

WHAT THE NEW EU NON FINANCIAL REPORTING
DIRECTIVE MEANS FOR YOUR COMPANY:
SUMMARY OF KEY ASPECTS OF THE NEW UK FINANCIAL
REPORTING REGULATIONS

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Taking business beyond compliance

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What the new EU Non Financial Reporting Directive means for your company: summary of key aspects of the new UK Financial Reporting Regulations

Directive [2014/95/EU](#) (“NFRD”) sets out rules regarding mandatory disclosures to be included in consolidated non- financial statements by certain large undertakings and groups.

The Directive was adopted on 29 September 2014 and came into force on 22 October 2014. Member states had until the 6th of December 2016 to transpose the NFRD.

Key objectives:

The key objectives of the NFRD are:

1. increase transparency and increase relevance, consistency and comparability of non- financial information
2. increase diversity in boards of companies
3. increase the company’s accountability and performance



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For a detailed explanation of the NFRD see our [guide](#).

The Companies, Partnerships and Group (Accounts and Financial Reporting)

Regulations 2016 (SI 2016/1245)

The UK has passed regulations to implement aspects of the NFRD. The Companies, Partnerships and Group (Accounts and Financial Reporting) Regulations (SI [2016/1245](#)) (the ‘UK Financial Reporting Regulations’) came into force on the 26th of December 2016.

What companies are covered by the obligations under the UK Financial Reporting Regulations’?

The obligations apply only to companies and qualifying partnerships with financial reporting years on or after the 1st of January 2016. These companies must be:

- a. a traded company
- b. a banking company
- c. an authorised insurance company
- d. a company carrying on insurance market activity with over 500 employees

The UK Financial Reporting Regulations only apply to companies established in the UK.

There is no definition of ‘public interest entities’ but the regulation states that it uses domestic law concepts, rooted mainly in terms of the Financial Services and Market Act 2000.



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Legal elements of the Directive:

- The UK Financial Reporting Regulations amend Part 15 of the Companies Act 2006) (the 2006 Act”).
- Part 15 of the 2006 Act covers the provision of non-financial information as part of the strategic report of the company. This strategic report forms part of the ‘management report’ referred to in the NFRD.
- A strategic report of a company must include a non-financial information statement
- A group non financial information statement must be made if it is a group strategic report
- Employees are identified as those ‘who are employed under contracts’ and includes all those subject to contracts of employment but will not include those who may be acting under contract for services, such as consultants
- The UK Financial Reporting Regulations do not apply to parent companies where in the financial year they had no more than 500 employees
- The UK Financial Reporting Regulations apply to companies with financial years beginning on or after the 1st of January 2017.
- The UK Financial Reporting Regulations don’t apply to a subsidiary undertaking if the company is included in a report that is the report of a parent undertaking of a company established under the law of an EEA State
- Some information requirements can be fulfilled by the company publishing information by means of a national, EU based or international reporting frameworks, for example the UN Guiding Principles on Business and Human Rights
- Disclosures of impending developments or matters are exempted if, in the opinion of the directors, they will seriously prejudice the commercial interests of the company.

What must be covered?

Those subject to the UK Financial Reporting Regulations will be required to produce a non- financial information statement containing information to the extent necessary for an understanding of the:

- development,
- performance,

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- position, and
- impact of a reporting company's activity, relating to the following matters:
 - environmental matters
 - social matters
 - company's employees
 - respect for human rights
 - anti-corruption and bribery matters

The statement will include:

- a brief description of the organisation's business model;
- a description of the policies pursued in relation to the abovementioned matters, including due diligence processes implemented;
- the outcome of those policies;
- the principal risks relating to those issues to be included in the non financial information statement (as listed above) that are linked to the reporting company's operations including, where relevant and proportionate a reference to:
 - business relationships,
 - products or services which are likely to cause adverse impacts in those areas, and
 - how those risks are managed
- non- financial key performance indicators (KPIs) relevant to the particular business

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Companies can rely on *UN Global Compact*, *UN Guiding Principles on Business and Human Rights*, *OECD guidelines for MNEs*, *ISO26000* as frameworks for their policies and disclose which framework they have relied on. If the statement specifies which frameworks have been used, this will fulfill some of the disclosure requirements for non financial information. The implication, therefore, is that companies will have to set up a policy and procedures that meet the requirements of at least one of these frameworks.

Where companies do not pursue policies in relation to ONE or more of these matters, it must provide a “clear and reasoned” explanation for not doing so.

Diversity requirements

The new UK Financial Reporting Regulations have not enacted the NFRD requirement in respect of Diversity. The Government has stated that they will explore options around gender reporting with business and other stakeholders to consider how best to fulfill this requirement.

Some 6000 companies are expected to fall subject to the Directive’s requirements.

How do the UK Financial Reporting Regulations differ from the current UK requirements on non- financial reporting?

The UK Companies Act 2006 (Strategic Report and Directors) Regulations 2013 (the 2013 Regulations) requires listed, large and medium sized companies to report on their non-financial information. Only listed companies have to provide KPIs.

There is therefore a possibility that more of the larger companies will be caught by the provisions of the UK Financial Reporting Regulations.

The UK Financial Reporting Regulations have an additional requirement that companies provide information about the policies that underpin their disclosures.



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What do companies need to think of under ‘Human Rights’ and modern slavery reporting’?

The 2013 Regulations require that listed companies have to report on human rights issues where they are material. This has to include information about the trends and factors likely to affect the future development, performance and position of the company’s business and must include information about any of the policies of the company in relation to those matters and the effectiveness of those policies. Both the UK Financial Reporting Regulations and the 2013 Regulations require information on human rights that is necessary for an understanding of the company’s development, performance and impact of its activities relating to human rights. The [FRC Guidance](#) recommends that information should be disclosed when it is relevant to shareholders.

Under the UK Financial Reporting Regulations there is a broader category of companies that will have to provide this information. There is also a requirement that the company describes the risks relating to human rights and how it will manage these risks. The UK Financial Reporting Regulations states that if a company publishes information on human rights that has to be included in the statement by the company by means of a national, EU-based or international reporting framework, the statement must specify the framework or frameworks used, instead of including that information. This gives companies a measure of flexibility in their reporting but goes further than the FRC Guidance.

Those companies that are caught by the provisions of the UK Modern Slavery Act (see [guide](#)) will have to publish an annual statement on they are eradicating slavery and human trafficking in their organization and supply chains. Companies statements should include reference to what the company is doing to tackle this issue including information on its policies, risk analysis, due diligence, performance indicator and training.



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Key Questions to ask:

1. Does the organisation in question have more than 500 employees?
2. Is the organisation a 'traded company', 'banking company', an 'authorised insurance company' or a 'company carrying on insurance market activity'?
3. Has the organization identified its key risks in relation to environmental, social and environmental issues?
4. What policies does the organisation in question have in place to address environmental, social, human rights and bribery issues?
5. Does the organisation have procedures that meet the frameworks that their policies are based on, for example the UN Guiding Principles on Business and Human Rights;
6. What human rights issues have been identified as material?
7. Are any disclosures about impending developments in the opinion of director such that they will seriously prejudice the commercial interests of the company?



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