

## 「歐盟非財務資訊報告指令」(EU Directive on Non-Financial Reporting, Directive 2014/95/EU)

### 1、沿革背景

「非財務資訊報告指令(Directive on Non-Financial Reporting, NFRD)」<sup>1</sup>於 2014 年 11 月 15 日發佈，並於同年 12 月 5 日正式生效<sup>2</sup>。歐盟成員國被要求在 2016 年 12 月 6 日前將該指令內國法化<sup>3</sup>。NFRD 為部分「會計指令(Directive 2013/34/EU)」之修正規範，要求大型企業自 2018 年起(即涵蓋會計年度 2017 之資訊)，應於年報中揭露有關環保、社會責任、員工、人權、反貪腐、董事會等非財務資訊，以使投資人與其他利害相關人得更全面地瞭解該企業之發展政策與其影響，進而督促企業實踐其社會責任。

### 2、條文內容摘要

#### (1) 適用對象

非財務資訊報告指令僅適用於員工人數超過 500 名之特定大型企業，要求這些企業必須在年報中納入非財務聲明，或另外單獨以公開形式發表非財務報告<sup>4</sup>。子公司之非財務聲明若已併入其母公司當年度之非財務聲明或非財務報告中，則得以免除此項義務<sup>5</sup>。

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<sup>1</sup> Directive 2014/95/EU of the European Parliament and of the Council, of 22 October 2014 Amending Directive 2013/34/EU as Regards Disclosure of Non-Financial and Diversity Information by Certain Large Undertakings and Groups, 2014 O.J. (L 330) 1 [hereinafter Directive 2014/95/EU].

<sup>2</sup> *Id.* art. 5, (providing that “[T]his Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.”).

<sup>3</sup> *Id.* art. 4, (providing that “[M]ember States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 December 2016. They shall immediately inform the Commission thereof...”).

<sup>4</sup> *Id.* art. 1(1), (providing that “[L]arge undertakings which are public-interest entities exceeding on their balance sheet dates the criterion of the average number of 500 employees during the financial year shall include in the management report a non-financial statement containing information to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity...”).

<sup>5</sup> *Id.*, (providing that “[A]n undertaking which is a subsidiary undertaking shall be exempted from the

## (2) 得參考之準則

企業得按其需求，選擇適用國家、歐盟或國際準則之框架發表非財務聲明/報告，僅在其聲明/報告中指明其所運用之框架為何者即可<sup>6</sup>。同時，非財務資訊報告指令要求歐盟執委會應在徵詢利害關係人後，就非財務報告之方法，包含一般性及個別議題的關鍵績效指標，發佈非拘束性準則，以使企業揭露相關、有用及具可比較性之資訊<sup>7</sup>。

因此歐盟執委會於 2017 年 5 月發佈「非財務資訊報告準則 (Guidelines on Non-Financial Reporting)」<sup>8</sup>，另於 2019 年 6 月發佈「氣候相關資訊報告準則 (Guidelines on Reporting Climate-Related Information)」，兩者雖然皆不具拘束力，惟其對企業應如何發表非財務聲明提供進一步的講解，因而使此項指令更易於遵循。

## (3) 報告應揭露之資訊

非財務資訊報告指令要求適用對象企業應揭露瞭解企業的發展、表現、地位和營業活動對環境、社會、員工、尊重人權、反貪腐和賄賂等議題造成之影響所必須之資訊<sup>9</sup>。因此，非財務聲明/報告應包含：

### A. 企業之商業模式描述；

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obligation set out in paragraph 1 if that undertaking and its subsidiary undertakings are included in the consolidated management report or the separate report of another undertaking, drawn up in accordance with Article 29 and this Article...”).

<sup>6</sup> *Id.* art. 1(1), (providing that “[I]n requiring the disclosure of the information referred to in the first subparagraph, Member States shall provide that undertakings may rely on national, Union-based or international frameworks, and if they do so, undertakings shall specify which frameworks they have relied upon...”).

<sup>7</sup> *Id.* art. 2, (providing that “[T]he Commission shall prepare non-binding guidelines on methodology for reporting non-financial information, including non-financial key performance indicators, general and sectoral, with a view to facilitating relevant, useful and comparable disclosure of non-financial information by undertakings. In doing so, the Commission shall consult relevant stakeholders. The Commission shall publish the guidelines by 6 December 2016.”).

