





**DIRECTIVE 2013/34/EU OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL**

**of 26 June 2013**

**on the annual financial statements, consolidated financial statements  
and related reports of certain types of undertakings, amending  
Directive 2006/43/EC of the European Parliament and of the  
Council and repealing Council Directives 78/660/EEC and  
83/349/EEC**

**(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  
Committee <sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) This Directive takes into account the Commission's better regulation programme, and, in particular, the Commission Communication entitled 'Smart Regulation in the European Union', which aims at designing and delivering regulation of the highest quality whilst respecting the principles of subsidiarity and proportionality and ensuring that the administrative burdens are proportionate to the benefits they bring. The Commission Communication entitled 'Think Small First – Small Business Act for Europe', adopted in June 2008 and revised in February 2011, recognises the central role played by small and medium-sized enterprises (SMEs) in the Union economy and aims to improve the overall approach to entrepreneurship and to anchor the 'think small first' principle in policy-making from regulation to public service. The European Council of 24 and 25 March 2011 welcomed the Commission's intention to present the 'Single Market Act' with measures creating growth and jobs, bringing tangible results to citizens and businesses.

The Commission Communication entitled 'Single Market Act', adopted in April 2011, proposes to simplify the Fourth Council

<sup>(1)</sup> OJ C 181, 21.6.2012, p. 84.

<sup>(2)</sup> Position of the European Parliament of 12 June 2013 (not yet published in the Official Journal) and decision of the Council of 20 June 2013.

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Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies <sup>(1)</sup> and the Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54(3)(g) of the Treaty on consolidated accounts <sup>(2)</sup> (the Accounting Directives) as regards financial information obligations and to reduce administrative burdens, in particular for SMEs. ‘The Europe 2020 Strategy’ for smart, sustainable and inclusive growth aims to reduce administrative burdens and improve the business environment, in particular for SMEs, and to promote the internationalisation of SMEs. The European Council of 24 and 25 March 2011 also called for the overall regulatory burden, in particular for SMEs, to be reduced at both Union and national level and suggested measures to increase productivity, such as the removal of red tape and the improvement of the regulatory framework for SMEs.

- (2) On 18 December 2008 the European Parliament adopted a non-legislative resolution on accounting requirements as regards small and medium-sized companies, particularly micro-entities <sup>(3)</sup>, stating that the Accounting Directives are often very burdensome for small and medium-sized companies, and in particular for micro-entities, and asking the Commission to continue its efforts to review those Directives.
- (3) The coordination of national provisions concerning the presentation and content of annual financial statements and management reports, the measurement bases used therein and their publication in respect of certain types of undertakings with limited liability is of special importance for the protection of shareholders, members and third parties. Simultaneous coordination is necessary in those fields for such types of undertakings because, on the one hand, some undertakings operate in more than one Member State and, on the other hand, such undertakings offer no safeguards to third parties beyond the amounts of their net assets.
- (4) Annual financial statements pursue various objectives and do not merely provide information for investors in capital markets but also give an account of past transactions and enhance corporate governance. Union accounting legislation needs to strike an appropriate balance between the interests of the addressees of financial statements and the interest of undertakings in not being unduly burdened with reporting requirements.
- (5) The scope of this Directive should include certain undertakings with limited liability such as public and private limited liability companies. Additionally, there is a substantial number of partnerships and limited partnerships all the fully liable members of which are constituted either as public or as private limited liability companies, and such partnerships should therefore be subject to the coordination measures of this Directive. This Directive should also ensure that partnerships fall within its scope where members of a partnership which are not constituted as private or public limited companies in fact have limited liability for the partnership's obligations because that liability is

<sup>(1)</sup> OJ L 222, 14.8.1978, p. 11.

<sup>(2)</sup> OJ L 193, 18.7.1983, p. 1.

<sup>(3)</sup> OJ C 45 E, 23.2.2010, p. 58.

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limited by other undertakings within the scope of this Directive. The exclusion of not-for-profit undertakings from the scope of this Directive is consistent with its purpose, in line with point (g) of Article 50(2) of the Treaty on the Functioning of the European Union (TFEU).

- (6) The scope of this Directive should be principles-based and should ensure that it is not possible for an undertaking to exclude itself from that scope by creating a group structure containing multiple layers of undertakings established inside or outside the Union.
- (7) The provisions of this Directive should apply only to the extent that they are not inconsistent with, or contradicted by, provisions on the financial reporting of certain types of undertakings or provisions regarding the distribution of an undertaking's capital which are laid down in other legislative acts in force adopted by one or more Union institutions.
- (8) It is necessary, moreover, to establish minimum equivalent legal requirements at Union level as regards the extent of the financial information that should be made available to the public by undertakings that are in competition with one another.
- (9) Annual financial statements should be prepared on a prudent basis and should give a true and fair view of an undertaking's assets and liabilities, financial position and profit or loss. It is possible that, in exceptional cases, a financial statement does not give such a true and fair view where provisions of this Directive are applied. In such cases, the undertaking should depart from such provisions in order to give a true and fair view. The Member States should be allowed to define such exceptional cases and to lay down the relevant special rules which are to apply in those cases. Those exceptional cases should be understood to be only very unusual transactions and unusual situations and should, for instance, not be related to entire specific sectors.
- (10) This Directive should ensure that the requirements for small undertakings are to a large extent harmonised throughout the Union. This Directive is based on the 'think small first' principle. In order to avoid disproportionate administrative burdens on those undertakings, Member States should only be allowed to require a few disclosures by way of notes that are additional to the mandatory notes. In the case of a single filing system, however, Member States may in certain cases require a limited number of additional disclosures where these are explicitly required by their national tax legislation and are strictly necessary for the purposes of tax collection. It should be possible for Member States to impose requirements on medium-sized and large undertakings that go further than the minimum requirements prescribed by this Directive.

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- (11) Where this Directive allows Member States to impose additional requirements on, for instance, small undertakings, this means that Member States can make use of this option in full or in part by requiring less than the option allows for. In the same way, where this Directive allows Member States to make use of an exemption in relation to, for instance, small undertakings, this means that Member States can exempt such undertakings wholly or in part.
- (12) Small, medium-sized and large undertakings should be defined and distinguished by reference to balance sheet total, net turnover and the average number of employees during the financial year, as those criteria typically provide objective evidence as to the size of an undertaking. However, where a parent undertaking is not preparing consolidated financial statements for the group, Member States should be allowed to take steps they deem necessary to require that such an undertaking be classified as a larger undertaking by determining its size and resulting category on a consolidated or aggregated basis. Where a Member State applies one or more of the optional exemptions for micro-undertakings, micro-undertakings should also be defined by reference to balance sheet total, net turnover and the average number of employees during the financial year. Member States should not be obliged to define separate categories for medium-sized and large undertakings in their national legislation if medium-sized undertakings are subject to the same requirements as large undertakings.
- (13) Micro-undertakings have limited resources with which to comply with demanding regulatory requirements. Where no specific rules are in place for micro-undertakings, the rules applying to small undertakings apply to them. Those rules place on them administrative burdens which are disproportionate to their size and are, therefore, relatively more onerous for micro-undertakings as compared to other small undertakings. Therefore, it should be possible for Member States to exempt micro-undertakings from certain obligations applying to small undertakings that would impose excessive administrative burdens on them. However, micro-undertakings should still be subject to any national obligation to keep records showing their business transactions and financial position. Moreover, investment undertakings and financial holding undertakings should be excluded from the benefits of simplifications applicable to micro-undertakings.
- (14) Member States should take into account the specific conditions and needs of their own markets when making a decision about whether or how to implement a distinct regime for micro-undertakings within the context of this Directive.
- (15) Publication of financial statements can be burdensome for micro-undertakings. At the same time, Member States need to ensure compliance with this Directive. Accordingly, Member States making use of the exemptions for micro-undertakings provided for in this Directive should be allowed to exempt micro-undertakings from a general publication requirement, provided that balance sheet information is duly filed, in accordance with national law, with at least one designated competent authority and that the information is forwarded to the business register,

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so that a copy should be obtainable upon application. In such cases, the obligation laid down in this Directive to publish any accounting document in accordance with Article 3(5) of Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent <sup>(1)</sup>, should not apply.

- (16) To ensure the disclosure of comparable and equivalent information, recognition and measurement principles should include the going concern, the prudence, and the accrual bases. Set-offs between asset and liability items and income and expense items should not be allowed and components of assets and liabilities should be valued separately. In specific cases, however, Member States should be allowed to permit or require undertakings to perform set-offs between asset and liability items and income and expense items. The presentation of items in financial statements should have regard to the economic reality or commercial substance of the underlying transaction or arrangement. Member States should, however, be allowed to exempt undertakings from applying that principle.
- (17) The principle of materiality should govern recognition, measurement, presentation, disclosure and consolidation in financial statements. According to the principle of materiality, information that is considered immaterial may, for instance, be aggregated in the financial statements. However, while a single item might be considered to be immaterial, immaterial items of a similar nature might be considered material when taken as a whole. Member States should be allowed to limit the mandatory application of the principle of materiality to presentation and disclosure. The principle of materiality should not affect any national obligation to keep complete records showing business transactions and financial position.
- (18) Items recognised in annual financial statements should be measured on the basis of the principle of purchase price or production cost to ensure the reliability of information contained in financial statements. However, Member States should be allowed to permit or require undertakings to revalue fixed assets in order that more relevant information may be provided to the users of financial statements.
- (19) The need for comparability of financial information throughout the Union makes it necessary to require Member States to allow a system of fair value accounting for certain financial instruments. Furthermore, systems of fair value accounting provide information that can be of more relevance to the users of financial statements than purchase price or production cost-based information. Accordingly, Member States should permit the adoption of a fair value system of

<sup>(1)</sup> OJ L 258, 1.10.2009, p. 11.

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accounting by all undertakings or classes of undertaking, other than micro-undertakings making use of the exemptions provided for in this Directive, in respect of both annual and consolidated financial statements or, if a Member State so chooses, in respect of consolidated financial statements only. Furthermore, Member States should be allowed to permit or require fair value accounting for assets other than financial instruments.

- (20) A limited number of layouts for the balance sheet is necessary to allow users of financial statements to better compare the financial position of undertakings within the Union. Member States should require the use of one layout for the balance sheet and should be allowed to offer a choice from amongst permitted layouts. However, Member States should be able to permit or require undertakings to modify the layout and present a balance sheet distinguishing between current and non-current items. A profit and loss account layout showing the nature of expenses and a profit and loss account layout showing the function of expenses should be permitted. Member States should require the use of one layout for the profit and loss account and should be allowed to offer a choice from amongst permitted layouts. Member States should also be able to allow undertakings to present a statement of performance instead of a profit and loss account prepared in accordance with one of the permitted layouts. Simplifications of the required layouts may be made available for small and medium-sized undertakings. However, Member States should be allowed to restrict layouts of the balance sheet and profit and loss account if necessary for the electronic filing of financial statements.
- (21) For comparability reasons, a common framework for recognition, measurement and presentation of, *inter alia*, value adjustments, goodwill, provisions, stocks of goods and fungible assets, and income and expenditure of exceptional size or incidence should be provided.
- (22) The recognition and measurement of some items in financial statements are based on estimates, judgements and models rather than exact depictions. As a result of the uncertainties inherent in business activities, certain items in financial statements cannot be measured precisely but can only be estimated. Estimation involves judgements based on the latest available reliable information. The use of estimates is an essential part of the preparation of financial statements. This is especially true in the case of provisions, which by their nature are more uncertain than most other items in the balance sheet. Estimates should be based on a prudent judgement of the

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management of the undertaking and calculated on an objective basis, supplemented by experience of similar transactions and, in some cases, even reports from independent experts. The evidence considered should include any additional evidence provided by events after the balance-sheet date.

- (23) The information presented in the balance sheet and in the profit and loss account should be supplemented by disclosures by way of notes to the financial statements. Users of financial statements typically have a limited need for supplementary information from small undertakings, and it can be costly for small undertakings to collate that supplementary information. A limited disclosure regime for small undertakings is, therefore, justified. However, where a micro- or small undertaking considers that it is beneficial to provide additional disclosures of the types required of medium-sized and large undertakings, or other disclosures not provided for in this Directive, it should not be prevented from doing so.
- (24) Disclosure in respect of accounting policies is one of the key elements of the notes to the financial statements. Such disclosure should include, in particular, the measurement bases applied to various items, a statement on the conformity of those accounting policies with the going concern concept and any significant changes to the accounting policies adopted.
- (25) Users of financial statements prepared by medium-sized and large undertakings typically have more sophisticated needs. Therefore, further disclosures should be provided in certain areas. Exemption from certain disclosure obligations is justified where such disclosure would be prejudicial to certain persons or to the undertaking.
- (26) The management report and the consolidated management report are important elements of financial reporting. A fair review of the development of the business and of its position should be provided, in a manner consistent with the size and complexity of the business. The information should not be restricted to the financial aspects of the undertaking's business, and there should be an analysis of environmental and social aspects of the business necessary for an understanding of the undertaking's development, performance or position. In cases where the consolidated management report and the parent undertaking management report are presented in a single report, it may be appropriate to give greater emphasis to those matters which are significant to the undertakings included in the consolidation taken as a whole. However, having regard to the potential burden placed on small and medium-sized undertakings, it is appropriate to provide that Member States may choose to waive the obligation to provide non-financial information in the management report of such undertakings.



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- (27) Member States should have the possibility of exempting small undertakings from the obligation to draw up a management report provided that such undertakings include, in the notes to the financial statements, the data concerning the acquisition of own shares referred to in Article 24(2) of Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent<sup>(1)</sup>.
- (28) Given that listed undertakings can have a prominent role in the economies in which they operate, the provisions of this Directive concerning the corporate governance statement should apply to undertakings whose transferable securities are admitted to trading on a regulated market.
- (29) Many undertakings own other undertakings and the aim of coordinating the legislation governing consolidated financial statements is to protect the interests subsisting in companies with share capital. Consolidated financial statements should be drawn up so that financial information concerning such undertakings may be conveyed to members and third parties. National law governing consolidated financial statements should therefore be coordinated in order to achieve the objectives of comparability and equivalence in the information which undertakings should publish within the Union. However, given the lack of an arm's-length transaction price, Member States should be allowed to permit intra-group transfers of participating interests, so-called common control transactions, to be accounted for using the pooling of interests method of accounting, in which the book value of shares held in an undertaking included in a consolidation is set off against the corresponding percentage of capital only.
- (30) In Directive 83/349/EEC there was a requirement to prepare consolidated financial statements for groups in cases where either the parent undertaking or one or more of the subsidiary undertakings was established as one of the types of undertakings listed in Annex I or Annex II to this Directive. Member States had the option of exempting parent undertakings from the requirement to draw up consolidated accounts in cases where the parent undertaking was not of the type listed in Annex I or Annex II. This Directive requires only parent undertakings of the types listed in Annex I or, in certain circumstances, Annex II to draw up consolidated financial statements, but does not preclude Member States from extending the scope of this Directive to cover other situations as well. In substance there is therefore no change, as it remains up to the Member States to decide whether to require undertakings which do not fall within the scope of this Directive to prepare consolidated financial statements.

<sup>(1)</sup> OJ L 315, 14.11.2012, p. 74.

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- (31) Consolidated financial statements should present the activities of a parent undertaking and its subsidiaries as a single economic entity (a group). Undertakings controlled by the parent undertaking should be considered as subsidiary undertakings. Control should be based on holding a majority of voting rights, but control may also exist where there are agreements with fellow shareholders or members. In certain circumstances control may be effectively exercised where the parent holds a minority or none of the shares in the subsidiary. Member States should be entitled to require that undertakings not subject to control, but which are managed on a unified basis or have a common administrative, managerial or supervisory body, be included in consolidated financial statements.
- (32) A subsidiary undertaking which is itself a parent undertaking should draw up consolidated financial statements. Nevertheless, Member States should be entitled to exempt such a parent undertaking from the obligation to draw up such consolidated financial statements in certain circumstances, provided that its members and third parties are sufficiently protected.
- (33) Small groups should be exempt from the obligation to prepare consolidated financial statements as the users of small undertakings' financial statements do not have sophisticated information needs and it can be costly to prepare consolidated financial statements in addition to the annual financial statements of the parent and subsidiary undertakings. Member States should be able to exempt medium-sized groups from the obligation to prepare consolidated financial statements on the same cost/benefit grounds unless any of the affiliated undertakings is a public-interest entity.
- (34) Consolidation requires the full incorporation of the assets and liabilities and of the income and expenditure of group undertakings, the separate disclosure of non-controlling interests in the consolidated balance sheet within capital and reserves and the separate disclosure of non-controlling interests in the profit and loss of the group in the consolidated profit and loss accounts. However, the necessary corrections should be made to eliminate the effects of the financial relations between the undertakings consolidated.
- (35) Recognition and measurement principles applicable to the preparation of annual financial statements should also apply to the preparation of consolidated financial statements. However, Member States should be allowed to permit the general provisions and principles stated in this Directive to be applied differently in annual financial statements than in consolidated financial statements.
- (36) Associated undertakings should be included in consolidated financial statements by means of the equity method. The provisions on measurement of associated undertakings should in substance remain unchanged from Directive 83/349/EEC, and the methods allowed under that Directive can still be applied.

