1. **INTRODUCTION**


The present proposal provides that certain large undertakings and groups should disclose non-financial information under a set of requirements devised to increasing transparency with the objective of strengthening the company's transparency and accountability, while limiting any undue administrative burden and ensuring a level playing field across the EU.

II. STATE OF PLAY

2. The Working Party on Company Law examined the proposal at six occasions during the Lithuanian and Hellenic Presidencies.

3. On 13 December 2013, the Permanent Representatives Committee provided a mandate to the Presidency to start negotiations with the European Parliament (doc. 17385/13).


5. The first informal trilogue was held on 21 January 2014 and focused on the main issues of the scope, safe harbour clause, guidelines for methodology, audit and separate report, diversity, revision and review clause on country-by-country reporting on taxation. The Presidency provided an oral debriefing on the outcome of the first trilogue on 22 January 2014. The Working Party on Company Law discussed options for negotiation position on 23 January in order to reach compromises on the most difficult issues.

6. In addition, a number of technical meetings took place with a view to achieving rapid progress on this file, as well as written consultations of delegations. A second trilogue is scheduled on 11 February.
7. The Presidency submitted a draft revised compromise in doc. 5853/1/14 REV 1 that could not be supported by many delegations, in particular on the scope. In order to find a way-out, the revised compromise presented in the Annex to this note is submitted to the Committee.

8. It should be noted that Recitals remain to be adjusted and negotiated with European Parliament. Latest changes to the Annex compared to doc. 5853/1/14 REV 1 are marked in grey shaded.

9. A number of issues are still open. The main outstanding issues are listed under III.

III. MAIN OUTSTANDING ISSUES

a) Scope (new/revised Articles 19a(1) and 29a(1) of Directive 2013/34/EU - points 1. and 3. of Article 1):

In the European Parliament all political groups support the scope proposed by the Commission. This point is a strong element of the EP position which it does not seem ready to compromise upon. A blocking minority of delegations has a difficulty with keeping the scope of the Commission proposal (large undertakings above 500 employees, covering 18,000 undertakings in the EU) and the Committee mandate of 13 December 2013 introduced the limitation to such "listed" undertakings (covering 5,000 undertakings in the EU).

The Presidency tested several possibilities with delegations and the European Parliament. The Commission is ready to support a constructive middle ground. At its meeting on 5 February 2014, the Committee could broadly go into the direction of broadening the scope of the mandate of 13 December 2013 but not as far as the Presidency had proposed. In particular, many delegations could not accept that non-listed undertakings in general would be in the scope at this stage, although they may accept public interest entities.
The revised compromise proposed is as follows:

"Large public-interest entities which on their balance sheet dates exceed the criterion of average number of employees during the financial year of 250 shall include in the management report a non-financial statement [...]". ²

The definition of public interest entities³ encompasses listed undertakings, credit institutions, insurance undertakings and any other undertaking so designated by Member States. The proposed text would cover approximately 8.000 undertakings.

The Presidency would consider this option to be a reasonable compromise in view of an overall balanced compromise package among delegations and with the European Parliament.

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² The general rules on threshold management of Directive 2013/34/EU apply: Article 3(10): "10. Where, on its balance sheet date, an undertaking or a group exceeds or ceases to exceed the limits of two of the three criteria set out in paragraphs 1 to 7, that fact shall affect the application of the derogations provided for in this Directive only if it occurs in two consecutive financial years."

³ Directive 2013/34/EU - Article 2 Definitions

"For the purposes of this Directive, the following definitions shall apply:

(1) 'public-interest entities' means undertakings within the scope of Article 1 which are:
(a) governed by the law of a Member State and whose transferable securities are admitted to trading on a regulated market of any Member State within the meaning of point (14) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments;
(b) credit institutions as defined in point (1) of Article 4 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (1), other than those referred to in Article 2 of that Directive;
(c) insurance undertakings within the meaning of Article 2(1) of Council Directive 91/674/EEC of 19 December 1991 on the annual accounts of insurance undertakings (2); or
(d) designated by Member States as public-interest entities, for instance undertakings that are of significant public relevance because of the nature of their business, their size or the number of their employees;".
b) Country-by-country reporting (New Recital (16a), Article 48 of Directive 2013/34/EU - point 6.):

A review clause was accepted at COREPER on 13 December 2013 but left out of the text at that stage, as a possible future concession.

