (Art. 16 PR) and risks to be disclosed in the non-financial statement (Article 19a NFRD)**.

Better alignment could be explored **between the TD and the Prospectus Regulation (PR) as regards the alleviated regime** under the PR **for issuers whose securities are traded on an EEA qualified investor regulated market, or segment only,** and the exemptions from disclosing the annual and half-yearly financial reports granted by the TD to issuers of "wholesale" denominated securities.

As regards CBCR, the consultation activities did not pinpoint intrinsic incoherence (Q51-53). The EU addresses potential incoherence with the Canadian framework by adopting an ad hoc equivalence decision[240], which is supported by the industry. As an alternative to equivalence, civil society could supports one single standard designed by an international organisation.

[240] For Canada: Commission Implementing Decision (EU) 2016/1910 of 28 October 2016 on the equivalence of the reporting requirements of certain third countries on payments to governments to the requirements of Chapter 10 of Directive 2013/34/EU of the European Parliament and of the Council.

8. CONCLUSIONS

This staff working document presents the findings of the fitness check evaluation on the EU framework on public reporting by companies (limited liability companies, listed companies and financial institutions (banks and insurance undertakings)).

The EU framework has evolved over time and plays a decisive role in the type of information that companies established in the EU publicly report on today. There have been several important milestones in the development of the EU framework:

- the adoption in 1978 of the Fourth Company Law Directive on the annual financial statements of limited liability companies (later repealed and replaced by the Accounting Directive),
- the adoption of the IAS Regulation in 2002 bringing in directly applicable EU law for the consolidated financial statements of EU listed groups and,
- more recently in 2014, the Non-Financial Reporting Directive.

This fitness check assessed primarily whether the EU framework achieved its immediate objective of providing stakeholders with financial and non-financial information that is sufficient in quantity and quality to enable them to make informed decisions and protect their interests, make investment decisions, or hold companies publicly accountable. This immediate objective has been assessed against four qualitative criteria: relevance, reliability, comparability and timeliness of published information.

Though it is not possible to measure the effectiveness of the EU framework in achieving the EU's broader objectives, by achieving the immediate objective, the EU framework has contributed to the broader objectives of:

(i) an efficient functioning of the EU single market,
(ii) an integrated EU capital market,
(iii) financial stability and
(iv) sustainable growth.

Although it is beyond the scope of the fitness check to put forward follow-up action, this section highlights some of the main areas for improvement to the EU framework. Overall, EU-level public reporting requirements for financial information are fit-for-purpose, in that they are largely effective, highly relevant, coherent, and bring EU value added, albeit of questionable value for micro companies. As regards limited liability companies in general, more could be done to ensure prompt publication of financial information.

To improve EU-wide comparability for larger non-listed companies (2% of companies), ways to promote the use of IFRS could be assessed. The EU framework on public reporting for non-financial information is relatively recent, but its requirements and public reporting practices are not commensurate with the EU's ambition to become a sustainable economy and society.

The IAS Regulation appears to be the most effective instrument in ensuring comparable and complete financial information across Europe. Based on further consultation with all stakeholders, a comprehensive cost-benefit analysis could be carried out to assess whether to expand the scope of EU-endorsed IFRS to all companies listed on regulated markets and, as a company option, to SMEs that plan to issue securities or to larger, non-listed companies.

Further digitalisation of public reporting could significantly increase user efficiency, both for financial and non-financial information. Lastly, further convergence of supervisory practices across the EU must remain a priority to improve the comparability and reliability of public reporting by companies.

Effectiveness of the EU framework (section 7.1)

The effectiveness was assessed against four qualitative criteria (relevance, comparability, reliability, and timeliness) of information required to be published under the EU framework that enable stakeholders to make informed decisions. The effectiveness assessment was carried out for different types of companies covered by the EU framework on public reporting, each with a different stakeholder composition.

Limited liability companies. The *relevance* of information published by limited liability companies is generally adequate for investors who acknowledge that the annual disclosure and publication requirements are commensurate to the size of company. Publication deadlines of up to 12 months, in combination with suboptimal national penalty mechanisms for late (or no) publication, tend to reduce the *timeliness* and, therefore, the availability of information for stakeholder decision-making, especially for trade creditors. The level of *comparability* is good in form (prescribed lay-outs), but less so in substance due to a more high-level framework and the range of national options. This is generally not an issue except for stakeholders with an interest in larger non-listed companies (2% of companies), which could warrant further examining to improve the situation for them, for instance by using IFRS. The *reliability* of published information seems adequate by means of collective board responsibility for the "true and fair view" of the financial statements and statutory audit requirements commensurate to the size of the limited liability companies. But there are wide discrepancies in the way Member States have implemented the penalty mechanism requested under the AD. Having insufficiently dissuasive penalties seems to have an impact on companies' compliance, least with their publication obligations. The usefulness of CBCR in bringing transparency on payments to governments is widely recognised by civil society.

Listed companies. The *relevance of reported financial information* is good for investors and creditors of listed groups with mandatory use of directly applicable EU-endorsed IFRS. By the same token, the relevance of reported financial information in annual financial statements of listed companies is good, where Member States allow or require the use of EU-endorsed IFRS for the preparation of these reports. For listed companies not applying IFRS when preparing their individual annual financial statements, the relevance is the same as for limited liability companies reporting under nGAAP: adequate but not as good as IFRS. However, this ultimately depends on each nGAAP, which can contain rules that go over and above the minimum requirements of the EU framework (AD).

The *relevance of reported non-financial information* is generally not optimal, with many listed companies failing to disclose relevant non-financial information, while disclosing information that is not relevant. This appears to be at least partly due to the lack of clarity of the EU framework (NFRD). Ongoing deficiencies in corporate disclosure of non-financial information means that revising the NFRD should be considered as a matter of priority.

Comparability is reasonably good in substance for IFRS, but hampered by a lack of standardised tabular lay-outs. This could be compensated by mandatory use of structured

electronic data (ESEF) from 2020 onwards. The *comparability of non-financial information* is in most cases insufficient to meet user needs.

The *reliability of financial information* was found to be good, due to the cascade of requirements of collective board responsibility for the true and fair view of financial statements, to the mandatory statutory audit for all listed companies, and securities market supervision. However, despite ESMA's efforts, enforcement practices differ significantly across the EU. Considering the importance of enforcement practices in ensuring the reliability of the information publicly disclosed, it could be worth considering a deeper harmonisation of the supervisory work carried out by national competent authorities to address these significant differences in practice across the EU. The Wirecard case also highlighted that some national practices may not be as effective as intended since they are perceived as insufficient to ensure an efficient exchange of information between national authorities and an examination of financial information by independent competent authorities. Many users question the *reliability of non-financial information*, and the EU framework sets fewer requirements on the reliability of non-financial information than on financial information.

The *timeliness* of information was found to be good, due to specific tight requirements from the TD on the deadlines for filing and monitoring by competent authorities.

Non-listed financial institutions. The overall *relevance* of annual financial statements has eroded over time for stakeholders of banks and insurance companies, especially when compared with the significantly enhanced supervisory requirements. The loss of relevance for banks is partially compensated due to the broader use of IFRS by large banks, which account for the most significant share of all banking assets. This significantly decreases the relative share of banking assets reported under nGAAP. However the same does not apply to insurance companies, because the EU-endorsed IFRS framework does not harmonise the accounting for insurance contracts. *Comparability* of information is good in terms of the form (prescribed lay-outs) but less good in substance due to a principles-based approach and the number of options available to the Member States. The *reliability* of published information seems adequate due to collective board responsibility for the "true and fair view" of the financial statements and mandatory statutory audit requirements for all banks and insurance companies. Publication deadlines of up 12 months in combination with suboptimal Member States penalty mechanisms for late (or no) publication, seriously reduces the *timeliness* and therefore the usefulness of this information for stakeholder decision-making.

Efficiency of the EU framework (section 7.2)

The cost of regular public reporting stemming from the EU framework seems a relatively modest "cost of doing business" for limited liability companies. First, the cost of annual reporting of financial information is incremental, given the national reporting obligations, for example on company taxation. Second, Member States have topped up the minimum requirements of the EU framework in national legislation, or not made full use of EU simplified procedures for micro companies available under the AD or relief from issuing quarterly reporting for listed companies under the TD. For financial institutions, the costs of the EU framework for public reporting are even more incremental than for limited liability companies due to complementary EU supervisory reporting and prudential disclosure obligations.

For the aspects of the EU framework that directly apply to listed groups (IFRS), the benefits seem to outweigh the cost.

For non-financial information, the lack of standardisation hampers efficiency, both for the people who need to prepare the information and for the users. There is significant uncertainty regarding the cost. Further research is required to explain the very large differences between the estimates given by companies of the cost of compliance with the NFRD. Companies must still provide additional information in different formats to different users, in particular to data providers and ESG rating agencies, and investors must still invest resources in collecting and analysing these additional data.

Further digitalisation could improve access to and use of regulated information, and, depending on costs, overall efficiency. The following areas merit particular attention:

(i) the lack of an EU-wide single point of access to regulated information[241];
(ii) extending machine readability beyond consolidated IFRS financial statements;
(iii) an EU-wide approach to data management covering audit, authenticity, identification, use licences, etc.

Relevance of the EU framework (section 7.3)

The broader objectives of the EU framework for public reporting, namely: (i) an efficient functioning of the EU single market, (ii) an integrated EU capital market, (iii) financial stability and (iv) sustainable growth, remain relevant, and hence the EU framework remains largely relevant. However, the EU framework for public reporting by companies might nevertheless need to be adapted to continue to contribute to meeting these broader objectives. In particular regarding the sustainability objective, the context has evolved in such a way that the NFRD is no longer an adequate response to the current needs and challenges. In addition, considering the benefits of applying IFRS standards to attract cross-border investors, a company option to use IFRS together with simplified disclosure requirements mandated by IFRS might be deemed to lower the barriers that limit the access of SMEs to capital markets. There is little evidence that the EU framework is relevant to the 14.2 million micro companies, despite the simplified regime applicable.

Likewise, the relevance of the BAD and IAD has become questionable. The fitness check shows that there is a need to assess more in depth the potential areas, costs and benefits of their upgrade (or repeal). A full assessment of public reporting requirements applicable to insurance companies will be possible only when a decision is taken on endorsement of IFRS 17.

Contacts with stakeholders identified new needs and objectives in reaction to economic crises, globalisation, and sustainability challenges, in particular for non-financial information. Although the objectives of the NFRD remain highly relevant, the context has evolved in such a way that the Directive no longer represents an adequate response to new needs and challenges.

241 On 24 September 2020 the Commission adopted a new capital markets union action plan. As per action 1, the Commission proposes to set up an EU-wide platform (European single access point) that provides investors with seamless access to financial and sustainability-related company information.

EU added value of the EU framework (section 7.4)

The EU is the right level to set public reporting policies for developing an internal market, promoting an integrated capital market, ensuring financial stability and promoting sustainability.

With regard to non-financial reporting, the EU framework has increased the EU's potential to shape global standards governing non-financial disclosures, and it has reduced the risk of major divergence in national approaches and associated risks for the single market.

Coherence of the EU framework (section 7.5)

There is a high degree of consistency in the requirements for companies on the preparation, publication and dissemination of information set out in the legal acts that constitute the EU framework on public reporting. There are some minor overlaps and inconsistencies between requirements under the EU framework and other relevant EU legislation, but they seem not to have a significant impact in practice. There is a risk that the reporting requirements on non-financial information in the NFRD is not coherent with other pieces of EU legislation adopted subsequently or being developed in parallel.