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Member States should also be able to permit or require that a jointly managed undertaking be proportionately consolidated within consolidated financial statements.

- (37) Consolidated financial statements should include all disclosures by way of notes to the financial statements for the undertakings included in the consolidation taken as a whole. The names, registered offices and group interest in the undertakings' capital should also be disclosed in respect of subsidiaries, associated undertakings, jointly managed undertakings and participating interests.
- (38) The annual financial statements of all undertakings to which this Directive applies should be published in accordance with Directive 2009/101/EC. It is, however, appropriate to provide that certain derogations may be granted in this area for small and medium-sized undertakings.
- (39) The Member States are strongly encouraged to develop electronic publication systems that allow undertakings to file accounting data, including statutory financial statements, only once and in a form that allows multiple users to access and use the data easily. With regard to the reporting of financial statements, the Commission is encouraged to explore means for a harmonised electronic format. Such systems should, however, not be burdensome to small and medium-sized undertakings.
- (40) The Members of the administrative, management and supervisory bodies of an undertaking should, as a minimum requirement, be collectively responsible to the undertaking for drawing up and publishing annual financial statements and management reports. The same approach should also apply to members of the administrative, management and supervisory bodies of undertakings drawing up consolidated financial statements. Those bodies act within the competences assigned to them by national law. This should not prevent Member States from going further and providing for direct responsibility to shareholders or even other stakeholders.
- (41) Liability for drawing up and publishing annual financial statements and consolidated financial statements, as well as management reports and consolidated management reports, is based on national law. Appropriate liability rules, as laid down by each Member State under its national law, should be applicable to members of the administrative, management and supervisory bodies of an undertaking. Member States should be allowed to determine the extent of the liability.
- (42) In order to promote credible financial reporting processes across the Union, members of the body within an undertaking that is responsible for the preparation of the undertaking's financial statements should ensure that the financial information included in the undertaking's annual financial statement and the group's consolidated financial statement gives a true and fair view.

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- (43) Annual financial statements and consolidated financial statements should be audited. The requirement that an audit opinion should state whether annual or consolidated financial statements give a true and fair view in accordance with the relevant financial reporting framework should not be understood as restricting the scope of that opinion but as clarifying the context in which it is expressed. The annual financial statements of small undertakings should not be covered by this audit obligation, as audit can be a significant administrative burden for that category of undertaking, while for many small undertakings the same persons are both shareholders and managers and, therefore, have limited need for third-party assurance on financial statements. However, this Directive should not prevent Member States from imposing an audit on their small undertakings, taking into account the specific conditions and needs of small undertakings and the users of their financial statements. Furthermore, it is more appropriate to define the content of the audit report in Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts <sup>(1)</sup>. Therefore that directive should be amended accordingly.
- (44) In order to provide for enhanced transparency of payments made to governments, large undertakings and public-interest entities which are active in the extractive industry or logging of primary forests <sup>(2)</sup> should disclose material payments made to governments in the countries in which they operate in a separate report, on an annual basis. Such undertakings are active in countries rich in natural resources, in particular minerals, oil, natural gas and primary forests. The report should include types of payments comparable to those disclosed by an undertaking participating in the Extractive Industries Transparency Initiative (EITI). The initiative is also complementary to the Forest Law Enforcement, Governance and Trade Action Plan of the European Union (EU FLEGT) and the provisions of Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market <sup>(3)</sup>, which require traders of timber products to exercise due diligence in order to prevent illegal wood from entering the Union market.
- (45) The report should serve to help governments of resource-rich countries to implement the EITI principles and criteria and account to their citizens for payments such governments receive from undertakings active in the extractive industry or loggers of primary forests operating within their jurisdiction. The report should incorporate disclosures on a country and project basis. A project should be defined as the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities to a government. Nonetheless, if multiple such agreements are

<sup>(1)</sup> OJ L 157, 9.6.2006, p. 87.

<sup>(2)</sup> Defined in Directive 2009/28/EC as 'forest of native species, where there is no clearly visible indication of human activities and the ecological processes are not significantly disturbed.'

<sup>(3)</sup> OJ L 295, 12.11.2010, p. 23.

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substantially interconnected, this should be considered a project. ‘Substantially interconnected’ legal agreements should be understood as a set of operationally and geographically integrated contracts, licenses, leases or concessions or related agreements with substantially similar terms that are signed with a government, giving rise to payment liabilities. Such agreements can be governed by a single contract, joint venture, production sharing agreement, or other overarching legal agreement.

- (46) Any payment, whether made as a single payment or as a series of related payments, need not be taken into account in the report if it is below EUR 100 000 within a financial year. This means that, in the case of any arrangement providing for periodic payments or instalments (e.g. rental fees), the undertaking must consider the aggregate amount of the related periodic payments or instalments of the related payments in determining whether the threshold has been met for that series of payments, and accordingly, whether disclosure is required.
- (47) Undertakings active in the extractive industry or the logging of primary forests should not be required to disaggregate and allocate payments on a project basis where payments are made in respect of obligations imposed on the undertakings at the entity level rather than the project level. For instance, if an undertaking has more than one project in a host country, and that country's government levies corporate income taxes on the undertaking with respect to the undertaking's income in the country as a whole, and not with respect to a particular project or operation within the country, the undertaking would be permitted to disclose the resulting income tax payment or payments without specifying a particular project associated with the payment.
- (48) An undertaking active in the extractive industry or in the logging of primary forests generally does not need to disclose dividends paid to a government as a common or ordinary shareholder of that undertaking as long as the dividend is paid to the government on the same terms as to other shareholders. However, the undertaking will be required to disclose any dividends paid in lieu of production entitlements or royalties.
- (49) In order to address the potential for circumvention of disclosure requirements, this Directive should specify that payments are to be disclosed with respect to the substance of the activity or payment concerned. Therefore, the undertaking should not be able to avoid disclosure by, for example, re-characterising an activity that would otherwise be covered by this Directive. In addition, payments or activities should not be artificially split or aggregated with a view to evading such disclosure requirements.
- (50) In order to ascertain the circumstances in which undertakings should be exempted from the reporting requirements provided for in Chapter 10, the power to adopt delegated acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of determining the criteria to be applied when assessing whether third country reporting requirements are equivalent to the requirements of that Chapter. It is of particular importance that the Commission carry out

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appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (51) In order to ensure uniform conditions for the implementation of Article 46(1), implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers <sup>(1)</sup>.
- (52) The reporting regime should be subject to a review and a report by the Commission within three years of the expiry of the deadline for transposition of this Directive by the Member States. That review should consider the effectiveness of the regime and take into account international developments, including issues of competitiveness and energy security. The review should also consider the extension of reporting requirements to additional industry sectors and whether the report should be audited. In addition, the review should take into account the experience of preparers and users of the payments information and consider whether it would be appropriate to include additional payment information such as effective tax rates and recipient details such as bank account information.
- (53) In line with the conclusions of the G8 Summit in Deauville in May 2011 and in order to promote a level international playing field, the Commission should continue to encourage all the international partners to introduce similar requirements concerning reporting on payments to governments. Continued work on the relevant international accounting standard is particularly important in this context.
- (54) In order to take account of future changes to the laws of the Member States and to Union legislation concerning company types, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the TFEU in order to update the lists of undertakings contained in Annexes I and II. The use of delegated acts is also necessary in order to adapt the undertaking size criteria, as with the passage of time inflation will erode their real value. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

<sup>(1)</sup> OJ L 55, 28.2.2011, p. 13.

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- (55) Since the objectives of this Directive, namely facilitating cross-border investment and improving Union-wide comparability and public confidence in financial statements and reports through enhanced and consistent specific disclosures, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and the effects of this Directive, 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 in order to achieve those objectives.
- (56) This Directive replaces Directives 78/660/EEC and 83/349/EEC. Therefore, those Directives should be repealed.
- (57) This Directive respects fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union.
- (58) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of correlation tables to be justified,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

**SCOPE, DEFINITIONS AND CATEGORIES OF UNDERTAKINGS AND GROUPS**

*Article 1*

**Scope**

1. The coordination measures prescribed by this Directive shall apply to the laws, regulations and administrative provisions of the Member States relating to the types of undertakings listed:

- (a) in Annex I;
- (b) in Annex II, where all of the direct or indirect members of the undertaking having otherwise unlimited liability in fact have limited liability by reason of those members being undertakings which are:
- (i) of the types listed in Annex I; or
- (ii) not governed by the law of a Member State but which have a legal form comparable to those listed in Annex I.



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2. Member States shall inform the Commission within a reasonable period of time of changes in the types of undertakings in their national law that may affect the accuracy of Annex I or Annex II. In such a case, the Commission shall be empowered to adapt, by means of delegated acts in accordance with Article 49, the lists of undertakings contained in Annexes I and II.

*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 <sup>(1)</sup>;
  - (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 <sup>(2)</sup>, 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 <sup>(3)</sup>; 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;
- (2) ‘participating interest’ means rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the activities of the undertaking which holds those rights. The holding of part of the capital of another undertaking is presumed to constitute a participating interest where it exceeds a percentage threshold fixed by the Member States which is lower than or equal to 20 %;
- (3) ‘related party’ has the same meaning as in the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards <sup>(4)</sup>;

<sup>(1)</sup> OJ L 145, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 177, 30.6.2006, p. 1.

<sup>(3)</sup> OJ L 374, 31.12.1991, p. 7.

<sup>(4)</sup> OJ L 243, 11.9.2002, p. 1.



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- (4) 'fixed assets' means those assets which are intended for use on a continuing basis for the undertaking's activities;
- (5) 'net turnover' means the amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover;
- (6) 'purchase price' means the price payable and any incidental expenses minus any incidental reductions in the cost of acquisition;
- (7) 'production cost' means the purchase price of raw materials, consumables and other costs directly attributable to the item in question. Member States shall permit or require the inclusion of a reasonable proportion of fixed or variable overhead costs indirectly attributable to the item in question, to the extent that they relate to the period of production. Distribution costs shall not be included;
- (8) 'value adjustment' means the adjustments intended to take account of changes in the values of individual assets established at the balance sheet date, whether the change is final or not;
- (9) 'parent undertaking' means an undertaking which controls one or more subsidiary undertakings;
- (10) 'subsidiary undertaking' means an undertaking controlled by a parent undertaking, including any subsidiary undertaking of an ultimate parent undertaking;
- (11) 'group' means a parent undertaking and all its subsidiary undertakings;
- (12) 'affiliated undertakings' means any two or more undertakings within a group;
- (13) 'associated undertaking' means an undertaking in which another undertaking has a participating interest, and over whose operating and financial policies that other undertaking exercises significant influence. An undertaking is presumed to exercise a significant influence over another undertaking where it has 20 % or more of the shareholders' or members' voting rights in that other undertaking;
- (14) 'investment undertakings' means:
  - (a) undertakings the sole object of which is to invest their funds in various securities, real property and other assets, with the sole aim of spreading investment risks and giving their shareholders the benefit of the results of the management of their assets,
  - (b) undertakings associated with investment undertakings with fixed capital, if the sole object of those associated undertakings is to acquire fully paid shares issued by those investment undertakings without prejudice to point (h) of Article 22(1) of Directive 2012/30/EU;

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- (15) ‘financial holding undertakings’ means undertakings the sole object of which is to acquire holdings in other undertakings and to manage such holdings and turn them to profit, without involving themselves directly or indirectly in the management of those undertakings, without prejudice to their rights as shareholders;
- (16) ‘material’ means the status of information where its omission or misstatement could reasonably be expected to influence decisions that users make on the basis of the financial statements of the undertaking. The materiality of individual items shall be assessed in the context of other similar items.

*Article 3***Categories of undertakings and groups**

1. In applying one or more of the options in Article 36, Member States shall define micro-undertakings as undertakings which on their balance sheet dates do not exceed the limits of at least two of the three following criteria:

- (a) balance sheet total: EUR 350 000;
- (b) net turnover: EUR 700 000;
- (c) average number of employees during the financial year: 10.

2. Small undertakings shall be undertakings which on their balance sheet dates do not exceed the limits of at least two of the three following criteria:

- (a) balance sheet total: EUR 4 000 000;
- (b) net turnover: EUR 8 000 000;
- (c) average number of employees during the financial year: 50.

Member States may define thresholds exceeding the thresholds in points (a) and (b) of the first subparagraph. However, the thresholds shall not exceed EUR 6 000 000 for the balance sheet total and EUR 12 000 000 for the net turnover.

3. Medium-sized undertakings shall be undertakings which are not micro-undertakings or small undertakings and which on their balance sheet dates do not exceed the limits of at least two of the three following criteria:

- (a) balance sheet total: EUR 20 000 000;
- (b) net turnover: EUR 40 000 000;
- (c) average number of employees during the financial year: 250.

4. Large undertakings shall be undertakings which on their balance sheet dates exceed at least two of the three following criteria:

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- (a) balance sheet total: EUR 20 000 000;
- (b) net turnover: EUR 40 000 000;
- (c) average number of employees during the financial year: 250.

5. Small groups shall be groups consisting of parent and subsidiary undertakings to be included in a consolidation and which, on a consolidated basis, do not exceed the limits of at least two of the three following criteria on the balance sheet date of the parent undertaking:

- (a) balance sheet total: EUR 4 000 000;
- (b) net turnover: EUR 8 000 000;
- (c) average number of employees during the financial year: 50.

Member States may define thresholds exceeding the thresholds in points (a) and (b) of the first subparagraph. However, the thresholds shall not exceed EUR 6 000 000 for the balance sheet total and EUR 12 000 000 for the net turnover.

6. Medium-sized groups shall be groups which are not small groups, which consist of parent and subsidiary undertakings to be included in a consolidation and which, on a consolidated basis, do not exceed the limits of at least two of the three following criteria on the balance sheet date of the parent undertaking:

- (a) balance sheet total: EUR 20 000 000;
- (b) net turnover: EUR 40 000 000;
- (c) average number of employees during the financial year: 250.

7. Large groups shall be groups consisting of parent and subsidiary undertakings to be included in a consolidation and which, on a consolidated basis, exceed the limits of at least two of the three following criteria on the balance sheet date of the parent undertaking:

- (a) balance sheet total: EUR 20 000 000;
- (b) net turnover: EUR 40 000 000;
- (c) average number of employees during the financial year: 250.

8. Member States shall permit the set-off referred to in Article 24(3) and any elimination as a consequence of Article 24(7) not to be effected when the limits in paragraphs 5 to 7 of this Article are calculated. In such cases, the limits for the balance sheet total and net turnover criteria shall be increased by 20 %.

9. In the case of those Member States which have not adopted the euro, the amount in national currency equivalent to the amounts set out in paragraphs 1 to 7 shall be that obtained by applying the exchange rate published in the *Official Journal of the European Union* as at the date of the entry into force of any Directive setting those amounts.

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For the purposes of conversion into the national currencies of those Member States which have not adopted the euro, the amounts in euro specified in paragraphs 1, 3, 4, 6 and 7 may be increased or decreased by not more than 5 % in order to produce round sum amounts in the national currencies.

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.

11. The balance sheet total referred to in paragraphs 1 to 7 of this Article shall consist of the total value of the assets in A to E under 'Assets' in the layout set out in Annex III or of the assets in A to E in the layout set out in Annex IV.

12. When calculating the thresholds in paragraphs 1 to 7, Member States may require the inclusion of income from other sources for undertakings for which 'net turnover' is not relevant. Member States may require parent undertakings to calculate their thresholds on a consolidated basis rather than on an individual basis. Member States may also require affiliated undertakings to calculate their thresholds on a consolidated or aggregated basis where such undertakings have been established for the sole purpose of avoiding the reporting of certain information.

13. In order to adjust for the effects of inflation, the Commission shall at least every five years review and, where appropriate, amend, by means of delegated acts in accordance with Article 49, the thresholds referred to in paragraphs 1 to 7 of this Article, taking into account measures of inflation as published in the *Official Journal of the European Union*.

**CHAPTER 2****GENERAL PROVISIONS AND PRINCIPLES***Article 4***General provisions**

1. The annual financial statements shall constitute a composite whole and shall for all undertakings comprise, as a minimum, the balance sheet, the profit and loss account and the notes to the financial statements.

Member States may require undertakings other than small undertakings to include other statements in the annual financial statements in addition to the documents referred to in the first subparagraph.