It should be recalled that some delegations in the spirit of the conclusions of the European Council on 22 May 2013 asked for the introduction of a country-by-country reporting on taxes requirement in this proposal. Some other delegations will not accept such a provision before an impact assessment has been completed by the Commission, although the Commission provided a non-paper for the Working Party on 26 November 2013.

The Presidency is of the opinion that a review clause as proposed in the Annex could be part of an overall balanced compromise package in the end-game. It should be noted that the insertion of this additional paragraph in Article 48 of the current Directive 2013/34/EU provides for the reference to international and European developments. Also, in the absence of provision, the Commission can undertake such a review on its own initiative.

The new Recital (16a) now refers explicitly to G8, G20 and OECD developments.

c) Diversity (Recitals (15) and (16), revised Article 20 of Directive 2013/34/EU - point 2. of Article 1):

A number of delegations consider this provision to be too precise at EU level and invoke subsidiarity. Some other delegations want more detailed provisions on diversity. The mandate adopted by the Committee on 13 December 2013 moved the examples to Recitals. On the other hand, the European Parliament added new elements to the inventory. As a possible compromise, the Presidency proposes to stick to the Commission proposal, adding “for instance” before the reference list, unchanged from the Commission proposal, except by deleting "geographical diversity", as a balance towards not accepting "ethnic origin" from EP amendments. This keeps the political importance of the diversity governance reporting for the EP while this list remains of an illustrative nature.
Also, paragraph 4 of Article 20 is modified to include diversity policy (g) in the list of possible exemptions.

In paragraph 5, the Council text should keep the threshold for exemption from the Commission proposal (250 employees) so that it is consistent with other elements to be reported upon in Article 20 and with Articles 19a and 29a.

It should be noted that the scope of the diversity reporting has not been amended: it is the scope of paragraph 1 of Article 20 of Directive 2013/34/EU, namely: "Undertakings referred to in point (1)(a) of Article 2\(^4\)", that is to say listed public interest entities.

Recital (16) has been amended accordingly.

The Presidency considers that the compromise in the Annex is balanced and good basis to finalise negotiations with the European Parliament.

IV. OTHER ISSUES

Many other issues have been compromised upon with the European Parliament. Delegations were informed in details at the Working Party on 23 January 2014 and by written consultations. The Presidency is of the opinion that concessions have been made on both sides and that the current compromise is overall balanced.

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\(^4\) Article 2: "(1)'public-interest entities' means undertakings within the scope of Article 1 which are:

(a) governed by the law of a Member State and whose transferable securities are admitted to trading on a regulated market of any Member State within the meaning of point (14) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (1);"

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The most salient of these compromises can be referred to as follows:

- **Auditing obligation of Article 34 for the non-financial report and possibility for a separate report** (Article 19a (4),(5) and (6); Article 29a (4), (5), (6)): The EP made an important concession to the Council by accepting the possibility to report non-financial information in a separate report, and not only in the management report. In return, the Council considered the EP drafting on audit.

- **Guidelines on methodology** (Article 1a): the EP introduced this innovation, which can decrease administrative burden on undertakings by providing for reference documents to implement non-financial reporting. The EP however accepted that this would be redrafted to underline the non-binding and reference nature of this tool.

- **Drafting issues in Article 19a(1) and 29a(1)**: many principles and far-reaching obligations were voted in the JURI report. The compromise integrates the “due diligence” reference, but not “significant incidents” and other elements that would have been difficult to report upon. Also, the “materiality clause” remains based on the Council drafting but EP insists having “business relationships” included.

- **Safe harbour clause** (Articles 19a (1) and 29a (1)): the drafting is a finely-tuned compromise between EP and Council.

**V. CONCLUSION**

The Permanent Representatives Committee is invited to examine the main issues under point III and to revise the mandate of the Presidency in view of the second and possibly final informal trilogue with the European Parliament on the basis of the compromise package set out in the Annex.
Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
disclosure of non-financial and diversity information by certain large undertakings and
groups
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 50(1) thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee⁵,
Having regard to the opinion of the Committee of the Regions⁶,
Acting in accordance with the ordinary legislative procedure,

Whereas:

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⁵ OJ C , , p. 

