Financial and non-financial reporting in MNC's, background to the Factsheet on the Netherlands

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Cultural and economic background to the reporting practices

The Dutch social and economic model is based on a model of social harmony and consultation ('polder model'). The Netherlands are known for its tradition of 'soft state' intervention in business matters, preferring non-binding guidelines, codes or covenants that are agreed between the 'social partners'. Examples are the Dutch Corporate Governance Code that started as a voluntary code and the involvement of the tri-partite SER in labour relations and CSR.

However, there is also some interaction between legislation and the 'voluntary' agreements. For example, in 2004, the legislator designated the Dutch Corporate Governance Code as the code of conduct to which listed companies should refer in their annual report. They should indicate to what extent they have complied with the principles and best practice provisions (the 'apply or explain principle').

Reporting practices in the Netherlands

Annual accounts/management report

In principle, every company has the obligation to file a management report with the Chamber of Commerce. This means that the information is public. Apart from the public reporting obligations, a company in the NL has specific duties to report to its Works Councils and Central Works Council and in specific occasions also to the unions. The Works Council has extensive rights to information and consultation. Directive 2013/34 did not change any of the rights the Works Council already had per Works Council Act.

Information to Works Councils and unions

The unions have specific rights to be informed in case of collective redundancies based on the Collective Dismissal Notification Act (Wet melding collectief ontslag, art. 3). A special 'Merger Code of Conduct', agreed in the Social Economic Council (SER[1]) gives the unions the right to be informed about the contents of any public announcement concerning the preparation or implementation of a merger before such announcement is made.

Looking at the rights of employees and their representatives to be informed and consulted and to participate in the decision making in a company, it is common in the NL to make a distinction between:

- the rights according to company law, as laid down in the Civil Code (CC),
- and the rights based on the regulation of industrial relations, such as the Works Council Act.

For example, the CC gives stakeholders such as shareholders but also trade unions, the right to ask a special court to conduct an investigation into a company. The SER was asked to give advice on the

[1] The SER is a tri-partite advisory council to the Government and plays an important role in the regulation of industrial relations and other social, economic and environmental issues. It also has extensive involvement in promoting (International) CSR.

issue whether the Works Council should also be given this right. The SER concluded that the Works Council should not have this right because it is not a legal entity, and because the Works Council has sufficient opportunities to expose failing management in other ways. Another element of 'participation' rights linked to company law is the right WCs have to make 'strong' recommendations for candidates for the Supervisory Board.

The works council legislation, on the other hand, does not address companies as legal entities, but addresses 'enterprises' (workplaces) as being 'bodies where labour is performed'. One legal company may contain several workplaces, or one workplace may operate under different legal entities. This distinguishes the Works Council Act (WCA) from company law and prevents that companies can obstruct the installation of WCs by legal constructions (A Works Council is only legally required for workplaces with at least 50 employees).

The added value of the directive on Non-Financial Information

The Dutch WC Act gives WC's extensive information rights [2] In principle, all information a WC thinks is needed to fulfil its role, should be provided by the employer. However, if a WC does not know what it does not know, it is of course difficult to ask for specific information. In this respect, the EU-directives may provide for improvement, especially in the application of the due diligence elements.

Tip
A proper assessment of CSR-related risks is crucial in many business environments. The consequences can be as damaging as other business risks. Nowadays, the NFI and CSR part of a company's reporting contains often over 40 or 50 pages in which successes often get much more attention than challenges, so to look into it might be time-consuming. One or two EWC members could take it upon themselves to closely study these parts in the reporting related to these risks, and flag the issues that the EWC could raise with management (or the compliments that could be paid…)

Whether WC's and unions in practice will be able to take on a broader role relating to wider issues, for example concerning risks in the international supply chain regarding environmental and human right issues, trade union rights etc., is another question. WCs and unions are already tasked with more than they can handle, especially in MNCs where constant change is the standard.