ANNEX I – Consultation of the Regulatory Scrutiny Board

The Regulatory Scrutiny Board[242] issued a negative opinion on 21 June 2019 on a first version of this document (the opinion is reproduced in this Annex). The Board understood that this report responds both to specific review clauses and to a need for an overarching review, but identified a number of issues to be addressed. Each of the Board's identified issue has been addressed in this revised Staff Working Document. The table below explain how, for each issue:

Issue identified by the RSB	Action taken
1) The report does not convincingly justify the scope of the fitness check. It does not sufficiently explain how the five acts relate to each other and to larger common objectives.	Section 1.1 – *Scope of the evaluation* has been redesigned to provide the guiding principles underpinning the scope of the fitness check, namely rules requiring all limited liability companies to publish certain information on a regular basis. This section now outlines the main requirements of each act, and clarifies how they apply cumulatively depending on the characteristics of limited liability companies. This overview is supplemented by appendix V and VI of the Staff Working Document that provide a more detailed description of the reporting requirements especially with regards to the Non-Financial Reporting Directive.
2) The report does not present a consistent set of objectives, nor does it illustrate how policy action would deliver desired outcomes. The analysis is too often limited to presenting the delivery of corporate reporting, without verifying that it contributed to the objectives.	The document has been revised so as to present a consistent set of objectives throughout the document and explain how the policy action contribute to achieving these objectives. Section 2.1 *Legislation history* now introduces the objectives pursued by each legislation at the time of adoption Section 3 – *Intervention logic*, now better explains the link between EU action and the broader objectives (narrative, Table 2, Figure 3) and how public reporting contributes to these objectives in the context of other types of

[242] The Regulatory Scrutiny Board is an independent body within the Commission that advises the College of Commissioners. It provides central quality control and support for Commission impact assessments and evaluations at early stages of the legislative process. The Board reviews and issues opinions and recommendations on all the Commission's draft impact assessments, fitness checks, and on major evaluations of existing legislation. The Board also provides cross-cutting advice on better regulation policy to the Commission's Secretariat-General. More here: https://ec.europa.eu/info/law/law-making-process/regulatory-scrutiny-board_en

	policies aiming for similar objectives. It lays down the overall purpose of public reporting and explains why it is a necessary complement to voluntary publications by companies. It summarises the objectives pursued by the acts and explains how corporate reporting contributes to the policy objectives by providing stakeholders with an equal access to regular information of sufficient of quality and quantity. Section 5.1 Overall Approach has been amended with a view to clarifying the reasons why the fitness check adopts a qualitative assessment of the information delivered by corporate reporting as a practical expedient to measure the combined effectiveness of the acts. The section also explains the qualitative criteria used for that purpose Section 7.1 about the Effectiveness of the acts has also been amended with a view to securing consistency with the intervention logic. Sections 7.1.1 to 7.1.3 now lay down the qualitative assessment of public corporate reporting by main categories of entities whereas a new section *7.1.4 Contribution to the wider objectives* has been added in order to consider the extent to which the quality of corporate reporting contributes to the wider objectives. The continued relevance of the objectives is addressed in section 7.3.2.
3) The report does not adequately show how its findings draw on evidence that it assembled, notably stakeholder views and results from academic literature.	The reports has been amended in all sections and particularly in section 7 – *Answers to the Evaluation Questions* and in Annex III – *Stakeholder consultation (synopsis report)* in order to highlight how findings draw on evidence, including academic literature and stakeholders' views. Section 5.2 Information and data gathering has been supplemented so as to provide additional insights about the respondents to the Public Consultation. Where appropriate, the document also provides as much as possible differentiated views for each relevant types of stakeholder. For this, stakeholders have been

	stratified into relevant types (table 5) and the corresponding views stratified accordingly in the remainder of the document as appropriate, especially in sections 7.1.1, 7.1.2 and 7.1.3. The introduction of section 7.1 Effectiveness has been significantly redrafted. It now includes an analysis by type of companies and specifically considers the main stakeholders' groups with an interest in corporate reporting. This approach is then summarised in table 5 of the report. In addition, section 7.1.2.1 about the effectiveness of the EU framework for financial information reported by listed companies has been amended in order to incorporate more clearly the findings from the literature review in appendix 6 and the conclusions from the 2015 evaluation of the IAS Regulation. Similarly section 7.1.4 *Contribution to the wider objectives* more specifically considers the empirical evidence that support the assertion that public reporting contributes to lowering the cost of financing for companies.
4) The report does not sufficiently investigate the implications of differences in Member States' implementation and companies' compliance with regard to effectiveness and coherence of the acts.	The presentation of the analysis has been thoroughly improved in order to consider the findings by types of companies, in section 7 – *Answers to the Evaluation Questions.* In each subsection, a table reminds at the beginning the applicable EU requirements. Section 7.1.1 – *Effectiveness of the EU framework on limited companies* provides additional elements on the variances observed in the nGAAP as a reason of lacunas and options in the EU framework, and the impacts of these. Where provisions made at Member State level independently from the EU framework but intertwined with it could not be traced or examined, the document does not seek to explore these in details but provides stakeholders' views on the situation.
5) Other detailed comments (based on the Boards preliminary questions and on the Annex to the Opinion)	Additional changes and clarifications have been made throughout the report in response to additional detailed comments of the Board. This improves the readability and overall quality of the report.

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels, 21/06/2019
SG.A2/UM

Opinion

Title: Fitness check on the EU framework for public reporting by companies

Overall opinion: NEGATIVE

(A) Context

Asset markets can only work if market participants have access to key data. Investors need reliable information so they can assess risks before they fund businesses. EU laws require companies to disclose certain types of information, in certain ways and at certain times. This gives the public insights into companies' activities, and helps investors and creditors to make informed decisions about financing. EU laws on corporate reporting also aim to protect stakeholders and hold companies to account on wider societal issues. In recent years, the EU has required more non-financial disclosures, on e.g. environmental, social and employee matters.

Information disclosure is costly for companies, and public information needs can change over time. This fitness check aims to assess how well the EU legal framework for companies' public reporting has achieved its objectives, and whether it is still fit for purpose. It also responds to legislative clauses that require reviews of individual EU laws. A parallel fitness check looks at requirements to report to regulators.

(B) Main considerations

The Board understands that this report responds both to specific review clauses and to a need for an overarching review. The Board takes note of planned changes to the draft report.

However, the Board considers that the report contains important shortcomings with respect to the following issues:

(1) The report does not convincingly justify the scope of the fitness check. It does not sufficiently explain how the five acts relate to each other and to larger common objectives.

(2) The report does not present a consistent set of objectives, nor does it illustrate how policy interventions would deliver desired outcomes. The analysis is too often limited to presenting the delivery of corporate reporting, without verifying that it contributed to the objectives.

(3) The report does not adequately show how its findings draw on evidence that it assembled, notably stakeholder views and results from academic literature.

(4) The report does not sufficiently investigate the implications of differences in Member States' implementation and companies' compliance with regard to effectiveness and coherence of the acts.

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Against this background, the board gives a negative opinion. The board considers that in its present form this report does not sufficiently respond to the mandate of the fitness check.

(C) Further considerations and adjustment requirements

(1) The report should more clearly articulate the context and scope of this fitness check. It should put public reporting requirements into context with other measures that also aim at ensuring integrity of asset markets and protection of stakeholders.

(2) The report should identify a consistent set of common objectives for the public reporting by companies. The concept of reducing information asymmetry does not encapsulate the various objectives appropriately and comprehensively. It narrows the set of objectives to delivering more corporate reporting, without looking at the purpose of the reporting.

(3) The objectives and the intervention logic that explains how mandatory corporate reporting will help lead to desired outcomes should guide the analysis throughout the report, particularly with regard to effectiveness and efficiency. The intervention logic should help the reader to understand what information is in fact necessary to publish, and why. It should clarify the role of the concepts of relevant, comparable, reliable and timely financial information. Together with benchmarks that articulate what success would look like in practice, the logic should serve as a basis for presenting what is known about how the legislative framework is delivering. In this regard, the report needs to present more than the implementation of the reporting requirements, but also the extent to which they served their purpose. It should do more to investigate the merits of stakeholder complaints about disclosure requirements.

(4) Academic literature models and findings should be mobilised to support the analysis and evaluation findings. In general, more should be done to present the evidence basis for statements and conclusions (i.e. lacunas identified). While taking into account the context and flanking measures, contributions from the individual acts to the common general and specific objectives should be established. The efficiency analysis should include and compare with original estimates for the accounting directive's microbusiness regime. The impact and necessity of requirements for smaller entities should be better explained.

(5) Views of different stakeholder groups need to come out more clearly. Different stakeholder groups have different interests in public reporting, and the report should identify the extent to which each stakeholder group perceives objectives to be met of individual acts. The report should also be transparent about the limitations of the stakeholder consultation, i.e. when views of different groups are not known or fully understood based on the available evidence.

(6) The report should more clearly address major differences in implementation across Member States. It should expand on the consequences of non-reporting. It could do more to analyse these per act and to consider the impact on effectiveness and coherence. In this respect, clearer findings about Member States' performance may emerge. The report should also more clearly demonstrate impacts on effectiveness and coherence of variation in company compliance of reporting obligations of individual acts.

(D) RSB scrutiny process **The Board advises the lead DG not to launch the interservice consultation before substantially revising the report.** **The DG may resubmit to the Board a revised version of this report.**	
Full title	Fitness check on the EU framework for public reporting by companies
Reference number	PLAN/2017/1854
Date of RSB meeting	19 June 2019

ANNEX II – Procedural information

Lead DG and internal references

The "**fitness check on the EU framework for public reporting by companies**" was led by the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA). It was included as item PLAN/2017/1854 in the Agenda Planning. It is also part of the Commission's **REFIT** Initiatives for 2019[243] for a Deeper and Fairer Economic and Monetary Union.

This initiative is linked to the "**fitness check of supervisory reporting**", which has been undertaken by DG FISMA and concern information communicated to supervising bodies by companies in the financial, insurance and other sectors regulated by this DG.

This initiative is also linked to the reporting obligation to the European Parliament and the Council on **post implementation reviews** contained in the Accounting Directive (2013/24/EU) and the Transparency Directive (2013/50/EU), which is referenced as item PLAN/2017/1364 in the Agenda Planning. The report addresses review clauses containing specific requests as regards the country-by-country reporting by extractive and logging industries, the Non-Financial reporting by public-interest entities with more than 500 employees, the proportionality, sanctioning regime and voting rights calculation regimes applicable to listed companies and the financial statements to be prepared by micro companies.

Organisation and timing

An **interservice steering group (ISSG)** was set up in January 2018 (Ares (2018)187687). The ISSG was comprised of representatives from the following Directorate-Generals: Justice and Consumers (JUST), Internal Market, Industry, Entrepreneurship and SMEs (GROW), Climate Action (CLIMA), International Cooperation and Development (DEVCO), Energy (ENER), Environment (ENV), Taxation and Customs Union (TAXUD), Communications Networks, Content and Technology (CNECT), Informatics (DIGIT), as well as the Joint-Research Centre (JRC) and the Secretariat General. In addition, the European External Action Service (EEAS) was invited to join given the external dimension of certain policies.