In its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘Single Market Act Twelve levers to boost growth and strengthen confidence “Working together to create new growth”’, adopted on 13 April 2011, the Commission identifies the need to improve the transparency of the social and environmental information provided by undertakings in all sectors, in order to ensure a level playing field.

The necessity to improve undertakings’ disclosure of social and environmental information, by presenting a legislative proposal in this field, was reiterated in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled “A renewed EU strategy 2011-14 for Corporate Social Responsibility” adopted on 25 October 2011.

The European Parliament has, in its resolutions of 6 February 2013 on, respectively, “Corporate Social Responsibility: accountable, transparent and responsible business behaviour and sustainable growth” and “Corporate Social Responsibility: promoting society’s interests and a route to sustainable and inclusive recovery”, acknowledged the importance of businesses divulging information on sustainability such as social and environmental factors, with a view to identifying sustainability risks and increasing investor and consumer trust, and called the Commission to bring forward a proposal on non-financial disclosure by undertakings.

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(4) The coordination of national provisions concerning the disclosure of non-financial information in respect of large listed undertakings with limited liability is of importance for the interests of undertakings, shareholders and other stakeholders alike. Coordination is necessary in those fields because most of these undertakings operate in more than one Member State.

(5) It is also necessary to establish a certain minimum legal requirement as regards the extent of the information that should be made available to the public by undertakings across the Union. Management reports should give a fair and comprehensive view of an undertaking’s policies, results outcomes, and risks.

(6) In order to enhance consistency and comparability of non-financial information disclosed throughout the Union, large listed undertakings should be required to include in their management report a non-financial statement containing information relating to at least environmental matters, social and employee-related matters, respect for human rights, anti-corruption and bribery matters. Such statement should include a description of the policies, results outcomes, and the risks related to those matters and should be included in undertaking’s management report. However, Member States may decide to allow derogation from this obligation, provided that the report corresponds to the same financial year, covers at least the same content required by this Directive, is published as separate report together with the management report or on the undertaking’s webpage.

(7) In providing this information, large listed undertakings may rely on requirements in national frameworks, EU-based frameworks such as the Eco-Management and Audit Scheme (EMAS), and international frameworks such as the United Nations (UN) Global Compact, the Guiding Principles on Business and Human Rights implementing the UN “Protect, Respect and Remedy” Framework, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, the International Organisation for Standardisation (ISO) 26000, the International Labour Organization (ILO) Tripartite Declaration of principles concerning multinational enterprises and social policy, and the Global Reporting Initiative or other recognised international frameworks.
(8) Paragraph 47 of the final declaration of the United Nations RIO+20 conference, “The Future We Want”\textsuperscript{11}, recognises the importance of corporate sustainability reporting and encourages undertakings, where appropriate, to consider integrating sustainability information into their reporting cycle. It also encourages industry, interested governments and relevant stakeholders with the support of the United Nations system, as appropriate, to develop models for best practice and facilitate action for the integration of financial and non-financial information, taking into account experiences from already existing frameworks.

(9) Investors’ access to non-financial information is a step towards reaching the milestone of having in place by 2020 market and policy incentives rewarding business investments in efficiency under the Roadmap to a Resource Efficient Europe\textsuperscript{12}.

(10) The European Council of 24 and 25 March 2011 called for the overall regulatory burden, in particular for small and medium-sized enterprises (“SMEs”), to be reduced at both European and national levels and suggested measures to increase productivity while the Europe 2020 Strategy for smart, sustainable and inclusive growth aims to improve the business environment for SMEs and to promote their internationalisation. Thus, according to the “think small first” principle, the disclosure requirements under Directive 2013/34/EU should only apply to certain large listed undertakings and groups.

(11) The scope of these non-financial disclosure requirements should be defined by reference to the average number of employees, balance sheet total and net turnover. SMEs should be exempted from additional requirements, and the obligation to disclose a non-financial statement in the management report should only apply to those large listed undertakings and groups, whose average number of employees exceeds 500.