2. The annual financial statements shall be drawn up clearly and in accordance with the provisions of this Directive.

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3. The annual financial statements shall give a true and fair view of the undertaking's assets, liabilities, financial position and profit or loss. Where the application of this Directive would not be sufficient to give a true and fair view of the undertaking's assets, liabilities, financial position and profit or loss, such additional information as is necessary to comply with that requirement shall be given in the notes to the financial statements.

4. Where in exceptional cases the application of a provision of this Directive is incompatible with the obligation laid down in paragraph 3, that provision shall be disapplied in order to give a true and fair view of the undertaking's assets, liabilities, financial position and profit or loss. The disapplication of any such provision shall be disclosed in the notes to the financial statements together with an explanation of the reasons for it and of its effect on the undertaking's assets, liabilities, financial position and profit or loss.

The Member States may define the exceptional cases in question and lay down the relevant special rules which are to apply in those cases.

5. Member States may require undertakings other than small undertakings to disclose information in their annual financial statements which is additional to that required pursuant to this Directive.

6. By way of derogation from paragraph 5, Member States may require small undertakings to prepare, disclose and publish information in the financial statements which goes beyond the requirements of this Directive, provided that any such information is gathered under a single filing system and the disclosure requirement is contained in the national tax legislation for the strict purposes of tax collection. The information required in accordance with this paragraph shall be included in the relevant part of the financial statements.

7. Member States shall communicate to the Commission any additional information they require in accordance with paragraph 6 upon the transposition of this Directive and when they introduce new requirements in accordance with paragraph 6 in national law.

8. Member States using electronic solutions for filing and publishing annual financial statements shall ensure that small undertakings are not required to publish, in accordance with Chapter 7, the additional disclosures required by national tax legislation, as referred to in paragraph 6.

*Article 5***General disclosure**

The document containing the financial statements shall state the name of the undertaking and the information prescribed by points (a) and (b) of Article 5 of Directive 2009/101/EC.

*Article 6***General financial reporting principles**

1. Items presented in the annual and consolidated financial statements shall be recognised and measured in accordance with the following general principles:

- (a) the undertaking shall be presumed to be carrying on its business as a going concern;
- (b) accounting policies and measurement bases shall be applied consistently from one financial year to the next;
- (c) recognition and measurement shall be on a prudent basis, and in particular:
  - (i) only profits made at the balance sheet date may be recognised,
  - (ii) all liabilities arising in the course of the financial year concerned or in the course of a previous financial year shall be recognised, even if such liabilities become apparent only between the balance sheet date and the date on which the balance sheet is drawn up, and
  - (iii) all negative value adjustments shall be recognised, whether the result of the financial year is a profit or a loss;
- (d) amounts recognised in the balance sheet and profit and loss account shall be computed on the accrual basis;
- (e) the opening balance sheet for each financial year shall correspond to the closing balance sheet for the preceding financial year;
- (f) the components of asset and liability items shall be valued separately;
- (g) any set-off between asset and liability items, or between income and expenditure items, shall be prohibited;
- (h) items in the profit and loss account and balance sheet shall be accounted for and presented having regard to the substance of the transaction or arrangement concerned;
- (i) items recognised in the financial statements shall be measured in accordance with the principle of purchase price or production cost; and
- (j) the requirements set out in this Directive regarding recognition, measurement, presentation, disclosure and consolidation need not be complied with when the effect of complying with them is immaterial.

2. Notwithstanding point (g) of paragraph 1, Member States may in specific cases permit or require undertakings to perform a set-off between asset and liability items, or between income and expenditure items, provided that the amounts which are set off are specified as gross amounts in the notes to the financial statements.

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3. Member States may exempt undertakings from the requirements of point (h) of paragraph 1.
4. Member States may limit the scope of point (j) of paragraph 1 to presentation and disclosures.
5. In addition to those amounts recognised in accordance with point (c)(ii) of paragraph 1, Member States may permit or require the recognition of all foreseeable liabilities and potential losses arising in the course of the financial year concerned or in the course of a previous financial year, even if such liabilities or losses become apparent only between the balance sheet date and the date on which the balance sheet is drawn up.

*Article 7***Alternative measurement basis of fixed assets at revalued amounts**

1. By way of derogation from point (i) of Article 6(1), Member States may permit or require, in respect of all undertakings or any classes of undertaking, the measurement of fixed assets at revalued amounts. Where national law provides for the revaluation basis of measurement, it shall define its content and limits and the rules for its application.
2. Where paragraph 1 is applied, the amount of the difference between measurement on a purchase price or production cost basis and measurement on a revaluation basis shall be entered in the balance sheet in the revaluation reserve under 'Capital and reserves'.

The revaluation reserve may be capitalised in whole or in part at any time.

The revaluation reserve shall be reduced where the amounts transferred to that reserve are no longer necessary for the implementation of the revaluation basis of accounting. The Member States may lay down rules governing the application of the revaluation reserve, provided that transfers to the profit and loss account from the revaluation reserve may be made only where the amounts transferred have been entered as an expense in the profit and loss account or reflect increases in value which have actually been realised. No part of the revaluation reserve may be distributed, either directly or indirectly, unless it represents a gain actually realised.

Save as provided under the second and third subparagraphs of this paragraph, the revaluation reserve may not be reduced.

3. Value adjustments shall be calculated each year on the basis of the revalued amount. However, by way of derogation from Articles 9 and 13, Member States may permit or require that only the amount of the value adjustments arising as a result of the purchase price or production cost measurement basis be shown under the relevant items in the layouts set out in Annexes V and VI and that the difference arising as a result of the measurement on a revaluation basis under this Article be shown separately in the layouts.

*Article 8***Alternative measurement basis of fair value**

1. By way of derogation from point (i) of Article 6(1) and subject to the conditions set out in this Article:

- (a) Member States shall permit or require, in respect of all undertakings or any classes of undertaking, the measurement of financial instruments, including derivative financial instruments, at fair value; and
- (b) Member States may permit or require, in respect of all undertakings or any classes of undertaking, the measurement of specified categories of assets other than financial instruments at amounts determined by reference to fair value.

Such permission or requirement may be restricted to consolidated financial statements.

2. For the purpose of this Directive, commodity-based contracts that give either contracting party the right to settle in cash or some other financial instrument shall be considered to be derivative financial instruments, except where such contracts:

- (a) were entered into and continue to meet the undertaking's expected purchase, sale or usage requirements at the time they were entered into and subsequently;
- (b) were designated as commodity-based contracts at their inception; and
- (c) are expected to be settled by delivery of the commodity.

3. Point (a) of paragraph 1 shall apply only to the following liabilities:

- (a) liabilities held as part of a trading portfolio; and
- (b) derivative financial instruments.

4. Measurement according to point (a) of paragraph 1 shall not apply to the following:

- (a) non-derivative financial instruments held to maturity;
- (b) loans and receivables originated by the undertaking and not held for trading purposes; and
- (c) interests in subsidiaries, associated undertakings and joint ventures, equity instruments issued by the undertaking, contracts for contingent consideration in a business combination, and other financial instruments with such special characteristics that the instruments, according to what is generally accepted, are accounted for differently from other financial instruments.



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5. By way of derogation from point (i) of Article 6(1), Member States may, in respect of any assets and liabilities which qualify as hedged items under a fair value hedge accounting system, or identified portions of such assets or liabilities, permit measurement at the specific amount required under that system.

6. By way of derogation from paragraphs 3 and 4, Member States may permit or require the recognition, measurement and disclosure of financial instruments in conformity with international accounting standards adopted in accordance with Regulation (EC) No 1606/2002.

7. The fair value within the meaning of this Article shall be determined by reference to one of the following values:

- (a) in the case of financial instruments for which a reliable market can readily be identified, the market value. Where the market value is not readily identifiable for an instrument but can be identified for its components or for a similar instrument, the market value may be derived from that of its components or of the similar instrument;
- (b) in the case of financial instruments for which a reliable market cannot be readily identified, a value resulting from generally accepted valuation models and techniques, provided that such valuation models and techniques ensure a reasonable approximation of the market value.

Financial instruments that cannot be measured reliably by any of the methods described in points (a) and (b) of the first subparagraph shall be measured in accordance with the principle of purchase price or production cost in so far as measurement on that basis is possible.

8. Notwithstanding point (c) of Article 6(1), where a financial instrument is measured at fair value, a change in value shall be included in the profit and loss account, except in the following cases, where such a change shall be included directly in a fair value reserve:

- (a) the instrument accounted for is a hedging instrument under a system of hedge accounting that allows some or all of the change in value not to be shown in the profit and loss account; or
- (b) the change in value relates to an exchange difference arising on a monetary item that forms part of an undertaking's net investment in a foreign entity.

Member States may permit or require a change in the value of an available for sale financial asset, other than a derivative financial instrument, to be included directly in a fair value reserve. That fair value reserve shall be adjusted when amounts shown therein are no longer necessary for the implementation of points (a) and (b) of the first subparagraph.

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9. Notwithstanding point (c) of Article 6(1), Member States may permit or require, in respect of all undertakings or any classes of undertaking, that, where assets other than financial instruments are measured at fair value, a change in the value be included in the profit and loss account.

## CHAPTER 3

**BALANCE SHEET AND PROFIT AND LOSS ACCOUNT***Article 9***General provisions concerning the balance sheet and the profit and loss account**

1. The layout of the balance sheet and of the profit and loss account shall not be changed from one financial year to the next. Departures from that principle shall, however, be permitted in exceptional cases in order to give a true and fair view of the undertaking's assets, liabilities, financial position and profit or loss. Any such departure and the reasons therefor shall be disclosed in the notes to the financial statements.

2. In the balance sheet and in the profit and loss account the items set out in Annexes III to VI shall be shown separately in the order indicated. Member States shall permit a more detailed subdivision of those items, subject to adherence to the prescribed layouts. Member States shall permit the addition of subtotals and of new items, provided that the contents of such new items are not covered by any of the items in the prescribed layouts. Member States may require such subdivision or subtotals or new items.

3. The layout, nomenclature and terminology of items in the balance sheet and profit and loss account that are preceded by arabic numerals shall be adapted where the special nature of an undertaking so requires. Member States may require such adaptations for undertakings which form part of a particular economic sector.

Member States may permit or require balance sheet and profit and loss account items that are preceded by arabic numerals to be combined where they are immaterial in amount for the purposes of giving a true and fair view of the undertaking's assets, liabilities, financial position and profit or loss or where such combination makes for greater clarity, provided that the items so combined are dealt with separately in the notes to the financial statements.

4. By way of derogation from paragraphs 2 and 3 of this Article, Member States may limit the undertaking's ability to depart from the layouts set out in Annexes III to VI to the extent that this is necessary in order for the financial statements to be filed electronically.

5. In respect of each balance sheet and profit and loss account item, the figure for the financial year to which the balance sheet and the profit and loss account relate and the figure relating to the corresponding item for the preceding financial year shall be shown. Where those figures are not comparable, Member States may require the figure for the preceding financial year to be adjusted. Any case of non-comparability or any adjustment of the figures shall be disclosed, with explanations, in the notes to the financial statements.

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6. Member States may permit or require adaptation of the layout of the balance sheet and profit and loss account in order to include the appropriation of profit or the treatment of loss.
7. In respect of the treatment of participating interests in annual financial statements:
  - (a) Member States may permit or require participating interests to be accounted for using the equity method as provided for in Article 27, taking account of the essential adjustments resulting from the particular characteristics of annual financial statements as compared to consolidated financial statements;
  - (b) Member States may permit or require that the proportion of the profit or loss attributable to the participating interest be recognised in the profit and loss account only to the extent of the amount corresponding to dividends already received or the payment of which can be claimed; and
  - (c) where the profit attributable to the participating interest and recognised in the profit and loss account exceeds the amount of dividends already received or the payment of which can be claimed, the amount of the difference shall be placed in a reserve which cannot be distributed to shareholders.

*Article 10***Presentation of the balance sheet**

For the presentation of the balance sheet, Member States shall prescribe one or both of the layouts set out in Annexes III and IV. If a Member State prescribes both layouts, it shall permit undertakings to choose which of the prescribed layouts to adopt.

*Article 11***Alternative presentation of the balance sheet**

Member States may permit or require undertakings, or certain classes of undertaking, to present items on the basis of a distinction between current and non-current items in a different layout from that set out in Annexes III and IV, provided that the information given is at least equivalent to that otherwise to be provided in accordance with Annexes III and IV.

*Article 12***Special provisions relating to certain balance sheet items**

1. Where an asset or liability relates to more than one layout item, its relationship to other items shall be disclosed either under the item where it appears or in the notes to the financial statements.

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2. Own shares and shares in affiliated undertakings shall be shown only under the items prescribed for that purpose.
3. Whether particular assets are to be shown as fixed assets or current assets shall depend upon the purpose for which they are intended.
4. Rights to immovables and other similar rights as defined by national law shall be shown under 'Land and buildings'.
5. The purchase price or production cost or revalued amount, where Article 7(1) applies, of fixed assets with limited useful economic lives shall be reduced by value adjustments calculated to write off the value of such assets systematically over their useful economic lives.
6. Value adjustments to fixed assets shall be subject to the following:
  - (a) Member States may permit or require value adjustments to be made in respect of financial fixed assets, so that they are valued at the lower figure to be attributed to them at the balance sheet date;
  - (b) value adjustments shall be made in respect of fixed assets, whether their useful economic lives are limited or not, so that they are valued at the lower figure to be attributed to them at the balance sheet date if it is expected that the reduction in their value will be permanent;
  - (c) the value adjustments referred to in points (a) and (b) shall be charged to the profit and loss account and disclosed separately in the notes to the financial statements if they have not been shown separately in the profit and loss account;
  - (d) measurement at the lower of the values provided for in points (a) and (b) may not continue if the reasons for which the value adjustments were made have ceased to apply; this provision shall not apply to value adjustments made in respect of goodwill.
7. Value adjustments shall be made in respect of current assets with a view to showing them at the lower market value or, in particular circumstances, another lower value to be attributed to them at the balance sheet date.

Measurement at the lower value provided for in the first subparagraph may not continue if the reasons for which the value adjustments were made no longer apply.

8. Member States may permit or require that interest on capital borrowed to finance the production of fixed or current assets be included within production costs, to the extent that it relates to the period of production. Any application of this provision shall be disclosed in the notes to the financial statements.

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9. Member States may permit the purchase price or production cost of stocks of goods of the same category and all fungible items including investments to be calculated either on the basis of weighted average prices, on the basis of the 'first in, first out' (FIFO) method, the 'last in, first out' (LIFO) method, or a method reflecting generally accepted best practice.

10. Where the amount repayable on account of any debt is greater than the amount received, Member States may permit or require that the difference be shown as an asset. It shall be shown separately in the balance sheet or in the notes to the financial statements. The amount of that difference shall be written off by a reasonable amount each year and completely written off no later than at the time of repayment of the debt.

11. Intangible assets shall be written off over the useful economic life of the intangible asset.

In exceptional cases where the useful life of goodwill and development costs cannot be reliably estimated, such assets shall be written off within a maximum period set by the Member State. That maximum period shall not be shorter than five years and shall not exceed 10 years. An explanation of the period over which goodwill is written off shall be provided within the notes to the financial statements.

Where national law authorises the inclusion of costs of development under 'Assets' and the costs of development have not been completely written off, Member States shall require that no distribution of profits take place unless the amount of the reserves available for distribution and profits brought forward is at least equal to that of the costs not written off.

Where national law authorises the inclusion of formation expenses under 'Assets', they shall be written off within a period of maximum five years. In that case, Member States shall require that the third subparagraph apply *mutatis mutandis* to formation expenses.

In exceptional cases, the Member States may permit derogations from the third and fourth subparagraphs. Such derogations and the reasons therefor shall be disclosed in the notes to the financial statements.

12. Provisions shall cover liabilities the nature of which is clearly defined and which at the balance sheet date are either likely to be incurred or certain to be incurred, but uncertain as to their amount or as to the date on which they will arise.

The Member States may also authorise the creation of provisions intended to cover expenses the nature of which is clearly defined and which at the balance sheet date are either likely to be incurred or certain to be incurred, but uncertain as to their amount or as to the date on which they will arise.

At the balance sheet date, a provision shall represent the best estimate of the expenses likely to be incurred or, in the case of a liability, of the amount required to meet that liability. Provisions shall not be used to adjust the values of assets.

**▼B***Article 13***Presentation of the profit and loss account**

1. For the presentation of the profit and loss account, Member States shall prescribe one or both of the layouts set out in Annexes V and VI. If a Member State prescribes both layouts, it may permit undertakings to choose which of the prescribed layouts to adopt.

2. By way of derogation from Article 4(1), Member States may permit or require all undertakings, or any classes of undertaking, to present a statement of their performance instead of the presentation of profit and loss items in accordance with Annexes V and VI, provided that the information given is at least equivalent to that otherwise required by Annexes V and VI.