ISG meeting dates and topics of discussion as well as other consultations

Date	**Topics of discussion**
25.01.2018 (meeting)	- Fitness check mandate and scope - Roadmap - Consultation strategy - Questionnaire for the public Consultation
12.10.2018 (written consultation)	Draft summary report of the public consultation

[243] Commission Work Programme, 2019, Annex II REFIT initiatives, item 8

05.12.2018 (meeting)	- Presentation of interim results of ongoing preparatory work and evidence gathering - Presentation of results from public consultation and preliminary findings - Key evaluation questions - Prospects on parallel developments on the non-financial information and related guidance. - Orientation and next steps
23.04.2019	Presentation and discussion of the draft staff working document
18.09.2019	Consultation on a revised staff working document

Consultation activities

During the fitness check exercise, DG FISMA undertook a number of consultation activities, in accordance with – and beyond – the consultation strategy discussed within the ISSG. These are listed below.

- *Public consultation*

DG FISMA conducted a public consultation from 21 March until 31 July 2018. In total, 338 responses were received. The vast majority of respondents represent an organisation or company (82%), 9% are public authorities or an international organisation and the remaining 9% are private individuals. The type "organisation or company" comprises the main categories "company, SME, micro-enterprise and sole trader" (25%), "industry association" (25%) and "non-governmental organisation" (21%).

- *Studies*

The Commission commissioned the following ad hoc studies:

- Review of Country-By-Country Reporting requirements (CBCR) for extractive and logging industries, Valdani, Vicari & Associati, 26 November 2018.

  This study examines the CBCR on payments to governments in resource-rich countries which the Accounting Directive has implemented since 2016 for the extractive and logging industries. In particular, it examines the compliance with the law, the effectiveness of the policy and its impacts. It also suggests areas for improvements.

- Study for the European Commission on the accounting regime of limited liability micro companies, CEPS in cooperation with Bureau van Dijk and LSE Enterprise, 18 June 2019.

  The study consists in a quantitative and qualitative assessment of the application of

the super-simplified reporting regime for micro companies as defined in the Accounting Directive.

- Ingmar Juergens and Katharina Erdmann (2019): Exploring non-financial reporting practices and the use of Carbon and ESG data in the context of the EU framework for public corporate reporting. DIW Policy Advice Compact, Berlin.

➢ *High-Level conference*

The European Commission also organised a high-level conference on 30 November 2018 in Brussels, which focused on "The Future of Corporate Reporting in a digital and sustainable economy". This event was an additional occasion for senior representatives from the financial industry, the investor community, the civil society, the audit sector and public administrations to provide their insights to the Commission's fitness check. They made valuable contributions to the success of this conference. There was a large audience of around 500 people and approximatively 250 persons followed the live session.

➢ *Expert groups*

Contributions were sought from relevant permanent expert groups of the Commission, by ways of targeted questionnaire or topical discussion. The groups consulted included:

- The Accounting Directive Committee (ARC)
- The Company Law Expert Group on the Business Registers Interconnection System (BRIS)
- The Expert Group of the European Securities Committee (EGESC)
- The Committee of European Auditing Oversight Bodies (CEAOB)

➢ *Workshops*

Several ad hoc workshops, generally hosted by the Commission services, took place in order to discuss targeted topics.

Date	**Topics of discussion**	**Participants**
05.06.2018	Regulatory Technical Standards (RTS) specifying the European Single Electronic Format (ESEF) Digital data structuring	Around 15 participants, representing business associations and issuers, banking industry, financial analysts, investment professionals.
19.09.2018	Country-By-Country Reporting – extractive and logging industries	Two successive half-day workshops were hosted during the day: one with around 15 representatives from civil society, academics and users. And one with a handful of persons

		representing business associations, companies and preparers.
18.10.2018	Non-financial reporting	Half-day open stakeholder meeting, to discuss results of public consultation. Attended by approximately 100 people from different stakeholder groups: companies, investors, civil society, reporting frameworks, etc.
20.11.2018	Non-financial reporting	Two-hour discussion on non-financial reporting with representatives from German companies, hosted by ECONSENSE.
14.12.2018	Non-financial reporting	Two-hour meeting with civil society organisations and trade union researchers, to hear their perspectives on non-financial reporting.
7.02.2019	Non-financial reporting	Two-hour workshop with representatives from companies, NGOs, and reporting frameworks involved in the Alliance for Corporate Transparency Project
18.03.2019	Use of Public Financial Information	15 participants and one contributor, representing retail and institutional investors financial analysts, investment firms, issuers (listed companies), banking and insurance industry.

Investors and creditors use both regulated and unregulated information, with a particular focus on forward-looking unregulated information. Information overload as well as the interplay between regulated and unregulated information can be matters of concerns, but the EU framework is generally seen as effective and relevant. They would like to get easier access to regulated information by way of a single point of access at EU level using structured data. Policies fostering the use of digital technologies such as the ESEF are positive steps. The endorsement of IFRS is generally regarded as positive, even if IFRS are more complex than nGAAP. As regards SMEs, they consider that the EU should do more in order to facilitate access to funding including from the reporting angle. The quantity and quality of non-financial information disclosed by companies is a concern and disclosure practices need to evolve in order to meet increasing users' needs.

Employees and civil society are on the other hand more critical about the effectiveness and relevance of EU public reporting requirements taken as a whole. They see differences in nGAAPs as a hindrance to cross-border establishment. Although they tend to question the relevance of the endorsement of IFRS, they recognise that the EU is an appropriate policy level. The scope of the NFRD is perceived as too narrow, but the EU leadership role is welcomed. As main users of CBCR, they see this as generally effective but also requiring improvements.

Preparers were relatively positive about the current EU framework, but concerned about costs compared to the actual benefits especially in relation to non-financial information and digitalisation.

Regulators and others welcome the comparability brought by the adoption of IFRS across the EU and at the international level. They tend to call on the EU to advance progressively on digitalisation.

DETAIL BY EVENT OR ACTION

Public consultation – March / July 2018

For a majority of respondents, the EU framework for public reporting overall **brings added value**, is **coherent, effective** and **relevant** for achieving its **main intended objectives:** safeguarding stakeholders' interests, ensuring financial stability, developing the internal market, integrated EU capital markets and promoting sustainability**. However,** preparers of company reporting, especially from Germany, were relatively critical as regards costs compared to actual benefits, in terms of the non-financial information and (future) electronic structured reporting. Hence, they believed the framework **could be more efficient**.

In terms of **developing the internal market and promoting integrated EU capital markets**, the *IFRSs* were considered to be effective as they helped reduce the cost of capital and increase investments in the EU.

Concerning the *Accounting Directive*, most respondents asserted that its differentiated implementation at national level – leading to different accounting frameworks – had

limited effect on cross-border transactions, since these were primarily business driven. There was no widespread call from respondents on the EU to address those differences, but some proposed to use the IFRSs as a point of reference, if the differences were to be addressed. About the ongoing debate on whether and how to integrate financial and non-financial reports in a meaningful way, most respondents answered that *integrated reporting* could contribute to a more efficient allocation of capital and better decision-making.

Users generally found that the *digitalisation* angle was missing in EU legislation, such as for lay-outs and publication. In their opinion, pan-EU digitally structured and secured data could provide easier access and effectively contribute to well-functioning capital markets. A majority of respondents supported data re-use. Some suggested to work towards free access and open licence policies.

The concept of "minimum harmonisation" was not seen as a problem, as it accommodates different reporting cultures amongst Member States. Nevertheless, a majority thought that options for Member States in certain areas, notably for the *Transparency Directive*, hampered the quality and comparability of information.

Regarding **promoting sustainability**, many were concerned that this was not adequately addressed at global level and welcomed an EU leadership role. A majority of respondents agreed that the quantity and quality of non-financial information disclosed by companies remain relevant issues arguing that current disclosure practices might not meet the growing demand for data and information from investors and other stakeholders. A large number of respondents noted however that it was too early to say anything definitive about the impacts of the Non-Financial Reporting Directive, since this is its first year of implementation.

The extractive and logging industry questioned the effectiveness of the CBCR. Civil society supported it, but were concerned about uneasy access and treatment of joint ventures.

Concerning the "*potential*" impact of IFRSs on sustainable investments, whilst a few believed IFRSs had led to pro-cyclicality and short-termism, a majority of respondents asserted that (to their knowledge) there was no evidence of such impacts. Several respondents pointed out that the broad criterion of "*being conducive to the EU public good*" should allow to adequately consider sustainability and long-term investment concerns during the endorsement process, though few saw a need to spell out specific sustainability and long-term investments endorsement criteria.

A majority of respondents supported the status quo as regards the **EU IFRS endorsement process,** and cautioned against "EU carve-ins" that could lead to "EU-IFRSs", a situation that could be detrimental to EU companies active globally and to foreign investments into the EU. Those, who were in favour of "EU carve-ins", did not see, why the EU should not enjoy this power whilst other jurisdictions do. Some of them argued that "carve-in" powers would increase the EU's ability to influence the IASB standard-setting process compared to the current "yes-no" endorsement process.

In terms of **safeguarding stakeholders' interests and ensuring financial stability**, a majority believed that the reporting framework could have some effective role, but saw prudential requirements as the most relevant way to address financial stability.

ESEF workshop – 5 June 2018

There was general reluctance by preparers to move from nowadays widely used and accepted PDF format to unchartered territories represented by an XHTML/iXBRL format as proposed by the ESEF. Some raised concerns on anchoring, quality assurance, and on the implementation costs for smaller listed companies.

As regards the usability of regulated information, users (analysts, investors) welcomed the introduction of ESEF as from year 2020 as a way to enhance the analysis and the comparability of financial information. A key message to preparers was to avoid that they adopt a compliance mindset so as to ensure the full potential of the usability of structured data.

The workshop enabled to highlight in addition certain points of action, such as on audit and the need for practical steps (events, media...) to ensure a smooth implementation of the ESEF.

High level public conference – 30.11.2018

Overall, key messages taken from the conference included:

- The variety of views expressed showed the breadth of corporate reporting that ranges from short-term financial performance measurement, to long-term value creation and companies' contributions to sustainability for the benefit of society at large.

- The continuing importance of reporting financial performance to investors as the ultimate objective of IFRS financial statements.

- Expectation that the IASB effect analysis will be broadened to assess the impact of IFRS on the economy.

- Reliance on work carried out by EFRAG when assessing the impact of IFRS 16 *Leases*, and is doing on IFRS 17 *Insurance Contracts*.

- Interest in sustainability policy considerations. However these should not override market-based accounting valuations to cater for negative externalities. The question whether IFRS and accounting treatments in general do not unnecessarily hinder long-term investments needed for the transition towards sustainability was raised.

More detailed messages from each panel were as follows:

- Panel 1 – Is corporate reporting still fit for purpose and for upcoming challenges?

    - Any further development of the EU framework on corporate reporting clearly has a sustainability perspective/dimension in it but should not erode what the EU framework has achieved so far. (For example on cross-border business, the integrated capital market, and investor-, creditor- and depositor protection).

    - An increased focus on sustainability should not undermine the relevance of existing objectives or the importance of reporting financial performance.

- Financial Reporting is about long time horizon and is about coherence and integration (putting together from a strategy perspective to pay, to product and to reporting ...).

- The distinction between financial and non-financial information is becoming less relevant over time. The case for integrated reporting is growing.

- Panel 2 – Are accounting rules for EU capital markets coherent with the EU policy objectives of promoting long-term and sustainable investments?

  - The Commission's 1999 IFRS strategy has resulted in an efficient integrated EU capital market, reduced cost of capital for EU companies, contributed to investments into EU companies and helped EU companies to expand globally.

  - Called for stabilised information platform.

  - A different perspective on flexibility in the EU endorsement process is the political sovereignty or political primacy.

- Panel 3 – Towards relevant sustainability disclosure?

  - The EU is taking the global lead on sustainable finance (great responsibility).

  - Non-financial reporting showed how corporate reporting becomes relevant for a wider audience than just investors (i.e. society).

