

The declaration of extra-financial performance

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The legislator has introduced a "declaration of extra-financial performance", also known as extra-financial reporting, as part of the strengthening of CSR.

Statutes

Article L. 225-102-1 as well as articles R. 225-104 et seq. of the French Commercial Code.

Entry into force

Applicable to reports relating to financial years ending on or after 31 July 2018.

Corporate forms concerned

SAs, SCAs and SNCs when all the interests of the SNC are held by SAs, SCAs, SARLs or SASs, but also credit institutions and insurance and reinsurance companies, are required to make such a declaration. Surprisingly, SAS are not concerned by extra-financial reporting.

Thresholds

Reporting is mandatory if the entity crosses certain thresholds that differ depending on whether its securities are admitted to trading on a regulated market:

- **for companies whose securities are not admitted to trading on a regulated market:** an average number of 500 permanent employees during the last financial year on the one hand, a balance sheet total > €100 million or a turnover > €100 million on the other,.
- **for companies whose securities are admitted to trading on a regulated market:** an average number of 500 permanent employees during the last financial year on the one hand, a balance sheet total > €20 million or a turnover > €40 million on the other.

As things stand at present, both equity securities (equities) and debt securities (bonds) must be considered as securities admitted to trading on a regulated market, regardless of the regulated market on which the transactions take place.

Consolidated extra-financial reporting

Companies preparing consolidated accounts are required to publish a consolidated declaration of extra-financial performance when the total amount of the balance sheet or turnover and the number of employees of all the companies included in the scope of consolidation exceed the thresholds mentioned above. The declaration to be drawn up would then be a global declaration for all entities. This declaration must take into account all the group's activities. Companies within the scope of the consolidated financial statements are exempt from the obligation to prepare an extra-financial performance report if two conditions are met. First,

the company preparing the consolidated accounts must publish an extra-financial performance report. Secondly, the same company must have its registered office in France.

Content

The declaration contains developments structured around the following themes:

- Collective agreements concluded within the company and their impact on the company's economic performance as well as on employees' working conditions and actions aimed at combating discrimination and promoting diversity;
- Environmental information, in particular on the circular economy and the fight against food waste, as well as the consequences on climate change of the activity of the company and the use of the goods and services the company produces;
- Societal commitments in favor of sustainable development.

Article R. 225-105-1 of the French Commercial Code details each of the aforementioned themes.

Companies whose securities are admitted to trading on a regulated market must also provide in their declaration all information relevant to the fight against corruption and respect for human rights in the conduct of their business.

Control and sanctions

When the company exceeds certain thresholds (more than 500 employees and a balance sheet total or net turnover exceeding € 100 million), it must have the declaration certified by an independent third party. In other cases, the statutory auditor only certifies the presence of the declaration.

Should a company fail to issue the declaration, the new law provides for an injunction procedure. In addition, management bodies are liable under ordinary law regarding the declaration.

Appendix

Completeness of the extra-financial performance declaration

GENERAL INFORMATION	
○	the business model of the company or of all the companies for which the company prepares consolidated accounts
○	a description of the principal risks associated with the business of the company or group of companies including, where relevant and proportionate, the risks created by its business relationships, products or services
○	a description of the policies applied by the company or the group of companies including, where applicable, the due diligence procedures implemented to prevent, identify and mitigate the occurrence of the risks mentioned above
○	the results of these policies, including key performance indicators
○	where the company does not apply a policy with respect to one or more of these risks, the declaration shall include a clear and reasoned explanation of the reasons justifying it
DETAILS OF THE INFORMATION TO BE PROVIDED	
1. Employment information	
a) Employment	
○	the total number and distribution of employees by sex, age and geographical area
○	recruitments and dismissals
○	wages and their evolution
b) Organization of work	
○	organization of working hours
○	absenteeism
c) Health and safety	
○	workplace health and safety conditions
○	work-related accidents, in particular their frequency and severity, and work-related illnesses
d) Labor relations	
○	the organization of social dialogue, in particular the procedures for informing, consulting and negotiating with staff
○	the review of collective agreements, particularly with regard to health and safety at work
e) Training	
○	the training policies implemented, in particular those relating to environmental protection
○	the total number of training hours

f) Equal treatment	
○	measures taken to promote equality between women and men
○	measures taken to promote the employment and integration of people with disabilities
○	anti-discrimination policy
2. Environmental information	
a) General environmental policy	
○	the organization of the company to take environmental issues into account and, where appropriate, environmental assessment or certification procedures
○	resources devoted to the prevention of environmental risks and pollution
○	the amount of provisions and guarantees for environmental risks, provided that this information is not likely to cause serious harm to the company in a pending dispute
b) Pollution	
○	measures to prevent, reduce or repair releases in air, water and land that seriously affect the environment
○	the taking into account of any form of pollution specific to an activity, in particular noise and luminary pollution
c) Circular economy	
<i>i) Waste prevention and management</i>	
○	measures for prevention, recycling, reuse, other forms of recovery and disposal of waste
○	actions to combat food waste
<i>ii) Sustainable use of resources</i>	
○	water consumption and water supply according to local constraints
○	consumption of raw materials and measures taken to improve efficiency in their use
○	energy consumption, measures taken to improve energy efficiency and the use of renewable energies
○	land use
d) Climate Change	
○	significant greenhouse gas emissions generated by the company's activities, in particular from the use of the goods and services it produces
○	measures taken to adapt to the consequences of climate change
○	the voluntary medium- and long-term reduction targets set to reduce greenhouse gas emissions and the means implemented to this end
e) Protecting biodiversity	
○	measures taken to preserve or restore biodiversity

3. Societal information	
a) Societal commitments to sustainable development	
○	the impact of the company's activity on employment and local development
○	the impact of the company's activities on local populations and surrounding communities
○	the relations maintained with the company's stakeholders and the terms of dialogue with them
○	partnership or sponsorship actions
b) Subcontracting and suppliers	
○	taking social and environmental issues into account in purchasing policy
○	taking social and environmental responsibility into account in the relations with suppliers and subcontractors
c) Loyalty of practice	
○	measures taken to promote consumer health and safety
4. For companies whose securities are admitted to trading on a regulated market	
1. Information relating to the fight against corruption	
○	actions taken to prevent corruption
2. Information on human rights actions	
a) Promotion of and compliance with the provisions of the fundamental conventions of the International Labour Organization relating to	
○	respect for freedom of association and the right to collective bargaining
○	the elimination of discrimination in respect of employment and profession
○	the elimination of forced or compulsory labour
○	the effective abolition of child labour
b) Other human rights activities	
○	other measures

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