*Article 14***Simplifications for small and medium-sized undertakings**

1. Member States may permit small undertakings to draw up abridged balance sheets showing only those items in Annexes III and IV preceded by letters and roman numerals, disclosing separately:

- (a) the information required in brackets in D (II) under ‘Assets’ and C under ‘Capital, reserves and liabilities’ of Annex III, but in the aggregate for each; or
- (b) the information required in brackets in D (II) of Annex IV.

2. Member States may permit small and medium-sized undertakings to draw up abridged profit and loss accounts within the following limits:

- (a) in Annex V, items 1 to 5 may be combined under one item called ‘Gross profit or loss’;
- (b) in Annex VI, items 1, 2, 3 and 6 may be combined under one item called ‘Gross profit or loss’.

## CHAPTER 4

**NOTES TO THE FINANCIAL STATEMENTS***Article 15***General provisions concerning the notes to the financial statements**

Where notes to the balance sheet and profit and loss account are presented in accordance with this Chapter, the notes shall be presented in the order in which items are presented in the balance sheet and in the profit and loss account.

**▼B***Article 16***Content of the notes to the financial statements relating to all undertakings**

1. In the notes to the financial statements all undertakings shall, in addition to the information required under other provisions of this Directive, disclose information in respect of the following:

- (a) accounting policies adopted;
- (b) where fixed assets are measured at revalued amounts, a table showing:
  - (i) movements in the revaluation reserve in the financial year, with an explanation of the tax treatment of items therein, and
  - (ii) the carrying amount in the balance sheet that would have been recognised had the fixed assets not been revalued;
- (c) where financial instruments and/or assets other than financial instruments are measured at fair value:
  - (i) the significant assumptions underlying the valuation models and techniques where fair values have been determined in accordance with point (b) of Article 8(7),
  - (ii) for each category of financial instrument or asset other than financial instruments, the fair value, the changes in value included directly in the profit and loss account and changes included in fair value reserves,
  - (iii) for each class of derivative financial instrument, information about the extent and the nature of the instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flows, and
  - (iv) a table showing movements in fair value reserves during the financial year;
- (d) the total amount of any financial commitments, guarantees or contingencies that are not included in the balance sheet, and an indication of the nature and form of any valuable security which has been provided; any commitments concerning pensions and affiliated or associated undertakings shall be disclosed separately;
- (e) the amount of advances and credits granted to members of the administrative, managerial and supervisory bodies, with indications of the interest rates, main conditions and any amounts repaid or written off or waived, as well as commitments entered into on their behalf by way of guarantees of any kind, with an indication of the total for each category;
- (f) the amount and nature of individual items of income or expenditure which are of exceptional size or incidence;

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- (g) amounts owed by the undertaking becoming due and payable after more than five years, as well as the undertaking's entire debts covered by valuable security furnished by the undertaking, with an indication of the nature and form of the security; and
- (h) the average number of employees during the financial year.

2. Member States may require *mutatis mutandis* that small undertakings are to disclose information as required in points (a), (m), (p), (q) and (r) of Article 17(1).

For the purposes of applying the first subparagraph, the information required in point (p) of Article 17(1) shall be limited to the nature and business purpose of the arrangements referred to in that point.

For the purposes of applying the first subparagraph, the disclosure of the information required in point (r) of Article 17(1) shall be limited to transactions entered into with the parties listed in the fourth subparagraph of that point.

3. Member States shall not require disclosure for small undertakings beyond what is required or permitted by this Article.

*Article 17***Additional disclosures for medium-sized and large undertakings and public-interest entities**

1. In the notes to the financial statements, medium-sized and large undertakings and public-interest entities shall, in addition to the information required under Article 16 and any other provisions of this Directive, disclose information in respect of the following matters:

- (a) for the various fixed asset items:
  - (i) the purchase price or production cost or, where an alternative basis of measurement has been followed, the fair value or revalued amount at the beginning and end of the financial year,
  - (ii) additions, disposals and transfers during the financial year,
  - (iii) the accumulated value adjustments at the beginning and end of the financial year,
  - (iv) value adjustments charged during the financial year,
  - (v) movements in accumulated value adjustments in respect of additions, disposals and transfers during the financial year, and
  - (vi) where interest is capitalised in accordance with Article 12(8), the amount capitalised during the financial year.
- (b) if fixed or current assets are the subject of value adjustments for taxation purposes alone, the amount of the adjustments and the reasons for making them;



**▼B**

- (c) where financial instruments are measured at purchase price or production cost:
- (i) for each class of derivative financial instrument:
    - the fair value of the instruments, if such a value can be determined by any of the methods prescribed in point (a) of Article 8(7), and
    - information about the extent and nature of the instruments,
  - (ii) for financial fixed assets carried at an amount in excess of their fair value:
    - the book value and the fair value of either the individual assets or appropriate groupings of those individual assets, and
    - the reasons for not reducing the book value, including the nature of the evidence underlying the assumption that the book value will be recovered;
- (d) the amount of the emoluments granted in respect of, the financial year to the members of administrative, managerial and supervisory bodies by reason of their responsibilities and any commitments arising or entered into in respect of retirement pensions of former members of those bodies, with an indication of the total for each category of body.

Member States may waive the requirement to disclose such information where its disclosure would make it possible to identify the financial position of a specific member of such a body;

- (e) the average number of employees during the financial year, broken down by categories and, if they are not disclosed separately in the profit and loss account, the staff costs relating to the financial year, broken down between wages and salaries, social security costs and pension costs;
- (f) where a provision for deferred tax is recognised in the balance sheet, the deferred tax balances at the end of the financial year, and the movement in those balances during the financial year;
- (g) the name and registered office of each of the undertakings in which the undertaking, either itself or through a person acting in his own name but on the undertaking's behalf, holds a participating interest, showing the proportion of the capital held, the amount of capital and reserves, and the profit or loss for the latest financial year of the undertaking concerned for which financial statements have been adopted; the information concerning capital and reserves and the profit or loss may be omitted where the undertaking concerned does not publish its balance sheet and is not controlled by the undertaking.

Member States may allow the information required to be disclosed by the first subparagraph of this point to take the form of a statement filed in accordance with Article 3(1) and (3) of Directive 2009/101/EC; the filing of such a statement shall be disclosed in the notes to the financial statements. Member States may also allow that information to be omitted when its nature is

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such that it would be seriously prejudicial to any of the undertakings to which it relates. Member States may make such omissions subject to prior administrative or judicial authorisation. Any such omission shall be disclosed in the notes to the financial statements;

- (h) the number and the nominal value or, in the absence of a nominal value, the accounting par value of the shares subscribed during the financial year within the limits of the authorised capital, without prejudice as far as the amount of that capital is concerned to point (e) of Article 2 of Directive 2009/101/EC or to points (c) and (d) of Article 2 of Directive 2012/30/EU;
- (i) where there is more than one class of shares, the number and the nominal value or, in the absence of a nominal value, the accounting par value for each class;
- (j) the existence of any participation certificates, convertible debentures, warrants, options or similar securities or rights, with an indication of their number and the rights they confer;
- (k) the name, the head or registered office and the legal form of each of the undertakings of which the undertaking is a member having unlimited liability;
- (l) the name and registered office of the undertaking which draws up the consolidated financial statements of the largest body of undertakings of which the undertaking forms part as a subsidiary undertaking;
- (m) the name and registered office of the undertaking which draws up the consolidated financial statements of the smallest body of undertakings of which the undertaking forms part as a subsidiary undertaking and which is also included in the body of undertakings referred to in point (l);
- (n) the place where copies of the consolidated financial statements referred to in points (l) and (m) may be obtained, provided that they are available;
- (o) the proposed appropriation of profit or treatment of loss, or where applicable, the appropriation of the profit or treatment of the loss;
- (p) the nature and business purpose of the undertaking's arrangements that are not included in the balance sheet and the financial impact on the undertaking of those arrangements, provided that the risks or benefits arising from such arrangements are material and in so far as the disclosure of such risks or benefits is necessary for the purposes of assessing the financial position of the undertaking;
- (q) the nature and the financial effect of material events arising after the balance sheet date which are not reflected in the profit and loss account or balance sheet; and
- (r) transactions which have been entered into with related parties by the undertaking, including the amount of such transactions, the nature of the related party relationship and other information about the transactions necessary for an understanding of the financial position of the undertaking. Information about individual transactions may be aggregated according to their nature except where separate information is necessary for an understanding of the effects of related party transactions on the financial position of the undertaking.

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Member States may permit or require that only transactions with related parties that have not been concluded under normal market conditions be disclosed.

Member States may permit that transactions entered into between one or more members of a group be not disclosed, provided that subsidiaries which are party to the transaction are wholly owned by such a member.

Member States may permit that a medium-sized undertaking limit the disclosure of transactions with related parties to transactions entered into with:

- (i) owners holding a participating interest in the undertaking;
- (ii) undertakings in which the undertaking itself has a participating interest; and
- (iii) members of the administrative, management or supervisory bodies of the undertaking.

2. Member States shall not be required to apply point (g) of paragraph 1 to an undertaking which is a parent undertaking governed by their national laws in the following cases:

- (a) where the undertaking in which that parent undertaking holds a participating interest for the purposes of point (g) of paragraph 1 is included in consolidated financial statements drawn up by that parent undertaking, or in the consolidated financial statements of a larger body of undertakings as referred to in Article 23(4);
- (b) where that participating interest has been dealt with by that parent undertaking in its annual financial statements in accordance with Article 9(7), or in the consolidated financial statements drawn up by that parent undertaking in accordance with Article 27(1) to (8).

*Article 18*

**Additional disclosures for large undertakings and public-interest entities**

1. In the notes to the financial statements, large undertakings and public-interest entities shall, in addition to the information required under Articles 16 and 17 and any other provisions of this Directive, disclose information in respect of the following matters:

- (a) the net turnover broken down by categories of activity and into geographical markets, in so far as those categories and markets differ substantially from one another, taking account of the manner in which the sale of products and the provision of services are organised; and
- (b) the total fees for the financial year charged by each statutory auditor or audit firm for the statutory audit of the annual financial statements, and the total fees charged by each statutory auditor or audit firm for other assurance services, for tax advisory services and for other non-audit services.

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2. Member States may allow the information referred to in point (a) of paragraph 1 to be omitted where the disclosure of that information would be seriously prejudicial to the undertaking. Member States may make such omissions subject to prior administrative or judicial authorisation. Any such omission shall be disclosed in the notes to the financial statements.

3. Member States may provide that point (b) of paragraph 1 is not to apply to the annual financial statements of an undertaking where that undertaking is included within the consolidated financial statements required to be drawn up under Article 22, provided that such information is given in the notes to the consolidated financial statements.

## CHAPTER 5

## MANAGEMENT REPORT

*Article 19***Contents of the management report**

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.

To the extent necessary for an understanding of the undertaking's development, performance or position, the analysis shall include both financial and, where appropriate, non-financial key performance indicators relevant to the particular business, including information relating to environmental and employee matters. In providing the analysis, the management report shall, where appropriate, include references to, and additional explanations of, amounts reported in the annual financial statements.

2. The management report shall also give an indication of:

- (a) the undertaking's likely future development;
- (b) activities in the field of research and development;
- (c) the information concerning acquisitions of own shares prescribed by Article 24(2) of Directive 2012/30/EU;
- (d) the existence of branches of the undertaking; and
- (e) in relation to the undertaking's use of financial instruments and where material for the assessment of its assets, liabilities, financial position and profit or loss:

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- (i) the undertaking's financial risk management objectives and policies, including its policy for hedging each major type of forecasted transaction for which hedge accounting is used; and
- (ii) the undertaking's exposure to price risk, credit risk, liquidity risk and cash flow risk.

3. Member States may exempt small undertakings from the obligation to prepare management reports, provided that they require the information referred to in Article 24(2) of Directive 2012/30/EU concerning the acquisition by an undertaking of its own shares to be given in the notes to the financial statements.

4. Member States may exempt small and medium-sized undertakings from the obligation set out in the third subparagraph of paragraph 1 in so far as it relates to non-financial information.

**▼M1***Article 19a***Non-financial statement**

1. Large 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, relating to, as a minimum, 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;
- (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.

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

**▼ M1**

The non-financial statement referred to in the first subparagraph 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 in exceptional cases where, in the 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 that opinion, the disclosure of such information would be seriously prejudicial to the commercial position of the undertaking, provided that such omission does not prevent a fair and balanced understanding of the undertaking's development, performance, position and impact of its activity.

In 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.

2. Undertakings fulfilling the obligation set out in paragraph 1 shall be deemed to have fulfilled the obligation relating to the analysis of non-financial information set out in the third subparagraph of Article 19(1).

3. An undertaking which is a subsidiary undertaking shall be exempted from the 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.

4. Where an undertaking prepares a separate report corresponding to the same financial year whether or not relying on national, Union-based or international frameworks and covering the information required for the non-financial statement as provided for in paragraph 1, Member States may exempt that undertaking from the obligation to prepare the non-financial statement laid down in paragraph 1, provided that such separate 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, not exceeding six months after the balance sheet date, on the undertaking's website, and is referred to in the management report.

Paragraph 2 shall apply *mutatis mutandis* to undertakings preparing a separate report as referred to in the first subparagraph of this paragraph.

5. Member States shall ensure that the statutory auditor or audit firm checks whether the non-financial statement referred to in paragraph 1 or the separate report referred to in paragraph 4 has been provided.

**▼ M1**

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

**▼ B***Article 20***Corporate governance statement**

1. Undertakings referred to in point (1)(a) of Article 2 shall include a corporate governance statement in their management report. That statement shall be included as a specific section of the management report and shall contain at least the following information:

- (a) a reference to the following, where applicable:
- (i) the corporate governance code to which the undertaking is subject,
  - (ii) the corporate governance code which the undertaking may have voluntarily decided to apply,
  - (iii) all relevant information about the corporate governance practices applied over and above the requirements of national law.

Where reference is made to a corporate governance code referred to in points (i) or (ii), the undertaking shall also indicate where the relevant texts are publicly available. Where reference is made to the information referred to in point (iii), the undertaking shall make details of its corporate governance practices publicly available;

- (b) where an undertaking, in accordance with national law, departs from a corporate governance code referred to in points (a)(i) or (ii), an explanation by the undertaking as to which parts of the corporate governance code it departs from and the reasons for doing so; where the undertaking has decided not to refer to any provisions of a corporate governance code referred to in points (a)(i) or (ii), it shall explain its reasons for not doing so;
- (c) a description of the main features of the undertaking's internal control and risk management systems in relation to the financial reporting process;
- (d) the information required by points (c), (d), (f), (h) and (i) of Article 10(1) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids <sup>(1)</sup>, where the undertaking is subject to that Directive;
- (e) unless the information is already fully provided for in national law, a description of the operation of the shareholder meeting and its key powers and a description of shareholders' rights and how they can be exercised;
- (f) the composition and operation of the administrative, management and supervisory bodies and their committees; and

<sup>(1)</sup> OJ L 142, 30.4.2004, p. 12.

**▼ M1**

- (g) 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.

**▼ B**

2. Member States may permit the information required by paragraph 1 of this Article to be set out in:

- (a) a separate report published together with the management report in the manner set out in Article 30; or
- (b) a document publicly available on the undertaking's website, to which reference is made in the management report.

That separate report or that document referred to in points (a) and (b), respectively, may cross-refer to the management report, where the information required by point (d) of paragraph 1 of this Article is made available in that management report.

**▼ M1**

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.

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.

5. Notwithstanding Article 40, point (g) of paragraph 1 shall not apply to small and medium-sized undertakings.

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## CHAPTER 6

**CONSOLIDATED FINANCIAL STATEMENTS AND REPORTS***Article 21***Scope of the consolidated financial statements and reports**

For the purposes of this Chapter, a parent undertaking and all of its subsidiary undertakings shall be undertakings to be consolidated where the parent undertaking is an undertaking to which the coordination measures prescribed by this Directive apply by virtue of Article 1(1).



**▼B***Article 22***The requirement to prepare consolidated financial statements**

1. A Member State shall require any undertaking governed by its national law to draw up consolidated financial statements and a consolidated management report if that undertaking (a parent undertaking):

- (a) has a majority of the shareholders' or members' voting rights in another undertaking (a subsidiary undertaking);
- (b) has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another undertaking (a subsidiary undertaking) and is at the same time a shareholder in or member of that undertaking;
- (c) has the right to exercise a dominant influence over an undertaking (a subsidiary undertaking) of which it is a shareholder or member, pursuant to a contract entered into with that undertaking or to a provision in its memorandum or articles of association, where the law governing that subsidiary undertaking permits its being subject to such contracts or provisions.