<sup>8</sup> Communication from the Commission, Guidelines on Non-Financial Reporting (Methodology for Reporting Non-Financial Information), 2017 O.J. (C 215) 1.

<sup>9</sup> Directive 2014/95/EU, art. 1(1).

- B.與上述議題相關之策略，包括盡責義務之執行方法；
- C.前述策略之執行成果；
- D.企業營運相關之風險識別；
- E.其他與企業相關的非財務資訊關鍵績效指標（key performance indicator）<sup>10</sup>。

此外，企業亦應揭露與其行政、管理與監督機構相關之多樣性（diversity）策略，例如該策略之年齡、性別、教育程度與專業背景等面向、政策之目的、執行方與執行成果<sup>11</sup>。若企業未發展上述議題之相關政策，亦應在非財務聲明中提供清楚且合理的解釋<sup>12</sup>。

針對上述各項議題，歐盟執委會於「非財務資訊報告準則」中皆有提供更詳細的解釋與關鍵績效指標，企業於撰寫非財務聲明時得參考之。例如於「社會及員工」議題上，準則即要求企業揭露：

- A.國際勞工組織（International Labour Organisation）基本慣例之實踐情形；
- B.多樣性議題，如性別多樣性及平等對待，亦包括年齡、性別、性向、宗教、身障、種族，以及其他相關面向議題；
- C.聘僱議題，如勞資溝通、參與勞動條件等；

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<sup>10</sup> *Id.*, (providing that “[I]ncluding: (a) a brief description of the undertaking's business model; (b) a description of the policies pursued by the undertaking in relation to those matters, including due diligence processes implemented; (c) the outcome of those policies; (d) the principal risks related to those matters linked to the undertaking's operations including, where relevant and proportionate, its business relationships, products or services which are likely to cause adverse impacts in those areas, and how the undertaking manages those risks; (e) non-financial key performance indicators relevant to the particular business.”)

<sup>11</sup> *Id.* art. 1(2), (providing that “[A] description of the diversity policy applied in relation to the undertaking's administrative, management and supervisory bodies with regard to aspects such as, for instance, age, gender, or educational and professional backgrounds, the objectives of that diversity policy, how it has been implemented and the results in the reporting period. If no such policy is applied, the statement shall contain an explanation as to why this is the case...”)

<sup>12</sup> *Id.* arts. 1(1), 1(2).

- D. 產業公會參與情形；
- E. 人力資本管理，包括人事安排、職涯管理、薪資系統、訓練等；
- F. 勞工健康及安全；
- G. 客戶關係，包括滿意度、製程、產品對消費者健康及安全可能影響；
- H. 對弱勢消費者影響；
- I. 行銷責任及研究；
- J. 社區關係，包括當地社區之社會及經濟發展<sup>13</sup>。

### 3. 簡析建議

一般而言，企業之財報僅有揭露其財務方面損益之功能，然而在「非財務資訊報告指令」中，額外要求大型企業揭露與環境、社會、員工、尊重人權、反貪腐和賄賂等議題相關之資訊，目的在於使投資人、消費者與其他利害關係人得以獲得更充足之判斷要素，進而使市場資金導向更符合現行主流之社會價值——企業應實踐其社會責任，隨著此項資訊之揭露，未來企業實踐社會責任之能力，將影響市場判斷該企業之價值。同時，過去實踐社會責任能力較弱之企業，必須先使外部成本內部化，例如造成較多空氣污染之企業，在揭露資訊的壓力下，需要加裝更多過濾設備，方有可能得到市場青睞。因此透過市場力量促進大型企業在人權、環境保護方面的實踐，似乎是可行的手段。

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<sup>13</sup> Communication from the Commission, Guidelines on Non-Financial Reporting (Methodology for Reporting Non-Financial Information), 2017 O.J. (C 215) 1, 16-17.

此外，歐盟之「非財務資訊報告指令」雖然原則上僅拘束歐盟境內之企業，若一大型企業之總部設於歐盟境內，其於海外之投資活動涉及該些特定議題時理當亦需於非財務聲明中揭露，惟其揭露程度可能不及於歐盟境內企業，且該指令亦無相關資訊揭露不明確時之罰則設計，因此我國若欲建立相關法制，設計上應注意對於海外投資活動的非財務資訊揭露程度及罰則設計。