How the Netherlands implemented of the Financial reporting Directive

In the past when transposing European Directives, Dutch governments sometimes went beyond the obligatory requirements that a Directive prescribed. For example, in the transposition of the first EWC directive (1994), the Dutch EWC Act added some extra conditions to the right of management to impose confidentiality. However, in the past two decades, the various Dutch governments have taken the view that when implementing European Directives, there should be no 'gold plating'.[3] (That

[2] In addition, there is also an extensive Decree on the provision of financial information to works councils (1985).
[3] For example: where the Directive 2013/34 gave member states the opportunity to be more lenient in imposing obligations on companies, the Dutch legislator used this to the full. The legislator made an explicit choice not to go beyond the requirements of the Directive. Art. 398.4 CC also states that the thresholds for company to be exempted will become lower if allowed by the EU, or higher only if required by the EU. Since the 2013/34 directive is also more flexible than the old 4th Directive, the Dutch legislator used this to make its requirements more flexible.

is, adding elements to the transposition legislation that go beyond what the Directive would subscribe).

Directive 2013/34/EU was implemented by an amendment of Book 2 of the Dutch Civil Code by the Implementation Act of the Annual Accounts Directive (2015). The legislation implementing Directive 2014/95/EU, is covered in a number of 'Decrees', such as the Decrees of 22nd of December 2016 as regards the disclosure of non-financial information (Diversity Policy Disclosure Decree), the Decree on the content of the management report of 29th of August 2017, the Decree the disclosure of non-financial information of the 14th of March 2017 and the Decree on the content of the management report of 2018.

Implementation of the Non-financial reporting Directive

The legislation implementing Directive 2014/95/EU, is covered is a number of 'Decrees', such as the Decrees of 22nd of December 2016 as regards the disclosure of non-financial information (Diversity Policy Disclosure Decree), the Decree on the content of the management report of 29th of August 2017, the Decree the disclosure of non-financial information of the 14th of March 2017 and the Decree on the content of the management report of 2018.

It has been decided to implement the Directive 2014/95 in separate Decrees because the disclosure of the diversity policy complements the statement on corporate governance that *listed* companies were already required to prepare. For *large public-interest entities* however, the disclosure of non-financial information is a new statement in the management report.

Thus, both *large* companies and *public companies* of all sizes are now required to disclose their diversity policy related to the Management board and the Supervisory board as per the 2016 Decree and the 2018 Decree respectively.

Tip
Does your EWC receive these reports? Would it be useful to put them on the Agenda of the EWC?

The March 2017 Decree applies to companies with over 500 employees[4] and obliges them to disclose amongst others the policy, including the due diligence procedures applied, as well as the results of this policy, with regard to:

i. environmental, social and personnel matters;
ii. respect for human rights;
iii. fighting corruption and bribery;

They should report on the main risks related to the subjects mentioned above in connection with the activities of the legal entity, including if relevant the risks in the supply chain, and how the legal entity manages these risks; and in addition, they should report non-financial performance indicators that are relevant to the specific business activities of the legal entity.

Some further elaboration of these requirements is found in the Dutch Corporate Governance Code (DCGC, as made mandatory for public companies by the 2004 and August 2017 Decrees). The Code contains principles and best practices on the relationship between the executive board, the supervisory board and the shareholders. You will not find words like 'freedom of association' or 'ILO core standards' in this code. As the code states: 'The relationship between the company and its employees (representatives) is regulated elsewhere. This does

[4] In defining 'large' the Dutch law follows the categories defined in Directive 2014/95.

not alter the fact that in complying with the Code the interests of the employees must be taken into account as part of the overall weighing up of all the interests involved.'

As for CSR, the Code contains some general principles: 'When developing the strategy, attention should in any event be paid to the following: (…) the interests of the stakeholders; and any other aspects relevant to the company and its affiliated enterprise, such as the environment, social and employee-related matters, the chain within which the enterprise operates, respect for human rights, and fighting corruption and bribery.'