  - Non-financial reporting: a key challenge how to translate legitimate expectations of society on sustainability into meaningful and relevant non-financial information without imposing unnecessary costs on companies.

  - Non-financial reporting reflects value of a company itself and important signal for investors.

  - Room for some discretion would enable experimenting before drawing conclusion on what the reporting baseline should become.

- Panel 4 – Corporate reporting: time to embrace the digital revolution?

  - The EU is lagging behind other jurisdictions (Japan, US, China) as regards digitalisation of information on capital markets.

  - Market players are accustomed to the swift pace at which digital technologies are evolving.

  - Innovation is transformation. Companies should not be afraid of that and consider long-term benefits rather than short-term costs.

  - New technology accepted if only it is accessible.

Consultation of the Expert Group of the European Securities Committee (EGESC)

23 Members of the EGESC responded to a survey on the Transparency Directive. As regards quarterly reporting, the practice remains vivid in nearly all the jurisdictions. 78%

of the respondents reported the removal of the quarterly reporting obligation from legislation, 9% downgraded the obligation and 13% kept the obligation. Among the Member States which removed the obligation, local regulated capital markets continue to require quarterly reporting for about 40% of them. In nearly all the jurisdictions where it is neither required by law or capital markets, many issuers continue nevertheless to provide quarterly reporting voluntarily, especially for the bigger ones and financial institutions.

The experts' consensus is that the transparency regime in capital markets is proportionate for listed SMEs.

On the calculation of voting rights, 80% of the experts believe that there is no unsurpassable complexity in the Directive. However, some respondents report recurring requests to clarify certain points from retail investors, intermediaries, non-institutional investors.

The publication of sanctions is always supervised by the national competent authority and available on the internet.

As regards the powers conferred on the Commission for secondary legislation, 40% of the experts did not see a urgent need for further EU action with secondary legislation, but 60% of them did – however with low consensus on areas to be addressed. Some areas were quoted more often, such as shareholders' mandatory notification of major holdings (particularly as regards the mandatory standard form for the notification and the list of events changing the breakdown of voting right) and the specification of a mechanism ensuring the establishment of equivalence of information required under the TD[244]. Some respondents also flagged the need to establish minimum standards for the storage of the regulated information by the officially appointed mechanisms[245].

A majority of the experts opined that there was no need at this stage to expand the scope of the ESEF Regulation to other documents such as the half-yearly report or the management report.

Consultation of the Accounting Regulatory Committee (ARC)

26 Members of the ARC responded to a survey aiming to update the implementation of the options offered by the IAS Regulation and 24 provided updated data on the development of GAAP at the national level that could address the lacunas in the Accounting Directive.

A clear majority of the Member States have addressed at the national level certain lacunas in the Directive, the most popular being lease contracts, government grants and subsidies, foreign currency translation, and deferred taxes.

A clear majority of Member States require in addition to the Accounting Directive a cash-flow statement and a statement of changes in equity. About half require additional information in the notes (various topics).

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244 Namely the delegated powers conferred to the Commission under Articles 12(8), 12(9), 23(4) 1st subparagraph TD.

245 Delegated power conferred to the Commission under Article 21(4)(b) TD.

Consultation of the Company Law Expert Group on Business Register Interconnection System (CLEG-BRIS) (26 October 2018)

Nine EU Member States and one EEA Member State responded to a survey on the accessibility and searchability of national business registers, on access granted to their database on a wide scale basis, on the number of uploads of financial statements by companies and downloads by natural persons in a given year of their choice, and on the geographical profile of users.

Out of the 10 respondents, half offer free access and half paid access (or both). Four Member States offer other types of access. 80% offer online search tools. 80% provided database type access, most often to other national administrations or the private sector. Anecdotal evidence indicates that access to data is mostly from national level.

Stakeholder meetings on NFRD (18 October, 20 November and 14 December 2018 and 7 February 2019)

In order for information to be decision useful, it has to be comparable for investors and also for management groups. Disclosure requirements should be sector based. Requirements of information that is material by sector. Standardised requirements for all companies regardless of the industry would not work, but could have the counter effect of generating a tick the box exercise.

There should be two reports for two different audiences: a statement on material non-financial risks (an accountability statement), separate from the statement about risks that may be financially material.

Materiality is key. Many companies are failing to disclose material non-financial information. Non-financial statements of many companies omit significant volumes of information that users consider to be relevant. It is necessary to determine what is material and what is not. Much of the information is either interesting but anecdotal, or schematic but without any context. Some companies do not want to be realistic about risk they face themselves. Supervision of non-financial disclosures require clear parameters that define what information is material and therefore required by the Directive and which is not.

There were suggestion on an obligation on companies to carry out human rights diligence, and stronger action to implement the UN Guiding Principles on Business and Human Rights.

Regarding the scope of the Directive, some suggestions from stakeholders included: expansion of scope to non-listed companies and all financial institutions; change threshold of number of employees to make it consistent with the Accounting Directive; envisage a different scope depending on the sector the company belongs to. However there is a risk of trickle-down effect for SMEs (Member State decision).

Traceability of information is an issue. References in annual report to other places where information can be found are not good enough. There is a link between integration of sustainability information and corporate governance - ownership of this information.

There should be a public list of the companies that have to report and a registry of the reports. Standards are needed for assurance and effective supervision.

General use of financial information

Investors use both regulated and unregulated information to make investment decisions. Financial statements provide historical data that are complemented by forward-looking unregulated information disseminated by companies on a voluntary basis, such as press releases, ad hoc investor communication, road shows, etc. Overall, the existence of regulated information increases trust in information provided by companies.

Investors primarily use IFRS Financial Statements with a particular focus on the management report and segment information (IFRS 8), as well as EBITDA and cash flows. Investors usually consider that IFRS Financial Statements provide comparable information, but that the EU framework could be further improved by streamlining the presentation of financial statements and harmonising the definitions of some key performance indicators. However, they are confident that the IASB's ongoing "Better Communication" project will address their need and caution against an EU initiative in that regard. Some argued that the segment presentation of IFRS 8 provides management with too much discretion. Overall, investors reported that they generally do not analyse financial statements in local GAAPs except the management report. They stressed that there were quality issues with the information reported with the current management reports and that streamlining the use of a few well defined key performance indicators could enhance their usefulness. However, participants expected the IASB to address this expectation as part of its management commentary project. Participants also favoured a quick endorsement of IFRS 17 within the European Union in order to fill in the information gap arising from the interim IFRS 4 Standard.

Investors usually do not consider that financial statements should aim at providing a valuation of a company (i.e. "price to book" correspondence). Especially, recognising additional intangibles in the balance sheet is not considered necessary, as the primary use of financial statements is to analyse the generation of cash flows. Though investors have a high interest in assessing the resilience of a company's customer relationships or sourcing network, this objective is better achieved by key performance indicators such as customer retention rate. Overall, they consider that the main qualitative characteristics of financial statements should be reliability and comparability with a view to providing a confirmatory value to forward-looking unregulated information delivered by management. Regulated information is considered as a cornerstone of the EU regulation to ensure trustworthiness of unregulated/unaudited financial information delivered by companies.

Access to easily digestible information by ways of structured information was valued but seen as generally costly, if not difficult. Investors welcomed the European Single Electronic Format to structure annual financial reports. Some thought data structuring could be expanded to intermediate reports and other information. There were mixed views about flexibility versus standardisation in a move towards digitalisation.

About integrating more forward-looking information into regulated publications, financial analysts highlighted the complexity of auditing such estimates and the reluctance of management to publish its financial forecasts. Though useful to ensure that management estimates are not biased, the audit requirement therefore limits the ability to expand the scope of regulated information to cover future expectations. Besides, some

thought it would be difficult to streamline information about value creation. Leaving to companies the initiative to publish unaudited investor presentations was considered more efficient as it provides management with more flexibility to deliver granular analyses and judgemental information. Finally, providing financial projections over future periods might raise a proportionality issue for smaller companies. Integrated reporting, "core and more" approach might be interesting leads.

A major concern for analysts is the time lag between the early announcements of results (press release) and the publication of the detailed financial statements. They complain that early publication of partial unregulated information creates market volatility without any possibility for analysts to perform a fundamental analysis of the company. Analysts consider that they are put at a disadvantage as compared to passive investment strategies based on algorithms or indices that immediately react, when the unregulated information is published. Furthermore, in their view, this staggered financial communication is sometimes used by companies' management to smoothen the impact on the share price of lower than expected performances. Analysts therefore advocate that the time lag between early announcement and full publication could be regulated. They point out that with the rise of index funds, financial markets are increasingly driven by non-regulated information.

Finally, investors stressed that financial markets prices are highly sensitive to interim financial information. Referring to the European Financial Transparency Gateway, they suggested that the portal should allow on a voluntary basis the publication of quarterly publications by companies. They also pointed out that the abolition of quarterly reporting in the Transparency Directive had not significantly decreased the number of quarterly publications by companies because of market expectations.

Representatives from corporates mentioned an information overload and questioned, whether all the information disclosed as part of the regulated publication was actually used. They were not in favour of any project to streamline the content and presentation of the management report. Investors generally disagreed with this assertion and argued that the information overload was primarily driven by the financial communication of companies that included unnecessary immaterial details.

Accessibility of corporate reporting information

Investors reported that they use all means of access to financial information. However, they stressed that information about non-listed companies was not easily accessible and that the sources of regulated information were scattered among Member States. In that regard, they highlighted that a single point of access to regulated information throughout the EU would significantly reduce the investment research costs. Aggregating data from national databases was considered burdensome and costly. This limitation was partially overcome by third party providers such as Thomson Reuters, Bloomberg or Factset. However, such services raised reliability and consistency issues because such providers would usually process and aggregate information received from various sub-contractors.

An EU single access point to regulated structured information would provide significant efficiency gains by allowing machine processing to narrow down the scope of potential investments and by overcoming the language barriers. Investors would also make savings on the licenses to access third party databases. Investors also favoured expanding the

scope of regulated information available in digital (open data) format in order to reap efficiency gains on a larger scale.

Under the current EU framework, investors highlighted that some listed companies provide downloadable data usually through their website, but that access to information about non-listed companies was highly challenging. About the management reports, investors requested an obligation to file centrally the information available in business registers. They stressed that in some Member States, companies do not file their financial statements at all and that the deadline for publication is excessive. Some representatives of preparers argued that there were very few downloads of financial information available on companies' websites. This was especially pointed out as an issue to assess the creditworthiness of companies.

An investor highlighted that family businesses were usually not in favour of filing electronic financial statements and that any further EU requirement might duplicate existing reporting obligations to tax authorities and banks (as part of loan agreements). Furthermore, XBRL was not deemed suitable for smaller companies.

Investors had no concerns to raise about authentication of data submitted in digital format under the current scheme.

An industry association mentioned a new service it had launched as a central point of access to regulated information which covered around 1 000 companies. Another association highlighted that digitalisation would require standardisation and harmonisation of the structure of financial statements.

IFRS

Investors usually concurred that IFRS was complex, but that complexity usually stemmed from the business activities themselves and was therefore not excessive or unnecessary. Some pointed out that complexity was primarily driven by the requests from preparers for more optionality. There were limited concern from users on information overload but rather on companies' practices and financial communication.

About management's discretion, participants highlighted that making estimates was an inherent part of accounting and necessary to incorporate forward-looking information. They usually considered such information relevant. Conservatism in estimates was not considered useful as it led to overstatements of earnings in later periods. One investor was concerned by the level of goodwill reported by listed companies but others argued that such information was relevant to draw a distinction between organic and external growth by companies.