A Member State need not prescribe that a parent undertaking must be a shareholder in or member of its subsidiary undertaking. Those Member States the laws of which do not provide for such contracts or clauses shall not be required to apply this provision; or

- (d) is a shareholder in or member of an undertaking, and:
  - (i) a majority of the members of the administrative, management or supervisory bodies of that undertaking (a subsidiary undertaking) who have held office during the financial year, during the preceding financial year and up to the time when the consolidated financial statements are drawn up, have been appointed solely as a result of the exercise of its voting rights; or
  - (ii) controls alone, pursuant to an agreement with other shareholders in or members of that undertaking (a subsidiary undertaking), a majority of shareholders' or members' voting rights in that undertaking. The Member States may introduce more detailed provisions concerning the form and contents of such agreements.

Member States shall prescribe at least the arrangements referred to in point (ii). They may subject the application of point (i) to the requirement that the voting rights represent at least 20 % of the total.

However, point (i) shall not apply where a third party has the rights referred to in points (a), (b) or (c) with regard to that undertaking.

2. In addition to the cases mentioned in paragraph 1, Member States may require any undertaking governed by their national law to draw up consolidated financial statements and a consolidated management report if:

**▼B**

- (a) that undertaking (a parent undertaking) has the power to exercise, or actually exercises, dominant influence or control over another undertaking (the subsidiary undertaking); or
- (b) that undertaking (a parent undertaking) and another undertaking (the subsidiary undertaking) are managed on a unified basis by the parent undertaking.

3. For the purposes of points (a), (b) and (d) of paragraph 1, the voting rights and the rights of appointment and removal of any other subsidiary undertaking as well as those of any person acting in his own name but on behalf of the parent undertaking or of another subsidiary undertaking shall be added to those of the parent undertaking.

4. For the purposes of points (a), (b) and (d) of paragraph 1, the rights mentioned in paragraph 3 shall be reduced by the rights:

- (a) attaching to shares held on behalf of a person who is neither the parent undertaking nor a subsidiary of that parent undertaking; or
- (b) attaching to shares:
  - (i) held by way of security, provided that the rights in question are exercised in accordance with the instructions received, or
  - (ii) held in connection with the granting of loans as part of normal business activities, provided that the voting rights are exercised in the interests of the person providing the security.

5. For the purposes of points (a) and (d) of paragraph 1, the total of the shareholders' or members' voting rights in the subsidiary undertaking shall be reduced by the voting rights attaching to the shares held by that undertaking itself, by a subsidiary undertaking of that undertaking or by a person acting in his own name but on behalf of those undertakings.

6. Without prejudice to Article 23(9), a parent undertaking and all of its subsidiary undertakings shall be undertakings to be consolidated regardless of where the registered offices of such subsidiary undertakings are situated.

7. Without prejudice to this Article and Articles 21 and 23, a Member State may require any undertaking governed by its national law to draw up consolidated financial statements and a consolidated management report if:

- (a) that undertaking and one or more other undertakings to which it is not related as described in paragraphs 1 or 2, are managed on a unified basis in accordance with:
  - (i) a contract concluded with that undertaking, or
  - (ii) the memorandum or articles of association of those other undertakings; or

**▼B**

- (b) the administrative, management or supervisory bodies of that undertaking and of one or more other undertakings to which it is not related, as described in paragraphs 1 or 2, consist in the majority of the same persons in office during the financial year and until the consolidated financial statements are drawn up.

8. Where the Member State option referred to in paragraph 7 is exercised, the undertakings described in that paragraph and all of their subsidiary undertakings shall be consolidated, where one or more of those undertakings is established as one of the types of undertaking listed in Annex I or Annex II.

9. Paragraph 6 of this Article, Article 23(1), (2), (9) and (10) and Articles 24 to 29 shall apply to the consolidated financial statements and the consolidated management report referred to in paragraph 7 of this Article, subject to the following modifications:

- (a) references to parent undertakings shall be understood to refer to all of the undertakings specified in paragraph 7 of this Article; and
- (b) without prejudice to Article 24(3), the items ‘capital’, ‘share premium account’, ‘revaluation reserve’, ‘reserves’, ‘profit or loss brought forward’, and ‘profit or loss for the financial year’ to be included in the consolidated financial statements shall be the aggregate amounts attributable to each of the undertakings specified in paragraph 7 of this Article.

### *Article 23*

#### **Exemptions from consolidation**

1. Small groups shall be exempted from the obligation to draw up consolidated financial statements and a consolidated management report, except where any affiliated undertaking is a public-interest entity.

2. Member States may exempt medium-sized groups from the obligation to draw up consolidated financial statements and a consolidated management report, except where any affiliated undertaking is a public-interest entity.

3. Notwithstanding paragraphs 1 and 2 of this Article, a Member State shall, in the following cases, exempt from the obligation to draw up consolidated financial statements and a consolidated management report any parent undertaking (the exempted undertaking) governed by its national law which is also a subsidiary undertaking, including a public-interest entity unless that public-interest entity falls under point (1)(a) of Article 2, the own parent undertaking of which is governed by the law of a Member State and:

- (a) the parent undertaking of the exempted undertaking holds all of the shares in the exempted undertaking. The shares in the exempted undertaking held by members of its administrative, management or supervisory bodies pursuant to a legal obligation or an obligation in its memorandum or articles of association shall be ignored for this purpose; or

**▼B**

- (b) the parent undertaking of the exempted undertaking holds 90 % or more of the shares in the exempted undertaking and the remaining shareholders in or members of the exempted undertaking have approved the exemption.

4. The exemptions referred to in paragraph 3 shall fulfil all of the following conditions:

- (a) the exempted undertaking and, without prejudice to paragraph 9, all of its subsidiary undertakings are consolidated in the financial statements of a larger body of undertakings, the parent undertaking of which is governed by the law of a Member State;

- (b) the consolidated financial statements referred to in point (a) and the consolidated management report of the larger body of undertakings are drawn up by the parent undertaking of that body, in accordance with the law of the Member State by which that parent undertaking is governed, in accordance with this Directive or international accounting standards adopted in accordance with Regulation (EC) No 1606/2002;

- (c) in relation to the exempted undertaking the following documents are published in the manner prescribed by the law of the Member State by which that exempted undertaking is governed, in accordance with Article 30:

- (i) the consolidated financial statements referred to in point (a) and the consolidated management report referred to in point (b),

- (ii) the audit report, and

- (iii) where appropriate, the appendix referred to in paragraph 6.

That Member State may require that the documents referred to in points (i), (ii) and (iii) be published in its official language and that the translation be certified;

- (d) the notes to the annual financial statements of the exempted undertaking disclose the following:

- (i) the name and registered office of the parent undertaking that draws up the consolidated financial statements referred to in point (a), and

- (ii) the exemption from the obligation to draw up consolidated financial statements and a consolidated management report.

5. In cases not covered by paragraph 3, a Member State may, without prejudice to paragraphs 1, 2 and 3 of this Article, exempt from the obligation to draw up consolidated financial statements and a consolidated management report any parent undertaking (the exempted undertaking) governed by its national law which is also a subsidiary undertaking, including a public-interest entity unless that public-interest entity falls under point (1)(a) of Article 2, the parent undertaking of which is governed by the law of a Member State, provided that all the conditions set out in paragraph 4 are fulfilled and provided further:

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- (a) that the shareholders in or members of the exempted undertaking who own a minimum proportion of the subscribed capital of that undertaking have not requested the preparation of consolidated financial statements at least six months before the end of the financial year;
- (b) that the minimum proportion referred to in point (a) does not exceed the following limits:
  - (i) 10 % of the subscribed capital in the case of public limited liability companies and limited partnerships with share capital; and
  - (ii) 20 % of the subscribed capital in the case of undertakings of other types;
- (c) that the Member State does not make the exemption subject to:
  - (i) the condition that the parent undertaking, which prepared the consolidated financial statements referred to in point (a) of paragraph 4, is governed by the national law of the Member State granting the exemption, or
  - (ii) conditions relating to the preparation and auditing of those financial statements.

6. A Member State may make the exemptions provided for in paragraphs 3 and 5 subject to the disclosure of additional information, in accordance with this Directive, in the consolidated financial statements referred to in point (a) of paragraph 4, or in an appendix thereto, if that information is required of undertakings governed by the national law of that Member State which are obliged to prepare consolidated financial statements and are in the same circumstances.

7. Paragraphs 3 to 6 shall apply without prejudice to Member State legislation on the drawing-up of consolidated financial statements or consolidated management reports in so far as those documents are required:

- (a) for the information of employees or their representatives; or
- (b) by an administrative or judicial authority for its own purposes.

8. Without prejudice to paragraphs 1, 2, 3 and 5 of this Article, a Member State which provides for exemptions under paragraphs 3 and 5 of this Article may also exempt from the obligation to draw up consolidated financial statements and a consolidated management report any parent undertaking (the exempted undertaking) governed by its national law which is also a subsidiary undertaking, including a public-interest entity unless that public-interest entity falls under point (1)(a) of Article 2, the parent undertaking of which is not governed by the law of a Member State, if all of the following conditions are fulfilled:

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- (a) the exempted undertaking and, without prejudice to paragraph 9, all of its subsidiary undertakings are consolidated in the financial statements of a larger body of undertakings;
- (b) the consolidated financial statements referred to in point (a) and, where appropriate, the consolidated management report are drawn up:
  - (i) in accordance with this Directive,
  - (ii) in accordance with international accounting standards adopted pursuant to Regulation (EC) No 1606/2002,
  - (iii) in a manner equivalent to consolidated financial statements and consolidated management reports drawn up in accordance with this Directive, or
  - (iv) in a manner equivalent to international accounting standards as determined in accordance with Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council <sup>(1)</sup>;
- (c) the consolidated financial statements referred to in point (a) have been audited by one or more statutory auditor(s) or audit firm(s) authorised to audit financial statements under the national law governing the undertaking which drew up those statements.

Points (c) and (d) of paragraph 4 and paragraphs 5, 6 and 7 shall apply.

9. An undertaking, including a public-interest entity, need not be included in consolidated financial statements where at least one of the following conditions is fulfilled:

- (a) in extremely rare cases where the information necessary for the preparation of consolidated financial statements in accordance with this Directive cannot be obtained without disproportionate expense or undue delay;
- (b) the shares of that undertaking are held exclusively with a view to their subsequent resale; or
- (c) severe long-term restrictions substantially hinder:
  - (i) the parent undertaking in the exercise of its rights over the assets or management of that undertaking; or
  - (ii) the exercise of unified management of that undertaking where it is in one of the relationships defined in Article 22(7).

<sup>(1)</sup> OJ L 340, 22.12.2007, p. 66.

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10. Without prejudice to point (b) of Article 6(1), Article 21 and paragraphs 1 and 2 of this Article, any parent undertaking, including a public-interest entity, shall be exempted from the obligation imposed in Article 22 if:

- (a) it only has subsidiary undertakings which are immaterial, both individually and collectively; or
- (b) all its subsidiary undertakings can be excluded from consolidation by virtue of paragraph 9 of this Article.

*Article 24***The preparation of consolidated financial statements**

1. Chapters 2 and 3 shall apply in respect of consolidated financial statements, taking into account the essential adjustments resulting from the particular characteristics of consolidated financial statements as compared to annual financial statements.

2. The assets and liabilities of undertakings included in a consolidation shall be incorporated in full in the consolidated balance sheet.

3. The book values of shares in the capital of undertakings included in a consolidation shall be set off against the proportion which they represent of the capital and reserves of those undertakings in accordance with the following:

- (a) except in the case of shares in the capital of the parent undertaking held either by that undertaking itself or by another undertaking included in the consolidation, which shall be treated as own shares in accordance with Chapter 3, that set-off shall be effected on the basis of book values as they stand on the date on which those undertakings are included in a consolidation for the first time. Differences arising from that set-off shall, as far as possible, be entered directly against those items in the consolidated balance sheet which have values above or below their book values;
- (b) a Member State may permit or require set-offs on the basis of the values of identifiable assets and liabilities as at the date of acquisition of the shares or, in the event of acquisition in two or more stages, as at the date on which the undertaking became a subsidiary;
- (c) any difference remaining after the application of point (a) or resulting from the application of point (b) shall be shown as goodwill in the consolidated balance sheet;
- (d) the methods used to calculate the value of goodwill and any significant changes in value in relation to the preceding financial year shall be explained in the notes to the financial statements;
- (e) where the offsetting of positive and negative goodwill is authorised by a Member State, the notes to the financial statements shall include an analysis of the goodwill;

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(f) negative goodwill may be transferred to the consolidated profit and loss account where such a treatment is in accordance with the principles set out in Chapter 2.

4. Where shares in subsidiary undertakings included in the consolidation are held by persons other than those undertakings, the amount attributable to those shares shall be shown separately in the consolidated balance sheet as non-controlling interests.

5. The income and expenditure of undertakings included in a consolidation shall be incorporated in full in the consolidated profit and loss account.

6. The amount of any profit or loss attributable to the shares referred to in paragraph 4 shall be shown separately in the consolidated profit and loss account as the profit or loss attributable to non-controlling interests.

7. Consolidated financial statements shall show the assets, liabilities, financial positions, profits or losses of the undertakings included in a consolidation as if they were a single undertaking. In particular, the following shall be eliminated from the consolidated financial statements:

- (a) debts and claims between the undertakings;
- (b) income and expenditure relating to transactions between the undertakings; and
- (c) profits and losses resulting from transactions between the undertakings, where they are included in the book values of assets.

8. Consolidated financial statements shall be drawn up as at the same date as the annual financial statements of the parent undertaking.

A Member State may, however, permit or require consolidated financial statements to be drawn up as at another date in order to take account of the balance sheet dates of the largest number or the most important of the undertakings included in the consolidation, provided that:

- (a) that fact shall be disclosed in the notes to the consolidated financial statements and reasons given;
- (b) account shall be taken, or disclosure made, of important events concerning the assets and liabilities, the financial position and the profit or loss of an undertaking included in a consolidation which have occurred between that undertaking's balance sheet date and the consolidated balance sheet date; and
- (c) where an undertaking's balance sheet date precedes or follows the consolidated balance sheet date by more than three months, that undertaking shall be consolidated on the basis of interim financial statements drawn up as at the consolidated balance sheet date.



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9. If the composition of the undertakings included in a consolidation has changed significantly in the course of a financial year, the consolidated financial statements shall include information which makes the comparison of successive sets of consolidated financial statements meaningful. This obligation may be fulfilled by the preparation of an adjusted comparative balance sheet and an adjusted comparative profit and loss account.

10. Assets and liabilities included in consolidated financial statements shall be measured on a uniform basis and in accordance with Chapter 2.

11. An undertaking which draws up consolidated financial statements shall apply the same measurement bases as are applied in its annual financial statements. However, Member States may permit or require that other measurement bases in accordance with Chapter 2 be used in consolidated financial statements. Where use is made of this derogation, that fact shall be disclosed in the notes to the consolidated financial statements and reasons given.

12. Where assets and liabilities included in consolidated financial statements have been measured by undertakings included in the consolidation using bases differing from those used for the purposes of the consolidation, those assets and liabilities shall be re-measured in accordance with the bases used for the consolidation. Departures from this requirement shall be permitted in exceptional cases. Any such departures shall be disclosed in the notes to the consolidated financial statements and reasons given.

13. Deferred tax balances shall be recognised on consolidation provided that it is probable that a charge to tax will arise within the foreseeable future for one of the undertakings included in the consolidation.

14. Where assets included in consolidated financial statements have been the subject of value adjustments solely for tax purposes, they shall be incorporated in the consolidated financial statements only after those adjustments have been eliminated.

*Article 25***Business combinations within a group**

1. A Member State may permit or require the book values of shares held in the capital of an undertaking included in the consolidation to be set off against the corresponding percentage of capital only, provided that the undertakings in the business combination are ultimately controlled by the same party both before and after the business combination, and that control is not transitory.

2. Any difference arising under paragraph 1 shall be added to or deducted from consolidated reserves, as appropriate.

3. The application of the method described in paragraph 1, the resulting movement in reserves and the names and registered offices of the undertakings concerned shall be disclosed in the notes to the consolidated financial statements.

*Article 26***Proportional consolidation**

1. Where an undertaking included in a consolidation manages another undertaking jointly with one or more undertakings not included in that consolidation, Member States may permit or require the inclusion of that other undertaking in the consolidated financial statements in proportion to the rights in its capital held by the undertaking included in the consolidation.
2. Article 23(9) and (10) and Article 24 shall apply *mutatis mutandis* to the proportional consolidation referred to in paragraph 1 of this Article.

*Article 27***Equity accounting of associated undertakings**

1. Where an undertaking included in a consolidation has an associated undertaking, that associated undertaking shall be shown in the consolidated balance sheet as a separate item with an appropriate heading.
2. When this Article is applied for the first time to an associated undertaking, that associated undertaking shall be shown in the consolidated balance sheet either:
  - (a) at its book value calculated in accordance with the measurement rules laid down in Chapters 2 and 3. The difference between that value and the amount corresponding to the proportion of capital and reserves represented by the participating interest in that associated undertaking shall be disclosed separately in the consolidated balance sheet or in the notes to the consolidated financial statements. That difference shall be calculated as at the date on which that method is used for the first time; or
  - (b) at an amount corresponding to the proportion of the associated undertaking's capital and reserves represented by the participating interest in that associated undertaking. The difference between that amount and the book value calculated in accordance with the measurement rules laid down in Chapters 2 and 3 shall be disclosed separately in the consolidated balance sheet or in the notes to the consolidated financial statements. That difference shall be calculated as at the date on which that method is used for the first time.