The 2018 Decree states that large, listed companies must publish a statement document that includes a description of the policy they pursue with regard to corporate governance. The legislation applying to the management report, applies in full to the non-financial information in the separate report as well.

Compliance

Companies are supposed to follow the rules of the Corporate Governance Code and are obliged to publicly state how they do this. If they do not do so, they have an obligation to explain why not. However, on the content, the DCGC is not binding law: 'It is up to the shareholders to call the executive board and the supervisory board to account for their compliance with the Code'. (DCGC p. 6).

A difference between the audit regime for the corporate governance statement and for the diversity statement is that, for the corporate governance statement, the accountant also checks whether the information about the management and control system in the management report has been drawn up in accordance with the legal requirements and is compatible with the annual accounts. The accountant also has to check whether during the examination of the knowledge and understanding of the legal entity and its environment, the management report contains material inaccuracies.

On the other hand, if the information about the diversity policy is not available, the accountant will only have to state those shortcomings in his statement regarding fairness. The general shareholders meeting will then take notice of this and can hold the board accountable for the lack of information.

The NFI directive 2014/95 addresses companies that are both 'large' *and* publicly listed. The enforcement regime of the annual accounts regulations for *large* companies is regulated in the Civil Code. Any interested party and the advocate-general at the public-interest jurisdiction may institute proceedings at the Enterprise Chamber of the Amsterdam Court of Appeal. If interested parties are of the opinion that the annual accounts have not been drawn up correctly or in full, they can request the Enterprise Chamber to order the company concerned to prepare the annual accounts in accordance with the instructions of the court.

Tip
The EWC is an interested party that could urge its company to fill in the gaps in annual reporting. This might be of specific interest for social issues, or issues concerning, health and safety, diversity or trade union rights.

Failure to comply with the order of the Enterprise Chamber is considered an economic offence under the Economic Offences Act (art. 1 sub 4 Wet op de Economische Delicten WED) and is therefore punishable with imprisonment for a maximum of one year, community service or a fine of maximum € 21.750 (art. 6.4 sub 4 WED)

Listed, or 'issuing' companies fall under the regime of the Financial Markets Authority (AFM), that supervises issuers and can impose an administrative fine on offenders of 5 the Act on Financial Supervision (Wet Financieel Toezicht) for non-compliance. The AFM can also request the Enterprise Chamber to order the company concerned to prepare the annual accounts in accordance with the instructions of the court.

Note that companies that fall under the NFI directive will fall both under the CC regime and the AFM because they will be both 'large' *and* listed.

How the country treated different options allowed by the NFR Directive

As per the NFI directive, art 19a1, the obligations only apply to large public-interest entities. There are an estimated 115 fulfilling this set of criteria. The Dutch legislator did not use the option to add other organisations as being of public interest. The Dutch government has fully taken over all options to exempt companies from certain requirements, in order 'to keep the regulatory burden on companies as limited as possible'.

The topics that the Directive included as a minimum have not been extended. In the official Explanation to the Decree, the legislator refers to some recitals in the directive to specify possible environmental issues and add some more items, albeit in a non-obligatory way. 'In line with government policy aimed at green growth, the information may also relate to the use of natural capital and natural resources or the company's contribution to a more circular economy which is aimed at reusability of products and raw materials. In line with government policy aimed at animal welfare, the information may also relate to animal welfare aspects in husbandry systems, transport and killing of animals.'

Also, with regard to social and personnel matters, the Explanation cites some recitals in a non-obligatory way. Included could be: 'measures taken to ensure equality between men and women, working conditions, respect for the right to information and consultation of employees and dialogue with local communities and measures taken for the benefit of the protection and development of those communities. With regard to human rights and the fight against corruption and bribery, the non-financial statement may contain information about the prevention of human rights violations and about tools at the company's disposal to combat corruption and bribery.'

The Explanation clarifies that 'if the legal entity has a due diligence procedure, it must also state this.' However, the government confirms, the Directive *does not explicitly require a due diligence procedure*. If the legal entity does not have a policy for these subjects, it must state this in the statement and also explain why there is no policy.