Overall investors cautioned against political interference in the accounting standard setting process and were supportive of the due process of the International Accounting Standard Board, which they favoured over the FASB process. In their view, the discontinuation of the IASB/FASB joint standard setting programme had led to better standards in Europe than in the United States.

As regards the scope of the IAS Regulation, participants mostly pointed out at the cost in some Member States of running two sets of accounting standards. Though Member State options to apply IFRS were considered useful, they should come along with an

exemption from producing financial statements under nGAAP. Some participants mentioned that the mandatory scope of the IAS Regulation should be extended to the annual financial statements of listed companies that do not publish consolidated financial statements and to non-listed public-interest entities. However, beyond a company option to apply IFRS, most representatives of preparers were against a scope extension.

One investor argued that in its Member States, the requirement of IFRS had discouraged companies to public because of the cost and operational complexity for preparers. In his view, voluntary adoption of IFRS was an exception.

About SME listing, various opinions were expressed including that:

- Converging nGAAP could improve comparability of financial statements;

- Considering IFRSs with lower disclosure requirements or IFRS for SMEs could facilitate SME transition to regulated markets

ANNEX IV – Member States' use of options under the IAS Regulation

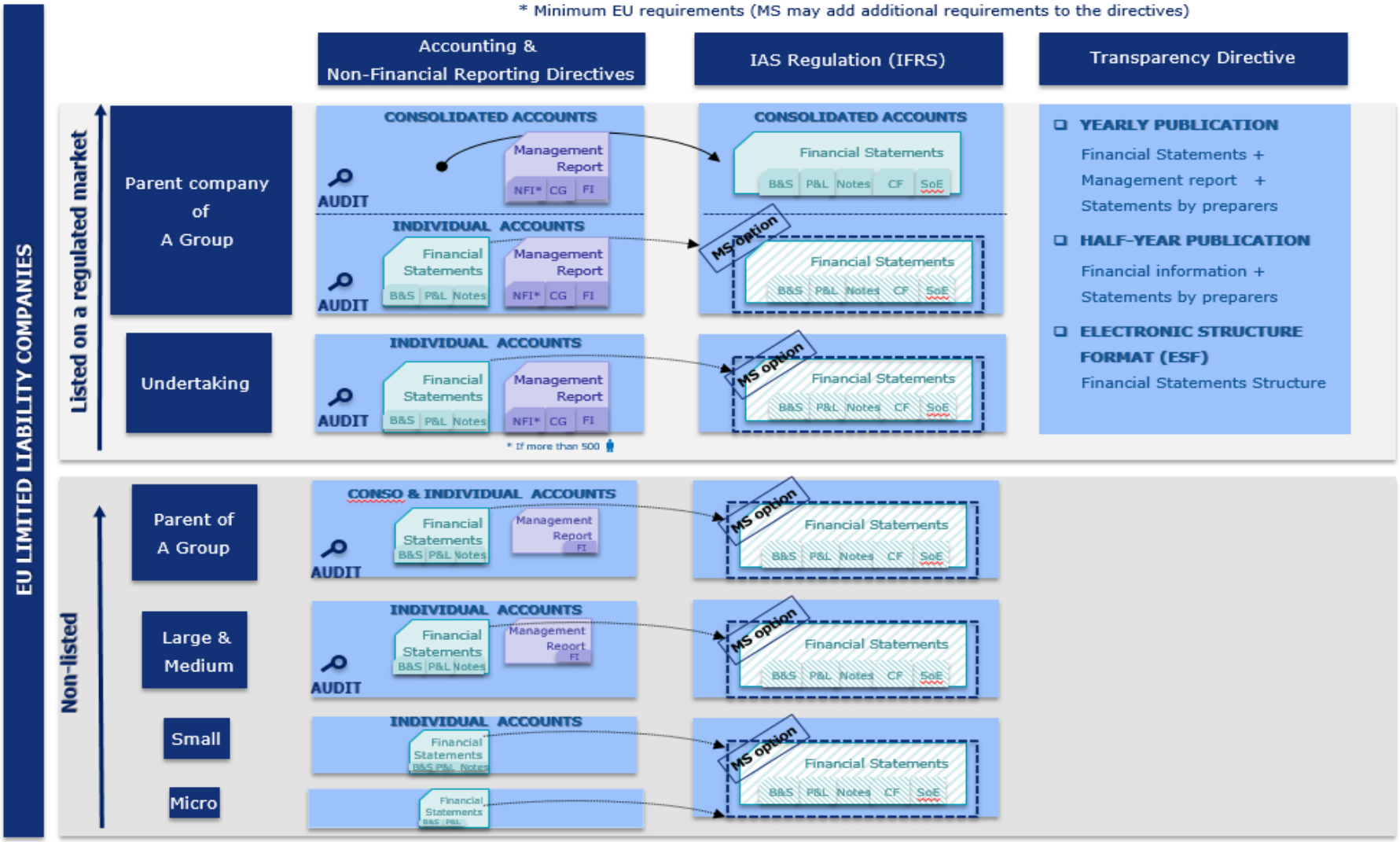
Type of company	Listed undertakings								Other undertakings											
	Annual financial statements								Consolidated financial statements						Annual financial statements							
	IFRS permitted				IFRS required				IFRS permitted		IFRS required				IFRS permitted				IFRS required			
	Financial			Non-financial	Financial			Non-financial	Financial	Non-financial	Financial			Non-financial	Financial			Non-financial	Financial			Non-financial
	Bank	Insurance	Other		Bank	Insurance	Other				Bank	Insurance	Other		Bank	Insurance	Other		Bank	Insurance	Other	
Austria									Yes													
Belgium							Yes		Yes		Yes	Yes	Yes								Yes	
Bulgaria	Yes								Yes						Yes							
Cyprus					Yes						Yes								Yes			
Czech Republic					Yes				Yes						(1)							
Germany	(2)								Yes						(2)							
Denmark				(1)				(6)	Yes									Yes				
Estonia					Yes				Yes		Yes	Yes	Yes					Yes	Yes	Yes	Yes	
Greece					Yes				Yes		Yes	Yes	Yes	(5)				Yes	Yes	Yes	Yes	(5)
Spain									Yes		(3)											
Finland	Yes		Yes	Yes					Yes						(4)							
France									Yes													
Croatia					Yes						Yes	Yes	Yes	(5)				(1)	Yes	Yes	Yes	(5)
Hungary					Yes				Yes							Yes	Yes	(1)	Yes		Yes	
Ireland	Yes								Yes						Yes							
Italy					Yes	(6)	Yes	Yes	Yes			Yes		(9)	Yes		Yes	Yes				(9)
Lithuania				Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes					Yes	Yes	Yes	Yes	
Luxembourg	Yes								Yes						Yes							
Latvia				Yes	Yes	Yes	Yes	(7)		Yes	Yes	Yes	Yes					Yes	Yes	Yes	Yes	
Malta					Yes				Yes		Yes	Yes	Yes	(8)				Yes	Yes	Yes	Yes	(8)
Netherlands	Yes								Yes						Yes							
Poland	Yes								(10) or (11)		Yes				(10) or (11)							
Portugal				(1)	Yes	(6)				Yes	Yes							(1)	Yes			
Romania					Yes				Yes		Yes		Yes						Yes		Yes	(5)
Sweden									Yes		(12)											
Slovenia			(6)		Yes	Yes		(1)		Yes	Yes	Yes					Yes	Yes	Yes	Yes		
Slovakia	Yes				Yes	(5)	Yes	(5)			Yes						Yes		Yes	(5)	Yes	(5)
United Kingdom	Yes								Yes						Yes							

Footnotes

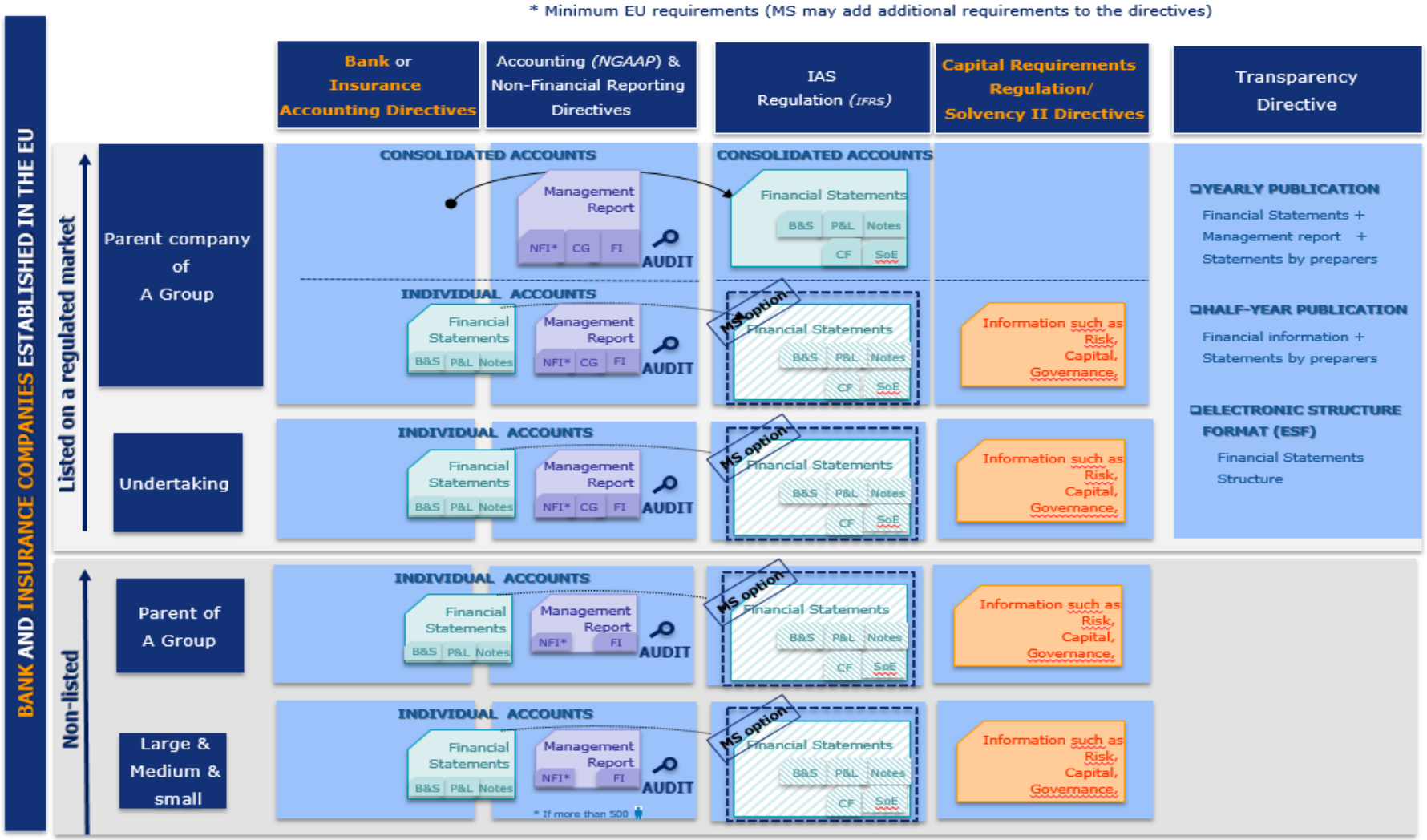
(1) If the consolidated financial statements are prepared in accordance with IFRS Standards
(2) Only in addition to financial statements prepared in accordance with National GAAPs
(3) Groups in which there is a listed undertaking
(4) If mandatory audit
(5) Public Interest entities
(6) If no IFRS consolidated financial statements are published
(7) Issuers listed on the Baltic Main List
(8) Large and regulated entities
(9) Entities listed on a non regulated market
(10) Subsidiaries of a group in which parent or higher level parent prepares consolidated financial statements under IFRS
(11) Entities having filed or intending to file for admission to public tradi
(12) IFRS mandated by the Financial Supervisory Authority