\textsuperscript{12} COM(2011) 571 final of 20 September 2011.
(12) Some of the undertakings and groups falling under the scope of Directive 2013/34/EU already prepare non-financial reports on a voluntary basis. Those undertakings should not be subject to the obligation to provide a non-financial statement in the management report, provided that the report corresponds to the same financial year, covers at least the same content required by this Directive, and is annexed to the management report.

(13) Many of the undertakings which fall under the scope of Directive 2013/34/EU are members of groups of undertakings. Consolidated management reports should be drawn up so that the information concerning such groups of undertakings may be conveyed to members and third parties. National law governing consolidated management reports should therefore be coordinated in order to achieve the objectives of comparability and consistency of the information which undertakings should publish within the Union.

(14) As required by Article 28 of Directive 2006/43/EC and Article 34 of Directive 2013/34/EU, the audit report of the statutory auditors shall also contain an opinion and a statement concerning the consistency of the management report, including non-financial information contained therein, in it, with the financial statements for the same financial year. In addition, Member States might require the information in a non-financial statement to be verified by independent assurance service provider.

(14a) With a view to facilitating the disclosure of non-financial information by European undertakings, the Commission should prepare non-binding guidance. The Commission should take into account current best practices, international developments and the results of related EU initiatives. The Commission should carry out appropriate consultations including with relevant stakeholders. When referring to environmental aspects, the Commission should cover at least land use, water use, greenhouse gas emissions and the use of materials.
(15) Diversity of competences and views of the members of administrative, management and supervisory bodies of undertakings facilitates a good understanding of the business organisation and affairs. It enables members of these bodies to exercise a constructive challenge of the management decisions and to be more open to innovative ideas, addressing the similarity of views of members, the “group-think” phenomenon. It contributes thus to effective oversight of the management and a successful governance of the undertaking. It would therefore be important to enhance transparency regarding the diversity policy undertakings have in place applied. This would inform the market of corporate governance practices and thus put indirect pressure on undertakings to have more diversified boards.

(16) The obligation to disclose the diversity policies for the administrative, management and supervisory bodies with regard to such aspects such as, for instance, age, gender, geographical diversity, educational and professional background should only apply to large listed undertakings referred to in point 1(a) of Article 2, whose average number of employees during the financial year exceeds 250 500. Therefore other undertakings should not be covered to by this obligation. Disclosure of the diversity policy should be part of the corporate governance statement, as laid down by Article 20 of Directive 2013/34/EU. Undertakings not having such a diversity policy should not be obliged If no diversity policy is applied there should not be any obligation to put one in place, but they should clearly explain the corporate governance statement should include a clear explanation why this is the case.

(16a) Initiatives at Union level, including Country-by-country reporting for several sectors, and international efforts to improve transparency in financial reporting have been noted. Within the context of the G8 and the G20, the OECD has been asked to draw up a standardised reporting template for multi-national undertakings to report to tax authorities where they make their profits and pay taxes around the world. Such developments complement the proposals contained in this Directive, as appropriate measures for their respective purposes.
(17) Since the objective of this Directive, namely to increase the relevance, consistency and comparability of information disclosed by undertakings across the Union, cannot be sufficiently achieved by the Member States, and can therefore by reason of its effect be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve the pursued objective.

(18) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the freedom to conduct a business, respect for private life and the protection of personal data. This Directive has to be implemented in accordance with these rights and principles.

(19) Directive 2013/34/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:
Article 1
Amendments to Directive 2013/34/EU

Directive 2013/34/EU is amended as follows:

1. **A new Article 19** is amended as follows **added after Article 19**:

(a) Paragraph 1 is replaced by the following:

1. The management report shall include a fair review of the development and performance of the undertaking’s business and of its position, together with a description of the principal risks and uncertainties that it faces.

   The review shall be a balanced and comprehensive analysis of the development and performance of the undertaking’s business and of its position, consistent with the size and complexity of the business.