In terms of content there is hardly any difference between the regulations of the Dutch Corporate Governance Code and those of the directive 2014/95. However, there are a few differences concerning the reporting on diversity policy between the obligations arising from the Dutch Corporate Governance Code and the requirements of the Directive. Firstly, the Directive only applies to large, listed companies, while the code applies to all listed companies. Thus, the Code remains important for the implementation of these regulations in practice, especially for small and medium-sized listed companies. Secondly, the Code obliges a company to report on compliance with the best practice provisions in the corporate governance statement.

The Directive has not changed anything regarding the manner of disclosure of the corporate governance statement. The diversity policy information is made public as part of the corporate governance statement, that is in itself as a specific part of the management report. Pursuant to the

Directive, the information about the diversity policy need only be provided by listed companies that are classified as large legal entities under accounting law. This is different for the other parts of the statement.

The directive 2014/95 allowed information to be omitted in exceptional cases. This option has been used by the Dutch legislator. Unlike in the transposition of Directive 2013/24, in this article there is no reference to the get permission by the Dutch Ministry for certain omissions of specific kinds of information. The management board is responsible for drawing up the annual accounts and the management report. If certain NFI is left out of the reporting, only the shareholder meeting can force the management to correct this.

The omission of certain information is only possible in exceptional situations. The omission of the information should not preclude a fair and balanced understanding of the development, results, position of the legal entity and the effects of its activities.

Not used were the member state options to provide the non-financial information in a separate report and the option to prescribe an audit by an independent provider of assurance services. Instead, the NFI will be audited in accordance with the management report by the auditor.

Analysis of procedures and dialogue practices at national company level (incl. EWC)

To be completed by the case study research

A common phenomenon in Dutch MNC's is the separation between the corporate holding and the daughter companies. In most cases, the rights of the Dutch (Central) Works Council are geared to the Dutch BV or NV, not to the corporate holding. By the application of this construction, the corporate strategy, including investments and financing but also CSR, is beyond the reach of the WC, which only has the right to be informed and consulted when this strategy leads to decisions that affect the workplace/enterprise for which the WC is installed. In some Dutch MNC's however, this gap is partly repaired by a covenant granting the (Central-) WC additional rights towards corporate management.

However, the rights of the WC in the Netherlands are limited in general to matters within the Dutch territory. (The right to information is not that strictly limited since this also includes the overall context of national issues and decisions). Since CSR does not stop at the border, there is some tension between the WC's involvement in CSR and the rights based on the WCA.

In line with the EWC Directive 2009/38/EC, the Dutch European Works Council act gives companies the possibility to not inform the European Works Council, in case they consider that providing the information could cause serious harm to or be prejudicial to the functioning of the company. The Dutch Works Council Act does not give a company the possibility to not inform the Works Council.

According to a survey[5], conducted by Stichting MNO, a platform of about 50 Works Councils in large, mostly Dutch based MNC's, in 60% of the cases there was no due diligence report available. Only in 25% of the cases this report was both available and shared with the WC. In those, limited, cases where it was both available and shared with the WC, it was shared in 2 out of 3 cases without the WC having to ask for it explicitly.

[5] https://www.stichting-mno.nl/cms/files/2019-11/ncp-due-diligence-mno.pdf

Best Practices

Although most companies publish extensive CSR reports, including human and labour rights issues, for most EWCs we can observe that these reports have not been picked up as an element of their regular work. Involvement in CSR/ESG related matters, is triggered by other things.

All the EWCs that were interviewed have at least the extensive information rights granted to them by the Directive. However, most EWCs find it hard to deal with financial information. The chair of one of the EWCs we interviewed confirmed: 'we do not have the right background to fully understand this. We can use an expert for each topic when needed. We receive the presentation one week before the EWC meeting and then study the presentation in the pre-meeting of the EWC. We provide management then with written questions before the meeting. May be some more training is needed.'