ANNEX V – EU legislative framework for periodic reporting by companies – overview of reporting obligations

*EU legislative framework for periodic public reporting for **companies, all sectors***



EU legislative framework for periodic public reporting for ***banks and insurance companies***



ANNEX VI – Financial and non-financial information – an overview of documents and contents

Type of information	Description	Type of document									
		Annual Financial Report			Half-yearly financial report			Separate report (alternative option)	Report on payments to government (CBCR)	Audit report	Other Docu-ments
		Financial statements	Management report	Responsibility statements	Financial statements (condensed set)	Interim management report	Responsibility statements				
Financial information											
Information to identify the undertaking	Name of undertaking, legal form, national Business Register and registration number, registered office, ongoing winding up (where relevant)	√			√						
Balance sheet / Statement of position		√			√						
Profit and loss account		√			√						
Other Comprehensive Income		√									
Cash-flow statement		√									
Statement of changes in equity		√									
Notes to the financial statements	Accounting policies, details relating to balance sheet or P&L items, number of employees, off balance sheet items, credits granted to members of management body, post balance sheet events, list of subsidiaries, etc.	√			√						
Fair review of development and performance of	Analysis of financial performance indicators relevant to the business		√								

Type of information	Description	Type of document									
		Annual Financial Report			Half-yearly financial report			Separate report (alternative option)	Report on payments to government (CBCR)	Audit report	Other Docu-ments
		Financial statements	Management report	Responsibility statements	Financial statements (condensed set)	Interim management report	Responsibility statements				
business and position											
Principal risks and uncertainties faced			√								
Likely future development			√								
Activities in the field of research and development			√								
Information on acquisition of own shares	Reasons for acquisitions made during the financial year, number and nominal value (or the accountable part of) the shares acquired/disposed of/held during the financial year and proportion of the subscribed capital which they represent		√								
Existence of branches of an undertaking			√								
Undertaking's financial risk management objectives and policies			√								
Undertaking's exposure to price/credit/liquidity/cash-flow risk			√								
Important events occurred during first 6 months of financial year and impact on financial statements						√					

Type of information	Description	Type of document									
		Annual Financial Report			Half-yearly financial report			Separate report (alternative option)	Report on payments to government (CBCR)	Audit report	Other Docu-ments
		Financial statements	Management report	Responsibility statements	Financial statements (condensed set)	Interim management report	Responsibility statements				
Issuer's statements on financial statement and management report (listed companies)	Statement on true and fair view of financial statements, and fair review within the management report + risks and uncertainties faced			√			√				
Corporate governance statement	Description of corporate governance code and practices applied, internal control and risk management systems for financial reporting, information on takeover bids, shareholders' rights, composition of management and supervisory bodies, diversity policy		√					√			
Auditor's opinion on management report	Opinion on consistency with financial statements and compliance with legal requirements									√	
Auditor's statement on management report	Reference to material misstatements									√	
Auditor's opinion on financial statements	Opinion on true and fair view in accordance with relevant financial reporting framework and on compliance with statutory requirements									√	
Home Member State											√
Inside information											√
Major shareholding notifications											√

Type of information	Description	Type of document									
		Annual Financial Report			Half-yearly financial report			Separate report (alternative option)	Report on payments to government (CBCR)	Audit report	Other Docu-ments
		Financial statements	Management report	Responsibility statements	Financial statements (condensed set)	Interim management report	Responsibility statements				
Acquisition or disposal of the issuer's own shares											√
Total number of voting rights and capital											√
Changes in the rights attaching to the classes of shares or securities											√
Payments to governments									√		
Non-Financial Information											
Non-financial statement (including consolidated)	information necessary to understand the undertaking's development, performance, position and impact of its activity, relating to – as a minimum – environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including: - Brief description of undertaking's business model; - Description and outcome of the policies pursued in relation to those matters, including due diligence processes; - Principal risks related		√					√			

Type of information	Description	Type of document									
		Annual Financial Report			Half-yearly financial report			Separate report (alternative option)	Report on payments to government (CBCR)	Audit report	Other Docu-ments
		Financial statements	Management report	Responsibility statements	Financial statements (condensed set)	Interim management report	Responsibility statements				
	to those matters; - Non-financial key performance indicators relevant to the particular business										

ANNEX VII – Literature study on the benefits of IFRS (update from the 2015 IAS Regulation review)

EFFECTS OF COMPARABILITY OF FINANCIAL STATEMENTS

The Benefits of Financial Statement Comparability

GUS DE FRANCO, S.P. KOTHARI, RODRIGO S. VERDI, 2011

https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1475-679X.2011.00415.x

"These results suggest that financial statement comparability lowers the cost of acquiring information, and increases the overall quantity and quality of information available to analysts about the firm."

Global Comparability in Financial Reporting: What, Why, How, and When?

Mary E. Barth, 2013

https://www.tandfonline.com/doi/full/10.1080/21697221.2013.781765

"In particular, comparability is the qualitative characteristic that enables users to identify and understand similarities in, and differences among, items; comparability aids investors, lenders and other creditors in making informed capital allocation decisions; and achieving comparability depends on firms applying a common set of financial reporting standards and on requirements in the standards, especially measurement requirements. The paper discusses research showing that greater comparability can lower costs of comparing investment opportunities and improving financial reporting information quality."

The Measurement of Harmonisation and the Comparability of Financial Statement Items: Within-Country and Between-Country Effects

Simon Archer, Pascale Delvaille & Stuart McLeay, 2012

https://www.researchgate.net/profile/Stuart_McLeay/publication/254228713_The_Measurement_of_Harmonisation_and_the_Comparability_of_Financial_Statement_Items_Within-Country_and_Between-Country_Effects/links/5a428d42a6fdcce19715b2db/The-Measurement-of-Harmonisation-and-the-Comparability-of-Financial-Statement-Items-Within-Country-and-Between-Country-Effects.pdf

"The main purpose of our analysis is to study the impact of accounting harmonisation on the financial reporting practices or policy choices of the companies in our sample. These companies in particular are likely to be the focus of attention of financial analysts carrying out international comparisons. In the paper, the van der Tas comparability index is developed by separating the index into two components relating to the within-country (intra-national) effects of domestic standardisation and the between-country (inter-national) effects of harmonisation."

The Effects of National Culture on Financial Statement Comparability: A Survey of Research Findings

Gregory L. Prescott, Carol E. Vann, 2015

https://onlinelibrary.wiley.com/doi/pdf/10.1002/jcaf.22078

"Many of those who advocate the adoption of a set of high‐quality global financial accounting standards (International Financial Reporting Standards, or IFRSs) do so on the basis of enhanced cross‐border financial statement comparability. Indeed, the notion that financial statements would be prepared on a single set of accounting standards regardless of the country of domicile of the underlying businesses certainly has its merits. However, there is a growing body of academic research providing evidence that simply adopting IFRSs, by itself, is not sufficient to result in an enduring improvement in financial reporting quality within IFRS‐adopting countries. National culture, for instance, has the potential to affect accountants' judgments in applying financial accounting standards—regardless of those standards' origin—and to impact national institutions that further influence national accounting. Here, we highlight the findings of some of the relevant research on national culture published in accounting journals in recent years and discuss some potential implications of those findings."

CULTURAL IMPACT OF INTERNATIONAL FINANCIAL REPORTING STANDARDS ON THE COMPARABILITY OF FINANCIAL STATEMENTS

Ward, Cassandra L.; Lowe, S. Keith, 2017

http://web.b.ebscohost.com/abstract?site=ehost&scope=site&jrnl=1936699X&AN=123754484&h=9qFtXfqoGMBWRvP103JjC0Iekf0fVS9Uad%2fN22vJhu1JEIJE9kbXfGAKkWG%2byue05kgV%2bv14CmRR5l%2bn7bsAQw%3d%3d&crl=c&resultLocal=ErrCrlNoResults&resultNs=Ehost&crlhashurl=login.aspx%3fdirect%3dtrue%26profile%3dehost%26scope%3dsite%26authtype%3dcrawler%26jrnl%3d1936699X%26AN%3d123754484

"A proposed advantage of global implementation is the improved comparability of financial statements. However, due to variations among cultures, it is unrealistic for a single set of standards to be accepted and implemented in a wholly uniform manner to produce innately comparable financial statements. Because of cultural differences, there are varying degrees of IFRS acceptance: some countries adopt the full set of IFRS, while others only accept certain standards. The application of the standards in various countries could adversely impact the comparability of financial statements. Hofstede's cultural dimensions aid in understanding the differences among cultures, the impact this can have on financial reporting, and therefore the comparability of financial statements prepared using IFRS. Through a series of independent t-test analyses, this study finds that two of Hofstede's cultural dimensions--power distance and individualism--are found to be significant, suggesting that these values influence a country's acceptance of IFRS as issued by the International Accounting Standards Board (IASB)."

Financial Statement Comparability and Investor Responsiveness to Earnings News

Matthew A. Stallings, 2017

https://ir.stthomas.edu/cgi/viewcontent.cgi?article=1081&context=ocbacctpub

" This study investigates the role of financial statement comparability in the stock price sensitivity to firm specific earnings news. Results suggest that information content of earnings is greater for firms with higher comparability, suggesting that comparability contributes to information usefulness for investors in equity valuation decisions. Further support indicates that comparability enhances usefulness through increased response to positive earnings surprises. This influence is pronounced for the earnings news of small firms, high volatility firms, growth/value firms, and firms with low return on assets, suggesting that comparability is more informative for more speculative stocks."

Output-based measurement of accounting comparability: A survey of empirical proxies

Christian Gross, Pietro Perotti, 2017

https://reader.elsevier.com/reader/sd/B789C44EA965081BE068BBCB4A2D15160F9860DDF0FD84FB05D65A66D9E37BCC83D7A4419DFBD844003658A21AFC676D

"Accounting comparability has been the subject of significant interest in empirical financial accounting research. Recent literature, particularly that following De Franco et al.'s (2011) influential study, has focused on utilizing the output of the financial reporting process to measure accounting comparability. In this paper, we conduct an early survey of studies using output-based measures of comparability. We provide two distinct contributions to the literature. First, we describe and comment on four important measurement concepts as well as the studies that introduced them. With this methodological contribution, we aim to facilitate the measurement choice for empirical accounting researchers engaged in comparability research. Second, we classify the sub-streams of literature and related studies. In providing this content-related contribution, we sum up what has already been achieved in output-based accounting comparability research and highlight potential areas for prospective research. As a whole, our study attempts to guide empirical researchers who (plan to) undertake studies on accounting comparability in selecting relevant topics and choosing adequate approaches to measurement."

Financial Statement Comparability and the Efficiency of Acquisition Decisions

Ciao-Wei Chen, Daniel W. Collins, Todd D. Kravet, Richard Mergenthaler, 2016

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2169082

"We predict and find that acquirers make more profitable acquisition decisions when target firms' financial statements are more comparable — as evidenced by higher merger announcement returns, higher acquisition synergies, and better future operating performance. We also find that post-acquisition goodwill impairments and post-acquisition divestitures are less likely when target firms' financial statements are more comparable. Finally, we find that acquirers benefit most from comparability when acquirers' ex ante information asymmetry is higher, acquirers operate in volatile operating environments, and management knows relatively less about the target. In total, our evidence suggests

targets' financial statement comparability helps acquirers make better acquisition-investment decisions and fosters more efficient capital allocation."