A Member State may prescribe the application of one or other of the options provided for in points (a) and (b). In such cases, the consolidated balance sheet or the notes to the consolidated financial statements shall indicate which of those options has been used.

In addition, for the purposes of points (a) and (b), a Member State may permit or require the calculation of the difference as at the date of acquisition of the shares or, where they were acquired in two or more stages, as at the date on which the undertaking became an associated undertaking.

3. Where an associated undertaking's assets or liabilities have been valued by methods other than those used for consolidation in accordance with Article 24(11), they may, for the purpose of calculating the difference referred to in points (a) and (b) of paragraph 2, be revalued by the methods used for consolidation. Where such revaluation

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has not been carried out, that fact shall be disclosed in the notes to the consolidated financial statements. A Member State may require such revaluation.

4. The book value referred to in point (a) of paragraph 2, or the amount corresponding to the proportion of the associated undertaking's capital and reserves referred to in point (b) of paragraph 2, shall be increased or reduced by the amount of any variation which has taken place during the financial year in the proportion of the associated undertaking's capital and reserves represented by that participating interest; it shall be reduced by the amount of the dividends relating to that participating interest.

5. In so far as the positive difference referred to in points (a) and (b) of paragraph 2 cannot be related to any category of assets or liabilities, it shall be treated in accordance with the rules applicable to the item 'goodwill' as set out in point (d) of Article 12(6), the first subparagraph of Article 12(11), point (c) of Article 24(3), and Annex III and Annex IV.

6. The proportion of the profit or loss of the associated undertakings attributable to the participating interests in such associated undertakings shall be shown in the consolidated profit and loss account as a separate item under an appropriate heading.

7. The eliminations referred to in Article 24(7) shall be effected in so far as the facts are known or can be ascertained.

8. Where an associated undertaking draws up consolidated financial statements, paragraphs 1 to 7 shall apply to the capital and reserves shown in such consolidated financial statements.

9. This Article need not be applied where the participating interest in the capital of the associated undertaking is not material.

*Article 28***The notes to the consolidated financial statements**

1. The notes to the consolidated financial statements shall set out the information required by Articles 16, 17 and 18, in addition to any other information required under other provisions of this Directive, in a way which facilitates the assessment of the financial position of the undertakings included in the consolidation taken as a whole, taking account of the essential adjustments resulting from the particular characteristics of consolidated financial statements as compared to annual financial statements, including the following:

- (a) in disclosing transactions between related parties, transactions between related parties included in a consolidation that are eliminated on consolidation shall not be included;
- (b) in disclosing the average number of employees employed during the financial year, there shall be separate disclosure of the average number of employees employed by undertakings that are proportionately consolidated; and

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- (c) in disclosing the amounts of emoluments and advances and credits granted to members of the administrative, managerial and supervisory bodies, only amounts granted by the parent undertaking and its subsidiary undertakings to members of the administrative, managerial and supervisory bodies of the parent undertaking shall be disclosed.

2. The notes to the consolidated financial statements shall, in addition to the information required under paragraph 1, set out the following information:

- (a) in relation to undertakings included in the consolidation:
  - (i) the names and registered offices of those undertakings,
  - (ii) the proportion of the capital held in those undertakings, other than the parent undertaking, by the undertakings included in the consolidation or by persons acting in their own names but on behalf of those undertakings, and
  - (iii) information as to which of the conditions referred to in Article 22(1), (2) and (7) following the application of Article 22(3), (4) and (5) has formed the basis on which the consolidation has been carried out. That disclosure may, however, be omitted where consolidation has been carried out on the basis of point (a) of Article 22(1) and where the proportion of the capital and the proportion of the voting rights held are the same.

The same information shall be given in respect of undertakings excluded from a consolidation on the grounds of immateriality pursuant to point (j) of Article 6(1) and Article 23(10), and an explanation shall be given for the exclusion of the undertakings referred to in Article 23(9);

- (b) the names and registered offices of associated undertakings included in the consolidation as described in Article 27(1) and the proportion of their capital held by undertakings included in the consolidation or by persons acting in their own names but on behalf of those undertakings;
- (c) the names and registered offices of undertakings proportionally consolidated under Article 26, the factors on which joint management of those undertakings is based, and the proportion of their capital held by the undertakings included in the consolidation or by persons acting in their own names but on behalf of those undertakings; and
- (d) in relation to each of the undertakings, other than those referred to in points (a), (b) and (c), in which undertakings included in the consolidation, either themselves or through persons acting in their own names but on behalf of those undertakings, hold a participating interest:
  - (i) the name and registered office of those undertakings,
  - (ii) the proportion of the capital held,

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- (iii) the amount of the capital and reserves, and the profit or loss for the latest financial year of the undertaking concerned for which financial statements have been adopted.

The information concerning capital and reserves and the profit or loss may also be omitted where the undertaking concerned does not publish its balance sheet.

3. Member States may allow the information required by points (a) to (d) of paragraph 2 to take the form of a statement filed in accordance with Article 3(3) of Directive 2009/101/EC. The filing of such a statement shall be disclosed in the notes to the consolidated financial statements. Member States may also allow that information to be omitted when its nature is such that its disclosure would be seriously prejudicial to any of the undertakings to which it relates. Member States may make such omissions subject to prior administrative or judicial authorisation. Any such omission shall be disclosed in the notes to the consolidated financial statements.

*Article 29***The consolidated management report**

1. The consolidated management report shall, as a minimum, in addition to any other information required under other provisions of this Directive, set out the information required by Articles 19 and 20, taking account of the essential adjustments resulting from the particular characteristics of a consolidated management report as compared to a management report in a way which facilitates the assessment of the position of the undertakings included in the consolidation taken as a whole.

2. The following adjustments to the information required by Articles 19 and 20 shall apply:

- (a) in reporting details of own shares acquired, the consolidated management report shall indicate the number and nominal value or, in the absence of a nominal value, the accounting par value of all of the parent undertaking's shares held by that parent undertaking, by subsidiary undertakings of that parent undertaking or by a person acting in his own name but on behalf of any of those undertakings. A Member State may permit or require the disclosure of those particulars in the notes to the consolidated financial statements;
- (b) in reporting on internal control and risk management systems, the corporate governance statement shall refer to the main features of the internal controls and risk management systems for the undertakings included in the consolidation, taken as a whole.

3. Where a consolidated management report is required in addition to the management report, the two reports may be presented as a single report.

▼ M1*Article 29a***Consolidated non-financial statement**

1. Public-interest entities which are parent undertakings of a large group exceeding on its balance sheet dates, on a consolidated basis, the criterion of the average number of 500 employees during the financial year shall include in the consolidated management report a consolidated non-financial statement containing information to the extent necessary for an understanding of the group's development, performance, position and impact of its activity, relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including:

- (a) a brief description of the group's business model;
- (b) a description of the policies pursued by the group 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 group'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 group manages those risks;
- (e) non-financial key performance indicators relevant to the particular business.

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

The consolidated non-financial statement referred to in the first subparagraph shall also, where appropriate, include references to, and additional explanations of, amounts reported in the consolidated financial statements.

Member States may allow information relating to impending developments or matters in the course of negotiation to be omitted in exceptional cases where, in the 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 that opinion, the disclosure of such information would be seriously prejudicial to the commercial position of the group, provided that such omission does not prevent a fair and balanced understanding of the group's development, performance, position and impact of its activity.

In requiring the disclosure of the information referred to in the first subparagraph, Member States shall provide that the parent undertaking may rely on national, Union-based or international frameworks, and if it does so, the parent undertaking shall specify which frameworks it has relied upon.

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2. A parent undertaking fulfilling the obligation set out in paragraph 1 shall be deemed to have fulfilled the obligation relating to the analysis of non-financial information set out in the third subparagraph of Article 19(1) and in Article 29.

3. A parent undertaking which is also a subsidiary undertaking shall be exempted from the obligation set out in paragraph 1 if that exempted parent undertaking and its subsidiaries are included in the consolidated management report or the separate report of another undertaking, drawn up in accordance with Article 29 and this Article.

4. Where a parent undertaking prepares a separate report corresponding to the same financial year, referring to the whole group, whether or not relying on national, Union-based or international frameworks and covering the information required for the consolidated non-financial statement as provided for in paragraph 1, Member States may exempt that parent undertaking from the obligation to prepare the consolidated non-financial statement laid down in paragraph 1, provided that such separate report:

- (a) is published together with the consolidated management report in accordance with Article 30; or
- (b) is made publicly available within a reasonable period of time, not exceeding six months after the balance sheet date, on the parent undertaking's website, and is referred to in the consolidated management report.

Paragraph 2 shall apply *mutatis mutandis* to parent undertakings preparing a separate report as referred to in the first subparagraph of this paragraph.

5. Member States shall ensure that the statutory auditor or audit firm checks whether the consolidated non-financial statement referred to in paragraph 1 or the separate report referred to in paragraph 4 has been provided.

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

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CHAPTER 7  
PUBLICATION

*Article 30*

**General publication requirement**

1. Member States shall ensure that undertakings publish within a reasonable period of time, which shall not exceed 12 months after the balance sheet date, the duly approved annual financial statements and the management report, together with the opinion submitted by the statutory auditor or audit firm referred to in Article 34 of this Directive, as laid down by the laws of each Member State in accordance with Chapter 2 of Directive 2009/101/EC.

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Member States may, however, exempt undertakings from the obligation to publish the management report where a copy of all or part of any such report can be easily obtained upon request at a price not exceeding its administrative cost.

2. Member States may exempt an undertaking referred to in Annex II to which the coordination measures prescribed by this Directive apply by virtue of point (b) of Article 1(1) from publishing its financial statements in accordance with Article 3 of Directive 2009/101/EC, provided that those financial statements are available to the public at its head office, in the following cases:

- (a) all the members of the undertaking concerned that have unlimited liability are undertakings referred to in Annex I governed by the laws of Member States other than the Member State whose law governs that undertaking, and none of those undertakings publishes the financial statements of the undertaking concerned with its own financial statements;
- (b) all the members of the undertaking concerned that have unlimited liability are undertakings which are not governed by the laws of a Member State but which have a legal form comparable to those referred to in Directive 2009/101/EC.

Copies of the financial statements shall be obtainable upon request. The price of such a copy may not exceed its administrative cost.

3. Paragraph 1 shall apply with respect to consolidated financial statements and consolidated management reports.

Where the undertaking drawing up the consolidated financial statements is established as one of the types of undertaking listed in Annex II and is not required by the national law of its Member State to publish the documents referred to in paragraph 1 in the same manner as prescribed in Article 3 of Directive 2009/101/EC, it shall, as a minimum, make those documents available to the public at its head office and a copy shall be provided upon request, the price of which shall not exceed its administrative cost.

### *Article 31*

#### **Simplifications for small and medium-sized undertakings**

1. Member States may exempt small undertakings from the obligation to publish their profit and loss accounts and management reports.

2. Member States may permit medium-sized undertakings to publish:

- (a) abridged balance sheets showing only those items preceded by letters and roman numerals in Annexes III and IV and disclosing separately, either in the balance sheet or in the notes to the financial statements:



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- (i) C (I) (3), C (II) (1), (2), (3) and (4), C (III) (1), (2), (3) and (4), D (II) (2), (3) and (6) and D (III) (1) and (2) under 'Assets' and C, (1), (2), (6), (7) and (9) under 'Capital, reserves and liabilities' in Annex III,
  - (ii) C (I) (3), C (II) (1), (2), (3) and (4), C (III) (1), (2), (3) and (4), D (II) (2), (3) and (6), D (III) (1) and (2), F (1), (2), (6), (7) and (9) and (I) (1), (2), (6), (7) and (9) in Annex IV,
  - (iii) the information required as indicated in brackets in D (II) under 'Assets' and C under 'Capital, reserves and liabilities' in Annex III, in total for all the items concerned and separately for D (II) (2) and (3) under 'Assets' and C (1), (2), (6), (7) and (9) under 'Capital, reserves and liabilities',
  - (iv) the information required as indicated in brackets in D (II) in Annex IV, in total for all the items concerned, and separately for D (II) (2) and (3);
- (b) abridged notes to their financial statements without the information required in points (f) and (j) of Article 17(1).

This paragraph shall be without prejudice to Article 30(1), in so far as that Article relates to the profit and loss account, the management report and the opinion of the statutory auditor or audit firm.

*Article 32*

**Other publication requirements**

1. Where the annual financial statements and the management report are published in full, they shall be reproduced in the form and text on the basis of which the statutory auditor or audit firm has drawn up his/her/its opinion. They shall be accompanied by the full text of the audit report.
2. If the annual financial statements are not published in full, the abridged version of those financial statements, which shall not be accompanied by the audit report, shall:
  - (a) indicate that the version published is abridged;
  - (b) refer to the register in which the financial statements have been filed in accordance with Article 3 of Directive 2009/101/EC or, where the financial statements have not yet been filed, disclose that fact;
  - (c) disclose whether an unqualified, qualified or adverse audit opinion was expressed by the statutory auditor or audit firm, or whether the statutory auditor or audit firm was unable to express an audit opinion;
  - (d) disclose whether the audit report included a reference to any matters to which the statutory auditor or audit firm drew attention by way of emphasis without qualifying the audit opinion.

**▼B***Article 33***Responsibility and liability for drawing up and publishing the financial statements and the management report****▼M1**

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 when provided separately and the report referred to in Article 19a(4); and
- (b) the consolidated financial statements, the consolidated management reports, the consolidated corporate governance statement when provided separately and the report referred to in Article 29a(4),

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.

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2. Member States shall ensure that their laws, regulations and administrative provisions on liability, at least towards the undertaking, apply to the members of the administrative, management and supervisory bodies of the undertakings for breach of the duties referred to in paragraph 1.

## CHAPTER 8

## AUDITING

*Article 34***General requirement**

1. Member States shall ensure that the financial statements of public-interest entities, medium-sized and large undertakings are audited by one or more statutory auditors or audit firms approved by Member States to carry out statutory audits on the basis of Directive 2006/43/EC.

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

- (a) express an opinion on:
  - (i) whether the management report is consistent with the financial statements for the same financial year, and
  - (ii) whether the management report has been prepared in accordance with the applicable legal requirements;
- (b) state whether, in the light of the knowledge and understanding of the undertaking and its environment obtained in the course of the audit, he, she or it has identified material misstatements in the management report, and shall give an indication of the nature of any such misstatements.

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2. The first subparagraph of paragraph 1 shall apply mutatis mutandis with respect to consolidated financial statements. The second subparagraph of paragraph 1 shall apply mutatis mutandis with respect to consolidated financial statements and consolidated management reports.

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3. This Article shall not apply to the non-financial statement referred to in Article 19a(1) and the consolidated non-financial statement referred to in Article 29a(1) or to the separate reports referred to in Articles 19a(4) and 29a(4).

**▼B***Article 35***Amendment of Directive 2006/43/EC as regards the audit report**

Article 28 of Directive 2006/43/EC is replaced by the following:

*‘Article 28***Audit reporting**

1. The audit report shall include:
  - (a) an introduction which shall, as a minimum, identify the financial statements that are the subject of the statutory audit, together with the financial reporting framework that has been applied in their preparation;
  - (b) a description of the scope of the statutory audit which shall, as a minimum, identify the auditing standards in accordance with which the statutory audit was conducted;
  - (c) an audit opinion, which shall be either unqualified, qualified or an adverse opinion and shall state clearly the opinion of the statutory auditor as to:
    - (i) whether the annual financial statements give a true and fair view in accordance with the relevant financial reporting framework, and,
    - (ii) where appropriate, whether the annual financial statements comply with statutory requirements.

If the statutory auditor is unable to express an audit opinion, the report shall contain a disclaimer of opinion;

- (d) a reference to any matters to which the statutory auditor draws attention by way of emphasis without qualifying the audit opinion;

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(e) the opinion and statement referred to in the second subparagraph of Article 34(1) of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (\*).

2. The audit report shall be signed and dated by the statutory auditor. Where an audit firm carries out the statutory audit, the audit report shall bear the signature of at least the statutory auditor(s) carrying out the statutory audit on behalf of the audit firm. In exceptional circumstances Member States may provide that such signature(s) need not be disclosed to the public if such disclosure could lead to an imminent and significant threat to the personal security of any person. In any case the name(s) of the person(s) involved shall be known to the relevant competent authorities.