(b) The following paragraphs 1a to 1c are added:

   **Article 19a**
   
   **Non-financial statement**

1. For **large public-interest entities which on their balance sheet dates exceed the criterion of average number of employees during the financial year of 250 large undertakings, whose average number of employees during the financial year exceeds 500**, the review shall also include in the management report a non-financial statement containing information relevant for an understanding of the undertaking’s development, performance, position and impact of its activity on society, relating to, as a minimum, at least environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including:
(-a) a brief description of the undertaking's business model;

(a) a description of the policy pursued by the undertaking in relation to these matters, including due diligence processes implemented;

(b) the results outcome of these policies;

(c) the principal risks related to these matters linked to the undertaking’s activities, operations, products, services [or business relationships] which are to cause adverse impacts in those areas and how the undertaking manages those risks;

(d) (-aa) non-financial key performance indicators relevant to the particular business.

Where the undertaking does not pursue policies in relation to one or more of these matters, the review non-financial statement shall provide an clear and reasoned explanation for not doing so.

4c. In providing the analysis The non-financial statement referred to in paragraph 1, the management report shall also, where appropriate, include references to, and additional explanations of, amounts reported in the annual financial statements.’

Member States may allow information relating to impending developments or matters in the course of negotiation to be omitted where, in the reasonable and duly justified opinion of the members of the administrative, management, and supervisory bodies, acting within the competences assigned to them by national law and having collective responsibility for it, the disclosure of such information would be seriously prejudicial to the commercial position of the undertaking:

{(b) the non-disclosure of this information would not be likely to mislead the public.}
Member States may lay down the specific relevant rules in order to ensure that such exceptional cases are consistent with the fulfilment of the obligations under paragraph 1 in a fair and balanced manner.

concerning such special exceptional cases in order [to ensure the respect of these requirements] [to ensure the respect of these requirement – to ensure that the omission is possible only where it is not likely to mislead the public].

NOTE: No final agreement on the text in brackets – EP to provide revised wording.

In providing the information required by the first subparagraph, Member States shall ensure that the undertakings may rely on national, EU-based or international frameworks, and if so, that the undertaking shall specify which frameworks it has relied upon.

4a b. To the extent necessary for an understanding of the undertaking’s current and future development, performance or position, or of the impact of its activity, and for the transparency and comparability of the analysis, the statement referred to in paragraph 1 shall include:

(a) — a description of the undertaking's [commercial] strategy;
(b) — a description of the undertaking's business model;
(c) — both financial and non-financial key performance indicators relevant to the particular business.

2. The undertakings fulfilling the obligation set out in paragraph 1 shall be deemed to have fulfilled the obligation related to the analysis on non-financial information set out in the third subparagraph of paragraph 1 of Article 19.

3. An undertaking, which is a subsidiary undertaking, shall be exempted from the obligations set out in paragraph 1a, if the undertaking and its subsidiary undertakings are included in the consolidated financial statements and consolidated management report of another undertaking and that consolidated management report is or the separate report of another undertaking consolidated non-financial statement, drawn up in accordance with Article 29 and Article 219a(4), of another undertaking.
(c) Paragraph 4 is replaced by the following:

4. Where an undertaking prepares a comprehensive separate report corresponding to the same financial year relying on national, EU-based or international frameworks and covering the information of the non-financial statement provided for in paragraph 1a and 1a, the Member States may decide to exempt that the undertaking shall be exempted from the obligation to prepare the non-financial statement set out in paragraph 1a, provided that such comprehensive separate report is part of the management report.

(a) is published together with the management report in accordance with Article 30; or

(b) is made publicly available within a reasonable period of time, which shall not exceed 6 12 months after the balance sheet date, on the undertaking’s website, to which reference is made in the management report.’

(d) The following paragraph 5 is added:

moved up to para. 3

5. The statutory auditor or audit firm shall only check that the non-financial statement referred to in paragraph 1 of this Article or the separate report referred to in paragraph 4 of this Article has been provided.

6. Member States may require that the information in the non-financial statement referred to in paragraph 1 or the separate report referred to in paragraph 4 to be is verified by an independent assurance services’ provider.’
2. Article 20 is amended as follows:

(a) In paragraph 1, the following point (g) is added:

‘(g) a description of the undertaking’s diversity policy for its applied for the undertaking’s administrative, management and supervisory bodies with regard to aspects such as, for instance, age, gender, geographical diversity, educational and professional background, the objectives of this diversity policy, how it has been implemented and the results in the reporting period. If the undertaking has no such policy applied, the statement shall contain an clear and reasoned explanation as to why this is the case.’