Financial Statement Comparability and Credit Risk

Seil Kim, Pepa Kraft, Stephen Ryan, 2012

https://en-coller.tau.ac.il/sites/nihul_en.tau.ac.il/files/media_server/Recanati/management/seminars/account/KKR.pdf

"These results suggest that financial statement comparability lowers the cost of processing information and reduces uncertainty about firms' underlying credit risk."

IFRS Application and the Comparability of Financial Statements

Ichiro Mukai, 2017

http://www.na-businesspress.com/JAF/MukaiI_17_5_.pdf

"The purpose of this paper is to examine whether the application of IFRS by Japanese firms increases comparability of financial statements with other IFRS firms. I focus on IFRS firms in Japan and pair them with firms that are selected from IFRS firms in the EU member countries and JPN GAAP firms. Two approaches are developed from the definition of "Comparability" in the IASB Conceptual Framework. The results of tests show that the application of IFRS increases the comparability of financial statements among IFRS firms, however it does not decrease comparability with JPN GAAP applying firms."

Financial statement comparability on a national level: Empirical evidence from listed companies in Sweden

Emma Högling & Madeleine Ysberg, 2015

http://www.diva-portal.se/smash/get/diva2:824255/ATTACHMENT01.pdf

"We find that financial statement comparability within an industry is increased by implementing IFRS in Sweden. This study contributes to the literature by suggesting that financial statement comparability increases between companies by implementing IFRS on a national level."

An Input-Based Measure of Financial Statement Comparability

Rani Hoitash, Udi Hoitash, Ahmet Kurt, Rodrigo Verdi, 2018

https://www.insead.edu/sites/default/files/assets/dept/aa/ac/docs/Rodrigo_Verdi_Paper.pdf

"We propose, validate, and test a new input-based measure of financial statement comparability (FSC) that captures the degree of overlap in financial statement line items reported by industry peers." "First, we document that FSC is positively associated with the likelihood of being selected as a peer firm for executive compensation by corporate boards

and for co-coverage by analysts. Second, consistent with FSC reducing information processing costs, we show that FSC is associated with better forecasting performance by analysts and better rating performance by credit-rating agencies. Relatedly, we also show that analyst performance is highest when input- and output-based comparability are both high, underscoring the complimentary nature of the two types of comparability. Finally, our approach allows us to create finer FSC measures, which we illustrate by showing that balance sheet versus income statement components of FSC are beneficial in different contexts and for different users of the financial reports."

Accounting Standards Harmonisation and Financial Statement Comparability: Evidence from Transnational Information Transfer

Clare Wang, 2014

https://repository.upenn.edu/cgi/viewcontent.cgi?article=1105&context=accounting_papers

"This paper investigates whether accounting standards harmonization enhances the comparability of financial information across countries." "I find that mandatory adopters experience a significant increase in market reactions to the release of earnings by voluntary adopters compared to the period preceding mandatory adoption. This increase is not observed for non-adopters. Taken together, the results show that accounting standards harmonization facilitates transnational information transfer and suggest financial statement comparability as a direct mechanism."

Comparability and cost of equity capital

Michael J Imhof, Scott E. Seavey, and David B. Smith, 2017

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2844991

"*We provide evidence that greater financial statement comparability is associated with lower cost of equity capital, and show that comparability's effect on cost of equity remains after controlling for within-firm accounting quality. Additionally, we find that investors derive greater benefits from financial statement comparability in firms whose information environments are less transparent (high information asymmetry) and whose equity shares trade in markets that are less competitive (imperfect markets)."*

Comparability and predictive ability of loan loss provisions – The role of accounting regulation versus bank supervision

Günther Gebhardt, Zoltán Novotny-Farkas, 2016

http://econ.core.hu/file/download/korosi/2016/novotny.pdf

"In this paper we investigate the effects of mandatory IFRS adoption on the comparability and informativeness of EU banks' financial statements." "Using a sample of 89 banks from 12 EU countries we find that loan loss provisioning has become more comparable across countries after the accounting regime switch. IFRS adoption effects are more pronounced in countries where supervisors required or banks voluntarily applied more forward-looking provisioning under local GAAP. However, some differences in loan loss provisioning remain in countries where supervisors were reluctant to strictly enforce the incurred loss

approach. Finally, our results suggest that the predictive ability of loan loss allowances (proxied by the ability to explain future losses) improved following IFRS adoption."

Financial statement comparability and expected crash risk

Jeong-Bon Kim, Leye Li,. Louise Yi Luc, Yangxin, Yud

https://ac.els-cdn.com/S0165410116000021/1-s2.0-S0165410116000021-main.pdf?_tid=85af3827-8f6f-4f67-b453-0f9cdb81f283&acdnat=1532619732_41a1e816e13ec7a40bc4c2976ed4e50b

"This study examines the impact of financial statement comparability on ex ante crash risk. Using the comparability measures of De Franco et al. (2011), we find that expected crash risk decreases with financial statement comparability, and this negative relation is more pronounced in an environment where managers are more prone to withhold bad news. We also provide evidence that comparability can mitigate the asymmetric market reaction to bad versus good news disclosures. Our results suggest that financial statement comparability disinclines managers from bad news hoarding, which reduces investors' perceptions of a firm's future crash risk."

Accounting Comparability and Economic Outcomes of Mandatory IFRS Adoption

Michael Neel, 2016

https://onlinelibrary.wiley.com/doi/epdf/10.1111/1911-3846.12229

"This study examines the associations between four economic outcomes of the 2005 mandatory adoption of International Financial Reporting Standards (IFRS) and concurrent changes in two important accounting constructs, accounting comparability and reporting quality." "Using 1 861 first-time adopters in 23 countries, I find that firms with a larger improvement in comparability have larger increases in Q, liquidity, forecast accuracy, and forecast agreement following adoption, relative to other adopters."

Drivers of Hidden Reserves – Consequences for the Comparability of Financial Statements under IFRS

GERNOT BRÄHLER, SEBASTIAN SCHMIDT, 2014

http://www.irmbrjournal.com/papers/1409662723.pdf

"The comparability of IFRS financial statements is frequently discussed in literature and numerous researches show that entities from different countries or with particular characteristics tend to use IFRS differently. However, hidden reserves, i.e. the discrepancy between the historical book values and their fair value counterparts, are usually not part of these investigations." "Our results show that the probability to observe hidden reserves under IFRS seems to be dependent on certain factors. For instance, our results clearly indicate that large companies show hidden reserves more frequently than small companies. We also find that entities from particular countries exhibit significantly higher odds to hold

hidden reserves than others. In consequence, we assume that the comparability of financial statements under IFRS is still not achieved.

ANNEX VIII – EU approach on the digitalisation of public financial reporting

General overview

The table below provides an overview of a certain initiatives to date at the EU level in the area of digitalisation:

The European Single Access point (ESAP) in the new action plan for a Capital Markets Union (CMU)[246]: the CMU is the EU's plan to create a truly single market for capital across the EU. It aims to get investment and savings flowing across all Member States, benefiting citizens, investors and companies, regardless of where they are located. A fully functioning and integrated market for capital will allow the EU's economy to grow in a sustainable way and be more competitive. In its Communication of 24 September 2020, the Commission announced that it will propose to set up an EU-wide platform (European single access point) that provides investors with seamless access to financial and sustainability-related company information. To make companies more visible to cross-border investors, better integrate national capital markets and facilitate their access to market funding, the legal environment needs to deliver the right balance between providing relevant information about investment opportunities to investors, on the one hand, and minimising the burden for companies to report this information, on the other. Fragmented access to scattered company information and lack of corporate credit ratings dissuade cross-border and global investment and puts in particular smaller national capital markets at a disadvantage. Seamless, EU-wide access to company data in comparable digital formats will reduce information search costs for cross-border investors and will widen the investor base for companies. At the same time, it will contribute to better integration of smaller local capital markets and will support recovery. The information to be covered should reflect the needs of investors and the interests of a broader range of users. Therefore, this should also improve the availability and accessibility of sustainability-related data, steer more investments towards sustainable activities and contribute to meeting the objectives of the European Green Deal.
The Digital Finance Strategy[247]: in September 2020, the European Commission adopted on a digital finance package, including a digital finance strategy and legislative proposals on crypto-assets and digital resilience, for a competitive EU financial sector that gives consumers access to innovative financial products, while ensuring consumer protection and financial stability. In the package, the digital finance strategy sets out general lines on how Europe can support the digital transformation of finance in the coming years, while regulating its risks.

246 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a Capital Markets Union for people and business - new action plan – 24 Sept. 2020 - COM(2020) 590 final

247 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a Digital Finance Strategy for the EU – 24 Sept. 2020 - COM(2020) 591 final

The strategy sets out four main priorities: removing fragmentation in the Digital Single Market, adapting the EU regulatory framework to facilitate digital innovation, promoting a data-driven finance and addressing the challenges and risks with digital transformation, including enhancing the digital operational resilience of the financial system.

In order to facilitate real-time digital access to all regulated financial information, the Strategy suggests that by 2024, information to be publically released under EU financial services legislation should be disclosed in standardised and machine-readable formats.

Digital tools and processes in EU company law: publication is achieved by companies filing information with the relevant national business register. Most business registers in the EU offer online access to documents on a national web platform. The recently adopted Directive (EU) 2019/1151 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law contains measures on the publication of corporate information. In particular, the following provisions are interesting for financial and non-financial information:

- all information and documents provided to a business register as part of the registration or filing of a company or a branch will have by 2023 to be stored by business registers in a machine-readable and searchable format or as structured data.
- electronic extracts of the documents and information provided by the register to stakeholders will be authenticated by means of trust services referred to in the eIDAS Regulation[248], in order to guarantee that the electronic extracts is a true copy of the document held by the register or that it is consistent with the information contained therein;

Business Registers Interconnection System (BRIS)[249]: BRIS is a mandatory interconnection of the EU business registers, operational since 8 June 2017. BRIS allows citizens, entrepreneurs and companies to obtain company information on more than 20 million limited liability companies, including a set of information free of charge, in all EU languages through the "Find a Company" page of the e-Justice Portal. Furthermore, BRIS allows EU business registers to exchange information on cross-border company events, such as foreign branches and cross-border mergers of companies. Directive (EU) 2019/1151 further extends the set of data available free of charge on the European e-Justice Portal and the set of information exchanged by business registers on cross-border operations, such as conversions, mergers and divisions.

248 Regulation (EU) N°910/2014 on electronic identification and trust services for electronic transactions in the internal market. It ensures legal certainty for cross-border use of e-signatures, e-seals, time-stamps, eDelivery service and website authentication certificates.

249 The EU has developed the Business Registers Interconnection System (BRIS) to facilitate public access to information on EU companies and to ensure that all EU business registers can communicate with each other electronically in a safe and secure way in relation to cross-border company operations. The e-Justice portal provides an interface serving as the European electronic access point to information on companies. BRIS is already interconnecting 24 business registers. The legal basis includes Directive 2012/17/EU, now codified in Directive (EU) 2017/1132, Directive (EU) 2019/1151, Directive (EU) 2019/2121 and the Commission Implementing Regulation (EU) 2015/884.

ESEF[250]: the European Single Electronic Format (ESEF) is the electronic reporting format for annual financial reports by issuers with securities listed on EU regulated markets from 1 January 2020. Annual financial reports will have to be provided in the XHMTL format (superseding the so far commonly used pdf format), including the non-financial statement as part of the management report. XHTML files can be opened with standard web browsers. In addition, where a report would contain IFRS consolidated financial statements, information therein will have to be tagged following inline XBRL and specific taxonomy specifications (for about 5,000 companies[251]). IFRS financial statements will therefore be largely structured and machine-readable.