3. The audit report on the consolidated financial statements shall comply with the requirements set out in of paragraphs 1 and 2. In reporting on the consistency of the management report and the financial statements as required by point (e) of paragraph 1, the statutory auditor or audit firm shall consider the consolidated financial statements and the consolidated management report. Where the annual financial statements of the parent undertaking are attached to the consolidated financial statements, the audit reports required by this Article may be combined.

(\*) OJ L 182, 29.6.2013, p. 19.’

## CHAPTER 9

**PROVISIONS CONCERNING EXEMPTIONS AND RESTRICTIONS ON EXEMPTIONS***Article 36***Exemptions for micro-undertakings**

1. Member States may exempt micro-undertakings from any or all of the following obligations:

- (a) the obligation to present ‘Prepayments and accrued income’ and ‘Accruals and deferred income’. Where a Member State makes use of that option, it may permit those undertakings, only in respect of other charges as referred to in point (b)(vi) of paragraph 2 of this Article, to depart from point (d) of Article 6(1) with regard to the recognition of ‘Prepayments and accrued income’ and ‘Accruals and deferred income’, provided that this fact is disclosed in the notes to the financial statements or, in accordance with point (b) of this paragraph, at the foot of the balance sheet;
- (b) the obligation to draw up notes to the financial statements in accordance with Article 16, provided that the information required by points (d) and (e) of Article 16(1) of this Directive and by Article 24(2) of Directive 2012/30/EU is disclosed at the foot of the balance sheet;

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- (c) the obligation to prepare a management report in accordance with Chapter 5, provided that the information required by Article 24(2) of Directive 2012/30/EU is disclosed in the notes to the financial statements or, in accordance with point (b) of this paragraph, at the foot of the balance sheet;
- (d) the obligation to publish annual financial statements in accordance with Chapter 7 of this Directive, provided that the balance sheet information contained therein is duly filed, in accordance with national law, with at least one competent authority designated by the Member State concerned. Whenever the competent authority is not the central register, commercial register or companies register, as referred to in Article 3(1) of Directive 2009/101/EC, the competent authority is required to provide the register with the information filed.

2. Member States may permit micro-undertakings:

- (a) to draw up only an abridged balance sheet showing separately at least those items preceded by letters in Annexes III or IV, where applicable. In cases where point (a) of paragraph 1 of this Article applies, items E under 'Assets' and D under 'Liabilities' in Annex III or items E and K in Annex IV shall be excluded from the balance sheet;
- (b) to draw up only an abridged profit and loss account showing separately at least the following items, where applicable:
  - (i) net turnover,
  - (ii) other income,
  - (iii) cost of raw materials and consumables,
  - (iv) staff costs,
  - (v) value adjustments,
  - (vi) other charges,
  - (vii) tax,
  - (viii) profit or loss.

3. Member States shall not permit or require the application of Article 8 to any micro-undertaking making use of any of the exemptions provided for in paragraphs 1 and 2 of this Article.

4. In respect of micro-undertakings, annual financial statements drawn up in accordance with paragraphs 1, 2 and 3 of this Article shall be regarded as giving the true and fair view required by Article 4(3), and consequently Article 4(4) shall not apply to such financial statements.

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5. If point (a) of paragraph 1 of this Article applies, the balance sheet total referred to in point (a) of Article 3(1) shall consist of the assets referred to in items A to D under 'Assets' in Annex III or items A to D in Annex IV.
6. Without prejudice to this Article, Member States shall ensure that micro-undertakings are otherwise regarded as small undertakings.
7. Member States shall not make available the derogations provided for in paragraphs 1, 2 and 3 in respect of investment undertakings or financial holding undertakings.
8. Member States which at 19 July 2013 have brought into force laws, regulations or administrative provisions in compliance with Directive 2012/6/EU of the European Parliament and of the Council of 14 March 2012 amending Council Directive 78/660/EEC on the annual accounts of certain types of companies as regards micro-entities<sup>(1)</sup>, may be exempted from the requirements set out in Article 3(9) with regard to the conversion into national currencies of thresholds set out in Article 3(1) when applying the first sentence of Article 53(1).
9. By 20 July 2018 the Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a report on the situation of micro-undertakings taking account, in particular, of the situation at national level regarding the number of undertakings covered by the size criteria and the reduction of administrative burdens resulting from the exemption from the publication requirement.

*Article 37***Exemption for subsidiary undertakings**

Notwithstanding the provisions of Directives 2009/101/EC and 2012/30/EU, a Member State shall not be required to apply the provisions of this Directive concerning the content, auditing and publication of the annual financial statements and the management report to undertakings governed by their national laws which are subsidiary undertakings, where the following conditions are fulfilled:

- (1) the parent undertaking is subject to the laws of a Member State;
- (2) all shareholders or members of the subsidiary undertaking have, in respect of each financial year in which the exemption is applied, declared their agreement to the exemption from such obligation;
- (3) the parent undertaking has declared that it guarantees the commitments entered into by the subsidiary undertaking;
- (4) the declarations referred to in points (2) and (3) of this Article are published by the subsidiary undertaking as laid down by the laws of the Member State in accordance with Chapter 2 of Directive 2009/101/EC;

<sup>(1)</sup> OJ L 81, 21.3.2012, p. 3.

**▼B**

- (5) the subsidiary undertaking is included in the consolidated financial statements drawn up by the parent undertaking in accordance with this Directive;
- (6) the exemption is disclosed in the notes to the consolidated financial statements drawn up by the parent undertaking; and
- (7) the consolidated financial statements referred to in point (5) of this Article, the consolidated management report, and the audit report are published for the subsidiary undertaking as laid down by the laws of the Member State in accordance with Chapter 2 of Directive 2009/101/EC.

*Article 38***Undertakings which are members having unlimited liability of other undertakings**

1. Member States may require undertakings referred to in point (a) of Article 1(1) which are governed by their laws and which are members having unlimited liability of any undertaking referred to in point (b) of Article 1(1) ('the undertaking concerned'), to draw up, have audited and publish, with their own financial statements, the financial statements of the undertaking concerned in accordance with this Directive; in such case the requirements of this Directive shall not apply to the undertaking concerned.
2. Member States shall not be required to apply the requirements of this Directive to the undertaking concerned where:
  - (a) the financial statements of the undertaking concerned are drawn up, audited and published in accordance with the provisions of this Directive by an undertaking which:
    - (i) is a member having unlimited liability of that undertaking concerned, and
    - (ii) is governed by the laws of another Member State;
  - (b) the undertaking concerned is included in consolidated financial statements drawn up, audited and published in accordance with this Directive by:
    - (i) a member having unlimited liability, or
    - (ii) where the undertaking concerned is included in the consolidated financial statements of a larger body of undertakings drawn up, audited and published in conformity with this Directive, a parent undertaking governed by the laws of a Member State. This exemption shall be disclosed in the notes to the consolidated financial statements.
3. In the cases referred to in paragraph 2, the undertaking concerned shall, upon request, reveal the name of the undertaking publishing the financial statements.

**▼B***Article 39***Profit and loss account exemption for parent undertakings preparing consolidated financial statements**

A Member State shall not be required to apply the provisions of this Directive concerning the auditing and publication of the profit and loss account to undertakings governed by its national laws which are parent undertakings, provided that the following conditions are fulfilled:

- (1) the parent undertaking draws up consolidated financial statements in accordance with this Directive and is included in those consolidated financial statements;
- (2) the exemption is disclosed in the notes to the annual financial statements of the parent undertaking;
- (3) the exemption is disclosed in the notes to the consolidated financial statements drawn up by the parent undertaking; and
- (4) the profit or loss of the parent undertaking, determined in accordance with this Directive, is shown in its balance sheet.

*Article 40***Restriction of exemptions for public-interest entities**

Unless expressly provided for in this Directive, Member States shall not make the simplifications and exemptions set out in this Directive available to public-interest entities. A public-interest entity shall be treated as a large undertaking regardless of its net turnover, balance sheet total or average number of employees during the financial year.

## CHAPTER 10

**REPORT ON PAYMENTS TO GOVERNMENTS***Article 41***Definitions relating to reporting on payments to governments**

For the purpose of this Chapter, the following definitions shall apply:

- (1) ‘undertaking active in the extractive industry’ means an undertaking with any activity involving the exploration, prospection, discovery, development, and extraction of minerals, oil, natural gas deposits or other materials, within the economic activities listed in Section B, Divisions 05 to 08 of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 <sup>(1)</sup>;

<sup>(1)</sup> OJ L 393, 30.12.2006, p. 1.



**▼B**

- (2) ‘undertaking active in the logging of primary forests’ means an undertaking with activities as referred to in Section A, Division 02, Group 02.2 of Annex I to Regulation (EC) No 1893/2006, in primary forests;
- (3) ‘government’ means any national, regional or local authority of a Member State or of a third country. It includes a department, agency or undertaking controlled by that authority as laid down in Article 22(1) to (6) of this Directive;
- (4) ‘project’ means the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government. None the less, if multiple such agreements are substantially interconnected, this shall be considered a project;
- (5) ‘payment’ means an amount paid, whether in money or in kind, for activities, as described in points 1 and 2, of the following types:
- (a) production entitlements;
  - (b) taxes levied on the income, production or profits of companies, excluding taxes levied on consumption such as value added taxes, personal income taxes or sales taxes;
  - (c) royalties;
  - (d) dividends;
  - (e) signature, discovery and production bonuses;
  - (f) licence fees, rental fees, entry fees and other considerations for licences and/or concessions; and
  - (g) payments for infrastructure improvements.

*Article 42***Undertakings required to report on payments to governments**

1. Member States shall require large undertakings and all public-interest entities active in the extractive industry or the logging of primary forests to prepare and make public a report on payments made to governments on an annual basis.
2. That obligation shall not apply to any undertaking governed by the law of a Member State which is a subsidiary or parent undertaking, where both of the following conditions are fulfilled:
- (a) the parent undertaking is subject to the laws of a Member State; and

**▼B**

- (b) the payments to governments made by the undertaking are included in the consolidated report on payments to governments drawn up by that parent undertaking in accordance with Article 44.

*Article 43***Content of the report**

1. Any payment, whether made as a single payment or as a series of related payments, need not be taken into account in the report if it is below EUR 100 000 within a financial year.

2. The report shall disclose the following information in relation to activities as described in points (1) and (2) of Article 41 in respect of the relevant financial year:

- (a) the total amount of payments made to each government;
- (b) the total amount per type of payment as specified in points (5)(a) to (g) of Article 41 made to each government;
- (c) where those payments have been attributed to a specific project, the total amount per type of payment as specified in point (5)(a) to (g) of Article 41, made for each such project and the total amount of payments for each such project.

Payments made by the undertaking in respect of obligations imposed at entity level may be disclosed at the entity level rather than at project level.

3. Where payments in kind are made to a government, they shall be reported in value and, where applicable, in volume. Supporting notes shall be provided to explain how their value has been determined.

4. The disclosure of the payments referred to in this Article shall reflect the substance, rather than the form, of the payment or activity concerned. Payments and activities may not be artificially split or aggregated to avoid the application of this Directive.

5. In the case of those Member States which have not adopted the euro, the euro threshold identified in paragraph 1 shall be converted into national currency by:

- (a) applying the exchange rate published in the *Official Journal of the European Union* as at the date of the entry into force of any Directive fixing that threshold, and
- (b) rounding to the nearest hundred.

*Article 44***Consolidated report on payments to governments**

1. A Member State shall require any large undertaking or any public-interest entity active in the extractive industry or the logging of primary forests and governed by its national law to draw up a consolidated report on payments to governments in accordance with Articles 42

**▼B**

and 43 if that parent undertaking is under the obligation to prepare consolidated financial statements as laid down in Article 22(1) to (6).

A parent undertaking is considered to be active in the extractive industry or the logging of primary forests if any of its subsidiary undertakings are active in the extractive industry or the logging of primary forests.

The consolidated report shall only include payments resulting from extractive operations and/or operations relating to the logging of primary forests.

2. The obligation to draw up the consolidated report referred to in paragraph 1 shall not apply to:

- (a) a parent undertaking of a small group, as defined in Article 3(5), except where any affiliated undertaking is a public-interest entity;
- (b) a parent undertaking of a medium-sized group, as defined in Article 3(6), except where any affiliated undertaking is a public-interest entity; and
- (c) a parent undertaking governed by the law of a Member State which is also a subsidiary undertaking, if its own parent undertaking is governed by the law of a Member State.

3. An undertaking, including a public-interest entity, need not be included in a consolidated report on payments to governments where at least one of the following conditions is fulfilled:

- (a) severe long-term restrictions substantially hinder the parent undertaking in the exercise of its rights over the assets or management of that undertaking;
- (b) extremely rare cases where the information necessary for the preparation of the consolidated report on payments to governments in accordance with this Directive cannot be obtained without disproportionate expense or undue delay;
- (c) the shares of that undertaking are held exclusively with a view to their subsequent resale.

The above exemptions shall apply only if they are also used for the purposes of the consolidated financial statements.

*Article 45*

**Publication**

1. The report referred to in Article 42 and the consolidated report referred to in Article 44 on payments to governments shall be published as laid down by the laws of each Member State in accordance with Chapter 2 of Directive 2009/101/EC.

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2. Member States shall ensure that the members of the responsible bodies of an undertaking, acting within the competences assigned to them by national law, have responsibility for ensuring that, to the best of their knowledge and ability, the report on payments to governments is drawn up and published in accordance with the requirements of this Directive.

*Article 46***Equivalence criteria**

1. Undertakings referred to in Articles 42 and 44 that prepare and make public a report complying with third-country reporting requirements assessed, in accordance with Article 47, as equivalent to the requirements of this Chapter are exempt from the requirements of this Chapter except for the obligation to publish this report as laid down by the laws of each Member State in accordance with Chapter 2 of Directive 2009/101/EC.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 49 identifying the criteria to be applied when assessing, for the purposes of paragraph 1 of this Article, the equivalence of third-country reporting requirements and the requirements of this Chapter.

3. The criteria identified by the Commission in accordance with paragraph 2 shall:

(a) include the following:

- (i) target undertakings,
- (ii) target recipients of payments,
- (iii) payments captured,
- (iv) attribution of payments captured,
- (v) breakdown of payments captured,
- (vi) triggers for reporting on a consolidated basis,
- (vii) reporting medium,
- (viii) frequency of reporting, and
- (ix) anti-evasion measures;

(b) otherwise be limited to criteria which facilitate a direct comparison of third-country reporting requirements with the requirements of this Chapter.

*Article 47***Application of equivalence criteria**

The Commission shall be empowered to adopt implementing acts identifying those third-country reporting requirements which, after applying the equivalence criteria identified in accordance with Article 46, it considers equivalent to the requirements of this Chapter. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 50(2).

**▼B***Article 48***Review**

The Commission shall review and report on the implementation and effectiveness of this Chapter, in particular as regards the scope of, and compliance with, the reporting obligations and the modalities of the reporting on a project basis.

The review shall take into account international developments, in particular with regard to enhancing transparency of payments to governments, assess the impacts of other international regimes and consider the effects on competitiveness and security of energy supply. It shall be completed by 21 July 2018.

The report shall be submitted to the European Parliament and to the Council, together with a legislative proposal, if appropriate. That report shall consider the extension of the reporting requirements to additional industry sectors and whether the report on payments to governments should be audited. The report shall also consider the disclosure of additional information on the average number of employees, the use of subcontractors and any pecuniary penalties administered by a country.

**▼M1**

The report shall also consider, taking into account developments in the OECD and the results of related European initiatives, the possibility of introducing an obligation requiring large undertakings to produce 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.

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In addition, the report shall analyse the feasibility of the introduction of an obligation for all Union issuers to carry out due diligence when sourcing minerals to ensure that supply chains have no connection to conflict parties and respect the EITI and OECD recommendations on responsible supply chain management.

## CHAPTER 11

**FINAL PROVISIONS***Article 49***Exercise of delegated powers**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 1(2), Article 3(13) and Article 46(2) shall be conferred on the Commission for an indeterminate period of time from the date referred to in Article 54.
3. The delegation of power referred to in Article 1(2), Article 3(13) and Article 46(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take

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effect the day following the publication of that decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 1(2), Article 3(13) or Article 46(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

*Article 50***Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 51***Penalties**

Member States shall provide for penalties applicable to infringements of the national provisions adopted in accordance with this Directive and shall take all the measures necessary to ensure that those penalties are enforced. The penalties provided for shall be effective, proportionate and dissuasive.

*Article 52***Repeal of Directives 78/660/EEC and 83/349/EEC**

Directives 78/660/EEC and 83/349/EEC are repealed.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VII.

*Article 53***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 July 2015. They shall immediately inform the Commission thereof.

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Member States may provide that the provisions referred to in the first subparagraph are first to apply to financial statements for financial years beginning on 1 January 2016 or during the calendar year 2016.

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. The methods of making such reference shall be laid down by Member States.

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 54***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 55***Addressees**

This Directive is addressed to the Member States.