(b) Paragraph 3 is replaced by the following:

‘3. The statutory auditor or audit firm shall express an opinion in accordance with the second subparagraph of Article 34(1) regarding information prepared under points (c) and (d) of paragraph 1 of this Article and shall check that the information referred to in points (a), (b), (e), (f) and (g) of paragraph 1 of this Article has been provided.

(ba) Paragraph 4 is replaced by the following:

‘4. Member States may exempt undertakings referred to in paragraph 1 which have only issued securities other than shares admitted to trading on a regulated market, within the meaning of point (14) of Article 4(1) of Directive 2004/39/EC, from the application of points (a), (b), (e), (f) and (g) of paragraph 1 of this Article, unless such undertakings have issued shares which are traded in a multilateral trading facility, within the meaning of point (15) of Article 4(1) of Directive 2004/39/EC.'
(c) The following paragraph 5 is added:

‘5. Notwithstanding Article 40, point (g) of paragraph 1 shall not apply to small and medium-sized undertakings referred to in paragraph 1, which on their balance sheet dates do not exceed the criterion of average number of employees during the financial year of 250 500 whose average number of employees during the financial year does not exceed 500.’

3. A new Article 29a is added after Article 29 amended as follows:

(h) The following paragraph 1a is added:

Article 29a
The consolidated non-financial statement

1a. For the purposes of paragraph 1 of this Article, the review of Parent Public-interest entities which are parent undertakings of a large group which on its balance sheet date exceeds on a consolidated basis the criterion of average number of employees during the financial year of 250 undertakings of a large group, whose average number of employees during the financial year exceeds 500, the review shall also include in the consolidated management report a consolidated non-financial statement containing information relevant for an understanding of the undertaking group's development, performance, position and impact of its activity on society, relating to, as a minimum, at least environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including:
(-a) *a brief description of the undertaking group's business model;*

(a) a description of the policy pursued by the *undertaking group* in relation to these matters, *including due diligence processes implemented;*

(c) the *principal* risks related to these matters *linked to the undertaking group's activities, operations, products, services [or business relationships] which are to cause adverse impacts in those areas* and how the *undertaking group* manages those risks;

(d) *(-aa) non-financial key performance indicators relevant to the particular business.*

**NOTE:** No final agreement on the text in brackets.

Where the group does not pursue policies in relation to one or more of these matters, the review *consolidated non-financial statement* shall provide an *a clear and reasoned* explanation for not doing so.

4e. *In providing the analysis* The *consolidated non-financial statement* referred to in paragraph 1, the management report shall *also,* where appropriate, include references to, and additional explanations of, amounts reported in the annual *consolidated* financial statements.

**Member States may allow information relating to impending developments or matters in the course of negotiation to be omitted where, in the reasonable and duly justified opinion of the members of the administrative, management, and supervisory bodies, acting within the competences assigned to them by national law and having collective responsibility for it, the disclosure of such information would be seriously prejudicial to the commercial position of the undertaking group:**
Member States may shall lay down the specific relevant rules in order to ensure that such exceptional cases are consistent with the fulfilment of the obligations under paragraph 1 in a fair and balanced manner.

concerning such special exceptional cases in order [to ensure the respect of these requirements] [to ensure the respect of these requirement - to ensure that the omission is possible only where it is not likely to mislead the public].

NOTE: No final agreement on the text in brackets - EP to provide revised wording

In providing the information required by the first subparagraph, Member States shall ensure that the parent undertakings may shall rely on national, EU-based or international frameworks, and if so, the parent undertaking shall specify which frameworks it has they have relied upon.