The Yara EWC chair said: 'You can never have too much information. The more information, the better decisions. Not all of us can understand everything, but it is our task to deal with financial information also, and there are colleagues amongst us who can understand them. If not, we ask management.' However, there is always the need to 'translate' this information to something that is useful the local works council. The Secretary of the Yara EWC said: 'When I give a summary at the local WC, it is sometimes not seen as interesting. It is difficult to translate the more abstract information of the EWC to the workers.'

Also, in SGS the chair confirmed that it 'is important to know the general condition of the company. Important to us is: where is the company going? I am happy that in the meeting he CEO is no longer concerned with looking back (annual report from the previous year) but looking ahead with us. Figures from the past are less interesting than those from the future. We also invite Business Line leaders in the EWC to explain what the medium-term future holds.'

In Atradius, the EWC even gets the internal monthly reporting with details on the country level. In practice the Chair and Secretary get this, but it is agreed that every EWC-member can receive this information at their request. However, the chair thinks they probably don't do this.

In one company management pointed out that there is a danger to 'get caught up in too much detail of a single legal entity.'

The interviewees stressed the difference between regular standard information and the information provided in special I&C processes on for example restructuring or new projects. In Yara 'We always have more than the foreseen 4 Core Team (=Select Committee) meetings per year. Of especial importance are the information and consultation processes on 'extraordinary issues', projects like United Europe Programme and the Fixed Costs Project. We never have to use the paragraphs of the EWC agreement to invoke our rights, because when these things occur, management will organise a meeting of the EWC or the Core Team. We are timely informed and consulted by corporate management, but we struggle sometimes with other management. When other management levels takes the decision, it is sometimes difficult.'

In Rabobank, during the consultation on an important restructuring proposal, the EWC wanted to analyse the rationale behind the proposal. Since the Dutch Works Council has a committee for Economic-Financial Risk Matters, this was able to make a risk analysis and advised the EWC.

On confidentiality, all interviewed EWC members agreed to the fact that if the EWC is to be informed at an early stage, it is sometimes needed to keep the information confidential for some time. Confidentiality clauses are in place in all EWC. One of the EWCs we interviewed has an elaborated

process in place to deal with confidential matters that distinguishes four levels of confidentiality: Select Committee, European Works Council, National Employee Representatives and the employees. One of the EWCs we interviewed is involved early in the decision-making process. This sometimes requires confidentiality. The SC is often informed first, then the EWC. But the EWC never issues a written opinion before all EWC members had the opportunity to give their input. It is recognised by the EWC and the Executive Board that the EWC cannot issue an opinion when the SC (still) put under a confidentiality guarantee vis a vis the EWC. It is also recognised by both sides that the EWC cannot issue an opinion when the EWC members, because of a confidentiality guarantee, cannot seek consultation with their national employees' representatives.

However, in all interviewed cases, both management reps and employee reps agreed that the most important element is a basic trust that must exist between both sides. This can only be developed in time by working together. This becomes more difficult when from both sides many new people get involved in the EWC and due the Covid crisis, you cannot meet face to face.

Although most companies publish extensive CSR reports, including human and labour rights issues, for most EWCs we can oserve that these reports have not been picked up as an element of there regular work. Involvement in CSR/ESG related matters, is triggered by other things. Non-financial issues have become very important in the banking sector. The official supervisors and regulators of financial sector look closely into ESG elements (e.g., money laundering). In Rabobank, already over 4000 employees are working on due diligence. In the past 2 years there have been 47 new laws with a major impact on the bank in the area of sustainability, this is almost half of all laws and regulations that came to the bank over time. The works councils and the EWC feels that if the management is dealing with this in the right way, the works councils can leave it largely up to them. However, the chair feels that employee representation bodies still need to add some more priority to this. These body already discuss these elements where sustainability affects the employment relation, for example the lease car, or work-life balance and mobility. The CSR department has a monthly consultation with HR, what does it mean for training, fringe benefits, travel costs, etc.