EEAP[252] **and e-publication**: Information published by an issuer via media must be filed with the relevant national competent authority and the relevant national storage mechanism (the Officially Appointed Mechanism or OAM)[253]. Most of the OAMs offer itemised free public access to regulated information (Annual reports, etc.) on dedicated web portals. The TD provides that the ESMA must build a web portal (European Electronic Access Point) to permit central access to information stored in each Member State. Regulation (EU) 2016/1437 specifies metadata and search functions which may the path towards the EEAP. The European portal (EEAP) is not yet operational and the Commission explored the prospects of developing a central access point on the basis of blockchain technologies[254].

The TD in combination with level 2 measures[255], provides that publication by listed companies must be deemed fulfilled if the announcement relating to the regulated information is communicated to the media and indicates e.g. on which website the relevant documents are available.

Registers at EU level: ESMA offers an array of registers at the EU level[256] in the areas of capital markets, various instruments, funds, ratings or sanctions as mandated by the EU law, including a list of prospectuses.

Free flow of non-personal data: with respect to non-personal data, EU Regulation (EU) 2018/1807 establishes the free movement of such data in the EU, thus enabling alternative location of data for storage or processing than national location, including as regards bookkeeping.

eIDAS: Electronic identification (eID) and electronic Trust Services (eTS) are key enablers for secure cross-border electronic transactions and central building blocks of the Digital Single Market. Regulation (EU) N°910/2014 on electronic identification and trust services for

250 Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 on the specification of a single electronic reporting format. See also ESMA's web site on ESEF.

251 Based on the number of IFRS issuers reported by ESMA in the 2020 Report on Enforcement and Regulatory Activities of European Accounting Enforcers in 2019, Annex III.

252 Article 21a of Transparency Directive 2004/109/EU / Commission Delegated Regulation (EU) 2016/1437

253 List available on ESMA's web site.

254 The project, known as The European Financial Transparency Gateway (EFTG) offered a demonstrator of centralised search capabilities online on data filed by the listed companies over years 2019 and 2020. The project comprised a Proof of Concept and a Pilot phase. It was sponsored by the European Parliament.

255 Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Article 12.

256 See the List of registers on ESMA's web site.

electronic transactions in the internal market (eIDAS Regulation) adopted by the co-legislators on 23 July 2014 ensures that people and businesses can use their own national electronic identification schemes (eIDs) to access public services in other EU eID are available, and creates a European internal market for eTS - namely electronic signatures, electronic seals, time stamp, electronic delivery service and website authentication - by ensuring that they will work across borders and have the same legal status as traditional paper-based processes.

Directive on open data and the re-use of public sector information: Directive (EU) 2019/1024, to be transposed by Member States by 16 July 2021, encourages the Member States to make as much information available for re-use as possible. It addresses material held by public sector bodies in the Member States, at national, regional and local levels, such as ministries, state agencies and municipalities, as well as organisations funded mostly by or under the control of public authorities. It aims to stimulate the publishing of dynamic data and the uptake of Application Programme Interfaces (APIs), to address costs of dissemination. **Implementing act on high-value data sets (Q1 2021)** under the Open Data Directive, will make selected data sets in relation to company and company ownership available across the EU for free, in machine-readable format and through standardised Application Programming Interfaces (APIs).

A European strategy for data: In its Communication of February 2020 (COM/2020/66 final), the Commission outlines its strategy to make the EU a leader in a data-driven society. Creating a single market for data will allow it to flow freely within the EU and across sectors for the benefit of businesses, researchers and public administrations. Data-driven innovation will bring enormous benefits for citizens, for example through improved personalised medicine, new mobility and through its contribution to the European Green Deal citizens should be empowered to make better decisions based on insights gleaned from non-personal data. And that data should be available to all – whether public or private, big or small, start-up or giant. Against this backdrop, the Commission will propose a legislative framework for the governance of common European data spaces in Q4 2020, paving the way towards common European financial data spaces to stimulate, through enhanced data sharing, innovation, market transparency, sustainable finance, as well as access to finance for European businesses and a more integrated market.

Focus: company law Directive (EU) 2019/1151 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes

With the recent revision of the Company Law Directive [257], the EU will soon witness improvement of the scheme involving business registers. The figure below spells out a few provisions with digital impact on financial information published by companies, and practical consequences from the viewpoint of this fitness check:

[257] The Directive 2019/1151 of 20 June 2019 covers provisions on the use of digital tools and processes in company law.


The key provision...
Relevance for company reporting
Filing
Enables fully online filing of documents to be disclosed by all types of limited liability companies
Companies will be allowed to file accounting documents fully online
Access to data
More company data available free of charge through BRIS
Free access to at least: the name, legal form, registration number, status and registered office of the company; the Member State where it is registered; information on branches
Simplification
Once-only' principle for information submitted to the business register
Reduced burden on companies when complying with their disclosure obligation
Security
Introduction of secure e-identification means
More secure online procedures
Use of data
Documents and information in the registers shall be in a national machine-readable and searchable format
More efficient use of accounting documents filed as from 2023

ANNEX IX – Data structuring, an overview

Issuers of securities

Data made public by issuers of securities is generally filed with, stored and delivered by each national OAM, generally in pdf unstructured format. The minimum metadata required by the EU[258] and enabling common search criteria include:

- the name of the issuers
- the unique identifier of issuers
- the home Member States of the issuer
- the classification of regulated information (type of document /information)

Beyond this, each OAM may add a number of metadata such as the publication date, ISIN, language, etc. In a few Member States, such as Spain, additional basic level of data structuring is ensured via XBRL.

The Regulation on the European Single Electronic Format (ESEF) will ensure that, from 2021, data within the consolidated IFRS financial statements is widely structured at EU level according to the IFRS taxonomy as adopted by the EU[259], using inline XBRL tagging method. The IFRS Taxonomy adopted by the EU reflects the presentation and disclosure requirements of IFRS and includes elements from the accompanying materials to the IFRS such as implementation guidance and illustrative examples. In addition, it contains elements for disclosures not specifically required by IFRS but commonly reported in practice.

All limited companies

The EU proposes no taxonomy or structuring means in relation to financial or non-financial information prepared pursuant to the general Accounting Directive. The latter however provides a structure in the form of lay-outs (balance sheet, profit & loss) as well as Articles (footnotes, identification), developed from a paper-based reporting angle.

Recital 39 of the Accounting Directive encourages the Member States to develop electronic publication systems only once and in a form that allows multiple users to access and use the data easily. A number of Member States have undertaken to work at the national level on the digital angles of financial – and sometimes non-financial information. XBRL Europe surveyed for instance 17 Member States on the way data is structured for national purposes[260]. It shows that, for information filed with business register sector or tax authorities, data structuring (based on XBRL or other proprietary

258 Commission Delegated Regulation (EU) 2016/1437 of 19 May 2016 on regulatory technical standards on access to regulated information at Union level.

259 The IFRS taxonomy is developed by the IFRS Foundation.

260 Answers to questions raised by ESMA on eXtensible Business Reporting Language (XBRL), XBRL International and XBRL Europe, 30 march 2014.

solutions) is gaining traction. This is the case in a limited number of Member States (BE, DK, EE, FI, FR, DE, IE, IT, LU, NL, ES, SE, UK).

The situations are very varied in terms of obligation and data structuring means. Depending on jurisdictions, type of information or situation, companies may structure data either voluntary or mandatorily. Most of the time, data structuring is the responsibility of companies themselves. XBRL is often used. Other means to structure data may for instance imply a mix of templates or keying methods designed by competent authorities and some digitalisation process.

Data structuring most often requires the development of national taxonomies or digital structuring means, which are not interoperable.

XBRL Europe, a private player, is developing the xEBR Taxonomy[261] which defines common EU concepts for financial statements and company identification on the basis of the Accounting Directive. The xEBR project aims to enhance the coordination and interoperability for European business registers and company information providers. Matching tables between xEBR taxonomy and local taxonomies (BE, DE, FR, IT, NL, ES, UK, EE, FI, PL) have been or are being developed.

ANNEX X – SME definition and micro-regime

In the Accounting Directive, SMEs are identified by using size criteria on the basis of turnover, total balance sheet and average number of employees, as follows:

SME definitions

	Micro entities	Small companies	Large companies
Balance sheet total (EUR)	≤ € 350,000	≤ € 4,000,000 (up to €6m)	> € 20,000,000
Net turnover (EUR)	≤ € 700,000	≤ € 8,000,000 (up to €12m)	> € 40,000,000
Average number of employees	≤ 10	≤ 50	> 250

261 http://web.xbrleurope.org/?page_id=201

Source: Accounting Directive 2013/34

2 criteria out of three must be met to be in one size-category

In the EU law, there are various SME definitions[262]. During consultation, whereas a number of stakeholders[263] were concerned by non-standardised SME definitions in the EU legislation or guidance leading to potentially uneven consideration, nearly as many respondents argued that one size may not necessarily fit all. Supporters of harmonised definitions or metrics opined that this had the potential to impair comparability, equal treatment, legal certainty and policy coherence for SMEs. Supporters of differentiated definitions or metrics opined on the other hand that harmonising the approach at EU level would run the risks of cumulative effects that might impinge on the growth of companies. Finally, some respondents supported a totally different approach than the current approach based on size criteria, by e.g. using policy clusters (i.e. mid-caps, non-listed SMEs, family business ...) that would in their view be more meaningful.

Implementation of the super-simplified micro companies reporting regime

Recognising micro companies is an option for each Member State. The table below, provides an overview of the extent to which Member States have recognised micro companies as a specific category of companies and how much relief they brought by implementing one or more of the simplification options offered in Article 36 AD.

Micro companies / micro regime - State of implementation based on the burden relief index

Country	Burden relief index	National size criteria for micro companies	Group
DE	95	YES	**Group I – Largely implemented**
IE	95	YES	
IT	95	YES	
NL	95	YES	
UK	95	YES	
BG	90	YES	
HU	90	YES	
LT	90	YES	
PL	90	YES	
PT	90	YES	
SK	82.5	YES	
RO	77.5	YES	
EL	72.5	YES	
LV	55	YES	**Group II –**

262 Respondents to the public consultation frequently quoted Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises which is used for structural funds, subsidies, research, etc. It has slightly different numbers for the SME size-criteria. In the capital markets, SME are defined as companies with an average market capitalisation of less than EUR 200 million (MiFID). Beyond this, other SME definitions may feature in the EU law, depending on policy.

263 In particular responses collected during a Commission public consultation in March/July 2018 in relation to a Fitness Check on public reporting by companies (Question 15)

EE	47.5	YES	**Partially implemented**
FR	47.5	YES	
BE	42.5	YES	
DK	42.5	YES	
SI	42.5	YES	
CZ	37.5	YES	
AT	35	YES	
FI	35	YES	
CY	0	NO	**Group III – Not implemented**
ES	0	YES	
HR	0	YES	
LU	0	NO	
MT	0	NO	
SE	0	NO	

Source: CEPS and LSE elaboration based on European Commission

The differences in the state of implementation indicated by the burden relief index suggest that for countries at the bottom of the ranking, having zero, the Directive will not result in any benefit in terms of reduction of the administrative and reporting burden faced by micro companies. In these countries, while the Directive was transposed no relevant provision was adopted. By contrast, in high-ranking Member States, the adoption of most provisions creates a sound framework for reaping part or all potential benefits of the burden reduction contained in the Directive.