**▼B***ANNEX I***TYPES OF UNDERTAKING REFERRED TO IN POINT (A) OF ARTICLE 1(1)**

## — Belgium:

la société anonyme/de naamloze vennootschap, la société en commandite par actions/de commanditaire vennootschap op aandelen, la société privée à responsabilité limitée/de besloten vennootschap met beperkte aansprakelijkheid, la société coopérative à responsabilité limitée/de coöperatieve vennootschap met beperkte aansprakelijkheid;

## — Bulgaria:

акционерно дружество, дружество с ограничена отговорност, командитно дружество с акции;

## — the Czech Republic:

společnost s ručením omezeným, akciová společnost;

## — Denmark:

aktieselskaber, kommanditaktieselskaber, anpartsselskaber;

## — Germany:

die Aktiengesellschaft, die Kommanditgesellschaft auf Aktien, die Gesellschaft mit beschränkter Haftung;

## — Estonia:

aktsiaselts, osühing;

## — Ireland:

public companies limited by shares or by guarantee, private companies limited by shares or by guarantee;

## — Greece:

η ανώνυμη εταιρία, η εταιρία περιορισμένης ευθύνης, η ετερόρρυθμη κατά μετοχές εταιρία;

## — Spain:

la sociedad anónima, la sociedad comanditaria por acciones, la sociedad de responsabilidad limitada;

## — France:

la société anonyme, la société en commandite par actions, la société à responsabilité limitée, la société par actions simplifiée;

**▼M2**

## — In Croatia:

dioničko društvo, društvo s ograničenom odgovornošću;

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## — Italy:

la società per azioni, la società in accomandita per azioni, la società a responsabilità limitata;

## — Cyprus:

Δημόσιες εταιρείες περιορισμένης ευθύνης με μετοχές ή με εγγύηση, ιδιωτικές εταιρείες περιορισμένης ευθύνης με μετοχές ή με εγγύηση;

## — Latvia:

akciju sabiedrība, sabiedrība ar ierobežotu atbildību;



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- Lithuania:  
akcinės bendrovės, uždarosios akcinės bendrovės;
- Luxembourg:  
la société anonyme, la société en commandite par actions, la société à responsabilité limitée;
- Hungary:  
részvénytársaság, korlátolt felelősségű társaság;
- Malta:  
kumpanija pubblika —public limited liability company, kumpannija privata —private limited liability company,  
soċjeta in akkomandita bil-kapital maqsum f'azzjonijiet —partnership en commandite with the capital divided into shares;
- the Netherlands:  
de naamloze vennootschap, de besloten vennootschap met beperkte aansprakelijkheid;
- Austria:  
die Aktiengesellschaft, die Gesellschaft mit beschränkter Haftung;
- Poland:  
spółka akcyjna, spółka z ograniczoną odpowiedzialnością, spółka komandytowo-akcyjna;
- Portugal:  
a sociedade anónima, de responsabilidade limitada, a sociedade em comandita por ações, a sociedade por quotas de responsabilidade limitada;
- Romania:  
societate pe acțiuni, societate cu răspundere limitată, societate în comandită pe acțiuni.
- Slovenia:  
delniška družba, družba z omejeno odgovornostjo, komanditna delniška družba;
- Slovakia:  
akciová spoločnosť, spoločnosť s ručením obmedzeným;
- Finland:  
yksityinen osakeyhtiö/privat aktiebolag, julkinen osakeyhtiö/publikt aktiebolag;
- Sweden:  
aktiebolag;
- the United Kingdom:  
public companies limited by shares or by guarantee, private companies limited by shares or by guarantee

**▼B***ANNEX II***TYPES OF UNDERTAKING REFERRED TO IN POINT (b) OF ARTICLE 1(1)**

## — Belgium

la société en nom collectif/de vennootschap onder firma, la société en commandite simple/de gewone commanditaire vennootschap, la société coopérative à responsabilité illimitée/de coöperatieve vennootschap met onbeperkte aansprakelijkheid;

## — Bulgaria:

събирателно дружество, командитно дружество;

## — the Czech Republic:

veřejná obchodní společnost, komanditní společnost;

## — Denmark:

interessentskaber, kommanditselskaber;

## — Germany:

die offene Handelsgesellschaft, die Kommanditgesellschaft;

## — Estonia:

täisühing, usaldusühing;

## — Ireland:

partnerships, limited partnerships, unlimited companies;

## — Greece:

η ομόρρυθμος εταιρία, η ετερόρρυθμος εταιρία;

## — Spain:

sociedad colectiva, sociedad en comandita simple;

## — France:

la société en nom collectif, la société en commandite simple;

**▼M2**

## — In Croatia:

javno trgovačko društvo, komanditno društvo, gospodarsko interesno udruženje;

**▼B**

## — Italy:

la società in nome collettivo, la società in accomandita semplice;

## — Cyprus:

Ομόρρυθμες και ετερόρρυθμες εταιρείες (συνεταιρισμοί);

## — Latvia:

pilsabiedrība, komandītsabiedrība;

## — Lithuania:

tikrosios ūkinės bendrijos, komandinės ūkinės bendrijos;

## — Luxembourg:

la société en nom collectif, la société en commandite simple;

**▼B**

- Hungary:  
közkereseti társaság, betéti társaság, közös vállalat, egyesülés, egyéni cég;
- Malta:  
soċjeta f'isem kollettiv jew soċjeta in akkomandita, bil-kapital li mhux maqsum f'azzjonijiet meta s-soċji kollha li għandhom responsabbilita' llimitata huma soċjetajiet in akkomandita bil-kapital maqsum f'azzjonijiet — partnership en nom collectif or partnership en commandite with capital that is not divided into shares, when all the partners with unlimited liability are partnership en commandite with the capital divided into shares;
- the Netherlands:  
de vennootschap onder firma, de commanditaire vennootschap;
- Austria:  
die offene Gesellschaft, die Kommanditgesellschaft;
- Poland:  
spółka jawna, spółka komandytowa;
- Portugal:  
sociedade em nome colectivo, sociedade em comandita simples;
- Romania:  
societate în nume colectiv, societate în comandită simplă;
- Slovenia:  
družba z neomejeno odgovornostjo, komanditna družba;
- Slovakia:  
verejná obchodná spoločnosť, komanditná spoločnosť;
- Finland:  
avoin yhtiö/ öppet bolag, kommandiittiyhtiö/kommanditbolag;
- Sweden:  
handelsbolag, kommanditbolag;
- the United Kingdom:  
partnerships, limited partnerships, unlimited companies.

*ANNEX III***HORIZONTAL LAYOUT OF THE BALANCE SHEET PROVIDED FOR  
IN ARTICLE 10****Assets****A. Subscribed capital unpaid**

of which there has been called

(unless national law provides that called-up capital is to be shown under 'Capital and reserves', in which case the part of the capital called but not yet paid shall appear as an asset either under A or under D (II) (5)).

**B. Formation expenses**

as defined by national law, and in so far as national law permits their being shown as an asset. National law may also provide for formation expenses to be shown as the first item under 'Intangible assets'.

**C. Fixed assets****I. Intangible assets**

1. Costs of development, in so far as national law permits their being shown as assets.
2. Concessions, patents, licences, trade marks and similar rights and assets, if they were:
  - (a) acquired for valuable consideration and need not be shown under C (I) (3); or
  - (b) created by the undertaking itself, in so far as national law permits their being shown as assets.
3. Goodwill, to the extent that it was acquired for valuable consideration.
4. Payments on account.

**II. Tangible assets**

1. Land and buildings.
2. Plant and machinery.
3. Other fixtures and fittings, tools and equipment.
4. Payments on account and tangible assets in the course of construction.

**III. Financial assets**

1. Shares in affiliated undertakings.
2. Loans to affiliated undertakings.
3. Participating interests.
4. Loans to undertakings with which the undertaking is linked by virtue of participating interests.
5. Investments held as fixed assets.
6. Other loans.

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## D. Current assets

## I. Stocks

1. Raw materials and consumables.
2. Work in progress.
3. Finished goods and goods for resale.
4. Payments on account.

## II. Debtors

(Amounts becoming due and payable after more than one year shall be shown separately for each item.)

1. Trade debtors.
2. Amounts owed by affiliated undertakings.
3. Amounts owed by undertakings with which the undertaking is linked by virtue of participating interests.
4. Other debtors.
5. Subscribed capital called but not paid (unless national law provides that called-up capital is to be shown as an asset under A).
6. Prepayments and accrued income (unless national law provides that such items are to be shown as assets under E).

## III. Investments

1. Shares in affiliated undertakings.
2. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value), to the extent that national law permits their being shown in the balance sheet.
3. Other investments.

## IV. Cash at bank and in hand

## E. Prepayments and accrued income

(Unless national law provides that such items are to be shown as assets under D (II) (6).)

**Capital, reserves and liabilities**

## A. Capital and reserves

## I. Subscribed capital

(Unless national law provides that called-up capital is to be shown under this item, in which case the amounts of subscribed capital and paid-up capital shall be shown separately.)

## II. Share premium account

## III. Revaluation reserve

## IV. Reserves

1. Legal reserve, in so far as national law requires such a reserve.

**▼B**

2. Reserve for own shares, in so far as national law requires such a reserve, without prejudice to point (b) of Article 24(1) of Directive 2012/30/EU.
3. Reserves provided for by the articles of association.
4. Other reserves, including the fair value reserve.

V. Profit or loss brought forward

VI. Profit or loss for the financial year

B. Provisions

1. Provisions for pensions and similar obligations.
2. Provisions for taxation.
3. Other provisions.

C. Creditors

(Amounts becoming due and payable within one year and amounts becoming due and payable after more than one year shall be shown separately for each item and for the aggregate of those items.)

1. Debenture loans, showing convertible loans separately.
2. Amounts owed to credit institutions.
3. Payments received on account of orders, in so far as they are not shown separately as deductions from stocks.
4. Trade creditors.
5. Bills of exchange payable.
6. Amounts owed to affiliated undertakings.
7. Amounts owed to undertakings with which the undertaking is linked by virtue of participating interests.
8. Other creditors, including tax and social security authorities.
9. Accruals and deferred income (unless national law provides that such items are to be shown under D).

D. Accruals and deferred income

(Unless national law provides that such items are to be shown under C (9) under 'Creditors'.)

*ANNEX IV***VERTICAL LAYOUT OF THE BALANCE SHEET PROVIDED FOR IN  
ARTICLE 10**

- A. Subscribed capital unpaid  
of which there has been called
- (unless national law provides that called-up capital is to be shown under L, in which case the part of the capital called but not yet paid must appear either under A or under D (II) (5).)
- B. Formation expenses  
as defined by national law, and in so far as national law permits their being shown as an asset. National law may also provide for formation expenses to be shown as the first item under 'Intangible assets'.
- C. Fixed assets
- I. Intangible assets
1. Costs of development, in so far as national law permits their being shown as assets.
  2. Concessions, patents, licences, trade marks and similar rights and assets, if they were:
    - (a) acquired for valuable consideration and need not be shown under C (I) (3); or
    - (b) created by the undertaking itself, in so far as national law permits their being shown as assets.
  3. Goodwill, to the extent that it was acquired for valuable consideration.
  4. Payments on account.
- II. Tangible assets
1. Land and buildings.
  2. Plant and machinery.
  3. Other fixtures and fittings, tools and equipment.
  4. Payments on account and tangible assets in the course of construction.
- III. Financial assets
1. Shares in affiliated undertakings.
  2. Loans to affiliated undertakings.
  3. Participating interests.
  4. Loans to undertakings with which the undertaking is linked by virtue of participating interests.
  5. Investments held as fixed assets.
  6. Other loans.
- D. Current assets
- I. Stocks
1. Raw materials and consumables.
  2. Work in progress.

**▼B**

3. Finished goods and goods for resale.

4. Payments on account.

II. Debtors

(Amounts becoming due and payable after more than one year must be shown separately for each item.)

1. Trade debtors.

2. Amounts owed by affiliated undertakings.

3. Amounts owed by undertakings with which the company is linked by virtue of participating interests.

4. Other debtors.

5. Subscribed capital called but not paid (unless national law provides that called-up capital is to be shown as an asset under A).

6. Prepayments and accrued income (unless national law provides that such items are to be shown as assets under E).

III. Investments

1. Shares in affiliated undertakings.

2. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value), to the extent that national law permits their being shown in the balance sheet.

3. Other investments.

IV. Cash at bank and in hand

E. Prepayments and accrued income

(Unless national law provides that such items are to be shown under D (II) (6).)

F. Creditors: amounts becoming due and payable within one year

1. Debenture loans, showing convertible loans separately.

2. Amounts owed to credit institutions.

3. Payments received on account of orders, in so far as they are not shown separately as deductions from stocks.

4. Trade creditors.

5. Bills of exchange payable.

6. Amounts owed to affiliated undertakings.

7. Amounts owed to undertakings with which the company is linked by virtue of participating interests.

8. Other creditors, including tax and social security authorities.

9. Accruals and deferred income (unless national law provides that such items are to be shown under K).



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- G. Net current assets/liabilities  
(Taking into account prepayments and accrued income when shown under E and accruals and deferred income when shown under K.)
- H. Total assets less current liabilities
- I. Creditors: amounts becoming due and payable after more than one year
1. Debenture loans, showing convertible loans separately.
  2. Amounts owed to credit institutions.
  3. Payments received on account of orders, in so far as they are not shown separately as deductions from stocks.
  4. Trade creditors.
  5. Bills of exchange payable.
  6. Amounts owed to affiliated undertakings.
  7. Amounts owed to undertakings with which the company is linked by virtue of participating interests.
  8. Other creditors, including tax and social security authorities.
  9. Accruals and deferred income (unless national law provides that such items are to be shown under K).
- J. Provisions
1. Provisions for pensions and similar obligations.
  2. Provisions for taxation.
  3. Other provisions.
- K. Accruals and deferred income  
(Unless national law provides that such items are to be shown under F (9) or I (9) or both.)
- L. Capital and reserves
- I. Subscribed capital  
(Unless national law provides that called-up capital is to be shown under this item, in which case the amounts of subscribed capital and paid-up capital must be shown separately.)
  - II. Share premium account
  - III. Revaluation reserve
  - IV. Reserves
    1. Legal reserve, in so far as national law requires such a reserve.
    2. Reserve for own shares, in so far as national law requires such a reserve, without prejudice to point (b) of Article 24(1) of Directive 2012/30/EU.
    3. Reserves provided for by the articles of association.
    4. Other reserves, including the fair value reserve.
  - V. Profit or loss brought forward
  - VI. Profit or loss for the financial year

*ANNEX V***LAYOUT OF THE PROFIT AND LOSS ACCOUNT – BY NATURE OF EXPENSE, PROVIDED FOR IN ARTICLE 13**

1. Net turnover.
2. Variation in stocks of finished goods and in work in progress.
3. Work performed by the undertaking for its own purposes and capitalised.
4. Other operating income.
5. (a) Raw materials and consumables.  
(b) Other external expenses.
6. Staff costs:
  - (a) wages and salaries;
  - (b) social security costs, with a separate indication of those relating to pensions.
7. (a) Value adjustments in respect of formation expenses and of tangible and intangible fixed assets.  
(b) Value adjustments in respect of current assets, to the extent that they exceed the amount of value adjustments which are normal in the undertaking concerned.
8. Other operating expenses.
9. Income from participating interests, with a separate indication of that derived from affiliated undertakings.
10. Income from other investments and loans forming part of the fixed assets, with a separate indication of that derived from affiliated undertakings.
11. Other interest receivable and similar income, with a separate indication of that derived from affiliated undertakings.
12. Value adjustments in respect of financial assets and of investments held as current assets.
13. Interest payable and similar expenses, with a separate indication of amounts payable to affiliated undertakings.
14. Tax on profit or loss.
15. Profit or loss after taxation.
16. Other taxes not shown under items 1 to 15.
17. Profit or loss for the financial year.

*ANNEX VI***LAYOUT OF THE PROFIT AND LOSS ACCOUNT – BY FUNCTION OF EXPENSE, PROVIDED FOR IN ARTICLE 13**

1. Net turnover.
2. Cost of sales (including value adjustments).
3. Gross profit or loss.
4. Distribution costs (including value adjustments).
5. Administrative expenses (including value adjustments).
6. Other operating income.
7. Income from participating interests, with a separate indication of that derived from affiliated undertakings.
8. Income from other investments and loans forming part of the fixed assets, with a separate indication of that derived from affiliated undertakings.
9. Other interest receivable and similar income, with a separate indication of that derived from affiliated undertakings.
10. Value adjustments in respect of financial assets and of investments held as current assets.
11. Interest payable and similar expenses, with a separate indication of amounts payable to affiliated undertakings.
12. Tax on profit or loss.
13. Profit or loss after taxation.
14. Other taxes not shown under items 1 to 13.
15. Profit or loss for the financial year.



## ANNEX VII

## Correlation table

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