(i) The following paragraphs 4 and 5 are added:

2. The parent undertakings fulfilling the obligation set out in paragraph 1 shall be deemed to have fulfilled the obligation related to the analysis on non-financial information set out in Article 19(1) third subparagraph. NB: or art.29, to be checked

3. For the purposes of paragraph 1 of this Article, a listed undertaking which is also a subsidiary undertaking shall be exempted from the obligations set out in paragraph 1a, if the exempted parent undertaking and its subsidiaries are included in the consolidated financial statements and consolidated management report or the separate report of another undertaking consolidated non-financial statement drawn up in accordance with Article 29 and paragraph 4 of this Article of another undertaking and that consolidated management report is drawn up in accordance with this Article. (moved up from para. 3)
4. For the purposes of paragraph 1 of this Article, where a parent listed undertaking prepares a separate comprehensive report corresponding to the same financial year and referring to the whole group, relying on national, EU-based or international frameworks and covering the information of a the consolidated non-financial statement provided for in paragraph 1a as well as in Art. 29, the Member States may decide to exempt that parent undertaking shall be exempt from the obligation to prepare the consolidated non-financial statement set out in paragraph 1a, provided that such separate comprehensive report is part of the consolidated management report.

(a) is published together with the consolidated management report in accordance with in Article 30; or

(b) is made publicly available within a reasonable period of time, which shall not exceed 12 6 months after the balance sheet date, on the parent undertaking’s website, to which reference is made in the consolidated management report.

5. The statutory auditor or audit firm shall only check that the consolidated non-financial statement referred to in paragraph 1 or the separate report referred to in paragraph 4 of this Article has been provided.

6. Member States may require that the information in the consolidated non-financial statement referred to in paragraph 1 or the separate report referred to in paragraph 4 to be is verified by an independent assurance services’ provider.'
4. Modifications to Article 33

6a. The first paragraph of Article 33 is replaced by the following:

"1. Member States shall ensure that the members of the administrative, management and supervisory bodies of an undertaking, acting within the competences assigned to them by national law, have collective responsibility for ensuring that:

(a) the annual financial statements, the management report, the corporate governance statement, and, when provided separately, the corporate governance and the report referred to in Article 19a(4); and

(b) the consolidated financial statements, the consolidated management reports, the consolidated corporate governance statement and, when provided separately, the consolidated corporate governance and the report referred to in Article 29a(4) consolidated non-financial statement, are drawn up and published in accordance with the requirements of this Directive and, where applicable, with the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002."

5. Modifications to Article 34(1)

The following second subparagraph will be added to of Article 34 (1):

"The statutory auditor(s) or audit firm(s) shall also:"

is replaced with the following:

"Unless otherwise provided for in this Directive, the statutory auditor(s) or audit firm(s) shall also:"
"(c) The opinion and the statement referred to in paragraphs (a) and (b) will not apply to the non-financial statement referred to in article 19a."

6. In Article 48, the following paragraph is inserted before the last paragraph:

'The report shall also consider, taking into account the international developments and the results of related European initiatives the possibility of introducing an obligation requiring large undertakings and all public-interest entities to publicly disclose, on an annual basis, a country-by-country report for each Member State and third country in which they operate, containing information on, as a minimum, profits made, taxes paid on profits and public subsidies received.'.

**Article 1a**

**Guidance on reporting**

The Commission, if appropriate, may prepare and publish guidance on disclosure of non-financial information with a view to facilitating relevant and useful disclosure of non-financial information by European undertakings.

**Article 1b3**

**Review of the Directive**

The Commission shall submit a report to the European Parliament and the Council on the analysis of the implementation of this Directive, including, among other aspects, scope, effectiveness and administrative burden. This report shall also include an analysis of the development of the guidance referred to in Article 1a. The report shall be published at the latest [4?] years after the entry into force of this Directive, and will be accompanied, if appropriate, by legislative proposals. on [...].
Article 2
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by […] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Member States may shall provide that the provisions referred to in the first subparagraph shall first apply to undertakings governed by the law of a Member State whose transferable securities are admitted to trading on a regulated market of any Member State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments for the financial year starting on 1 January 2014, and to all other undertakings within the scope of Article 1 for the financial year starting on 1 January 2015 or during the calendar year 201_.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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13 Two years after entry into force.
14 First year after the transposition deadline.
15 First year after the transposition deadline.
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4
Addressees

This Directive is addressed to the Member States.
Done at […],

For the European Parliament For the Council
The President The President