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Response of the AMF to the European public consultation on the review of the Non-Financial Reporting Directive

The Non-financial Reporting Directive (2014/95/EU) requires companies with more than 500 employees to disclose the non-financial risks and opportunities that they consider material for their business model. Within the context of the European Green Deal aiming to make the European economy competitive and more sustainable, the European Commission has announced a review of this directive. Here are the proposals the AMF intends to share at the European level.

In its consultation document, the European Commission notes that there are many shortcomings in the disclosure of non-financial information by European companies: the information is not sufficiently reliable or comparable, some material information is not disclosed, and the relevant information is not always easy to find. In order to provide information that meets the expectations of investors, clients and suppliers, of the companies, but also of non-governmental organisations and civil society, a review of the Non-financial Reporting Directive therefore appears necessary. The AMF sees five key challenges here.

Clarifying the concept of materiality

Materiality is the cornerstone of relevant non-financial reporting but is not defined clearly in the existing texts. Although it appears crucial to modify the current definition, this imperative must be reconciled with an objective of regulatory stability. The AMF therefore

proposes not to significantly modify the current wording of Article 1 of the Non-financial Reporting Directive, but to complete to it.

As the materiality assessment represents a key step in the preparation of non-financial reporting, the AMF is in favour of companies publishing information on this subject. In order to guide actors in implementing this, it also proposes to create methodological tools to be used by companies on a voluntarily basis.

Completing the themes on which companies are invited to disclose

In order to evaluate the way in which companies consider non-financial issues, it is necessary that they publish information on their sustainability governance: the role of their governing bodies as regards these issues, on the governance of non-financial issues in general, and on the governance of non-financial reporting itself.

The definition of precise targets associated with the non-financial policies and indicators applied will also allow a company's stakeholders to understand its performances in the specific context of the company and/or its sector, and to assess its prospects for the future.

Extending the scope of companies subject to non-financial reporting

Rethinking the limits of the scope of application of the Non-financial Reporting Directive is a key issue in the revision of this directive. The AMF therefore calls upon the European Commission to conduct a precise assessment of the impact of an extension of this scope in terms of the number of companies concerned and their environmental and social impacts.

On this subject, the AMF wishes to defend several strong convictions:

- The current scope of application of the directive is too limited for European companies to be able to make an effective contribution to the sustainable development objectives of the European Union. It is also urgent to harmonise the scope of application on a European scale by removing any national options.
- It is important to extend the scope of application to listed and unlisted companies with more than 250 employees and which exceed €40 million in turnover and/or a €20 million balance sheet total. A simplified reporting format should be proposed for listed and unlisted companies with between 250 and 500 employees.

- Conversely, companies with less than 250 employees should be able to choose whether to draw up a non-financial report or not.

Improving the reliability of non-financial information

It seems crucial today that a review of the non-financial report by an independent third-party body become mandatory. Particular attention should be given to the non-financial performance indicators published by the companies, insofar as such data is then used by financial actors who will pay particular attention to it for the purposes of implementing the regulation on sustainability-related disclosure and on sustainability risks (known as the Disclosure Regulation).

Defining the good governance rules for the future non-financial reporting standard

The AMF draws the attention of the European Commission to the importance of defining specific principles to guide the setting process of the future European non-financial reporting standard. This should aim at ensuring the independence and transparency of the selected organisation, the supervision of its relations with the public authorities along with clear rules regarding accountability of the organisation, and the flexibility and agility of its operating methods. Likewise, it is essential to ensure well-balanced participation of all the stakeholders with an interest in non-financial reporting, in order to guarantee that the future regulations are relevant.

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