In Atradius, the EWC requested the CEO in 2007 to sign on to the 10 principles UN Global Compact. The CEO signed, then Atradius started the required annual reporting under Global Compact: Communication. A Corporate Responsibility Team was formed and the EWC became part of this team. In the beginning, it started at the request of the EWC, but now the Group sees this as a main pillar. It involves significant investments. Economical reasons play a part too. There is market pressure, increasingly customers ask for a ESG policy and rating agencies look at this. An important tool for the EWC in CSR related matters can be the Employee Engagement Survey. 'We have an active follow-up on the diversity in the survey. We make a gender split in results of the survey. 'We have a discussion on what the results mean and what should be done. We also split the results on career level and on age and that leads to important new insights.'

Another EWC receives updates on projects and is involved in new projects relating to CSR issues. Health and safety are important topics too, including Work Life balance. This EWC can discuss broader CSR issues outside Europe.

In SGS, management, involved the EWC in drawing up the Human Rights statement by means of a workshop with EWC. In this way, the EWC was co-designer of the human rights policy. The annual CSR report (public) was signed by the EWC chairman.

In several companies, the EWC is also active as an ambassador for good labour relations. In Yara the EWC is involved in preparing employee representation outside Europe. An employee rep from Brazil is invited to the EWC meeting as an observer. The EWC received a request for support from the

Belarus trade union in the fertilizer industry because of the difficult situation there and the EWC tried to support them.

When it comes to applying the EWCs right to I&C, a problem that occurred in some of the interviewed EWCS was the issue of local versus transnational issues. One of the EWCs we interviewed was not involved in corporate restructuring during the pandemic because management said it was based on local decisions. The EWC argued that it was a global project with local implementation. Since the project already started, the EWC and management agreed to disagree and focused on the implementation. They agreed on People Principles (PPs), defining minimal requirements for the implementation in the countries. These PPs were actively shared with local management by central management and followed-up closely by central management and the EWC members.

In SGS there was a serious disagreement on the involvement of the EWC in a cost optimalisation programme. Central management had instructed all countries to cut 10% of the costs. The country management had to come up with plans. Every country had to see for itself how they can cut spending Therefore, central management argues it was not transnational but the EWC insisted this was a transnational issue because it affected 2 and more countries.

Even in our best practice examples, it has occurred that the EWC was informed too late or that consultation was denied. One example being a pan-European cost cutting policy. Management denied that this was a transnational issue, arguing that at central level only a general percentage had been set for the cost cutting and it was up to the country management to come up with concrete plans. The EWC argued the decision to counter the problems the company was facing with a general cost cutting policy was in itself important enough to require I&C with the EWC. Another example being the announcement of a social media policy that is mandatory for all employees wherever they contribute to an online conversation where they refer to the company with serious consequences for non-compliance up to termination in line with local laws.

Implementation of Directive 2014/95 EU, how the Netherlands applied the options

Directive 2014/95, changing 2013/34, options	
Options open to the member states	Choice made in Dutch implementation.
Considerations 7. As regards social and employee-related matters, the information provided in the statement may concern the actions taken to ensure gender equality, implementation of fundamental conventions of the International Labour Organisation, working conditions, social dialogue, respect for the right of workers to be informed and consulted, respect for trade union rights, health and safety at work and the dialogue with local communities, and/or the actions taken to ensure the protection and the development of those communities. With regard to human rights, anti-corruption and bribery, the non-financial statement could include information on the prevention of human rights abuses and/or on instruments in place to fight corruption and bribery.	No specific mentioning of ILO conventions, trade union rights nor gender equality. Some considerations from the Directive are quoted in the Explanatory Note to the Decree (see in this text), as being mentioned in the Directive, so quite non-obliging.
10. Member States should ensure that adequate and effective means exist to guarantee disclosure of non-financial information by undertakings in compliance with this Directive. To that end, Member States should ensure that effective national procedures are in place to enforce compliance with the obligations laid down by this Directive, and that those procedures are available to all persons and legal entities having a legitimate interest, in accordance with national law, in ensuring that the provisions of this Directive are respected.	See part in factsheet on compliance
11. Paragraph 47 of the outcome document of the United Nations Rio+20 conference, entitled 'The Future We Want', recognises the importance of corporate sustainability reporting and encourages undertakings, where appropriate, to consider integrating sustainability information into their reporting cycle. It also encourages industry, interested governments and relevant stakeholders with the	

support of the United Nations system, as appropriate, to develop models for best practice, and facilitate action for the integration of financial and non-financial information, taking into account experiences from already existing frameworks. 14. SMEs should be exempted from additional requirement (…). This should not prevent Member States from requiring disclosure of non-financial information from undertakings and groups other than undertakings which are subject to this Directive. 20. (..) the OECD has been asked to draw up a standardised reporting template for multinational undertakings to report to tax authorities where they make their profits and pay taxes around the world. Such developments complement the proposals contained in this Directive, as appropriate measures for their respective purposes.	The internal risk management and control system must be tailored to the company in question. This gives smaller listed companies the opportunity to suffice with less extensive procedures)
Art. 1, change art. 19.bis/ Art 2. Art. 2, change art. 29 bis. - allow information relating to impending developments or matters in the course of negotiation to be omitted in exceptional cases. - undertakings may rely on national, Union-based or international frameworks, and if they do so, undertakings shall specify which frameworks they have relied upon. - require that the information in the non-financial statement be verified by an independent assurance services provider.	4. In exceptional cases, the notifications may be omitted if they relate to imminent developments or matters under negotiation and the notifications would seriously damage the commercial position of the legal person. The omission of disclosures should not preclude a fair and balanced understanding of the development, results, position of the legal entity and the effects of its activities. DCGC designated as required Code. 5. The auditor verifies whether the non-financial statement has been prepared in accordance with this Decree and is compatible with the annual accounts, and whether the report, in the light of the knowledge and understanding obtained during the audit of the annual accounts, about the legal person and its environment, contains material inaccuracies. No separate independent assurance services provider required for NFI
Art. 2, change art. 20.4. - exempt undertakings referred to in paragraph 1 which have only issued	Used to exempt these companies

securities other than shares admitted to trading on a regulated market	

Annex 2

Details of implementation of Directive 2013/34 EU

Directive 2013/34, changing 2006/43, how the open options were used in the NL	
Options open to the member states	Choice made in Dutch implementation (CC=Civil Code
2.1.d Definitions public-interest entities, member states may add organisations to this	Not used
3. (when using art 36) Define micro, small, mid-size, large undertakings 3.12 use consolidated figures	Already in CC, thresholds changed. Consolidate already prescribed
- 4.1, 4.5 require additional documents or information for non-small companies - 4.6 require additional documents or information for small companies	Already in CC
6.3 Member States may exempt 1h (disclosures of items in the profit and loss account and balance sheet to be accounted for and presented having regard to the substance of the transaction or arrangement concerned; and limit: (j)requirements regarding recognition, measurement, presentation, disclosure and consolidation need not be complied with when the effect of complying with them is immaterial	Already in CC 362/363
13.2 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.	Already in CC 396
14 Member States may permit small and medium-sized undertakings to draw up abridged profit and loss accounts within certain limits.	Already in CC 396/397
16.2 Extension of requirements to small companies of certain requirements to mid-size and large companies (see 17.1)	396 CC see par. 2.4. Extension not used
17.d Member States may waive the requirement to disclose emoluments granted to the members of administrative, managerial and supervisory body, with an indication of the total for each category of body; where its disclosure would make it possible to identify the financial position of a specific member.	2:368, 374, 378, 379, 381b, 382, 383, 387 CC

17.g Member States may also allow that information to be omitted when its nature is 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 statement.	2:368, 374, 378, 379, 381b, 382, 383, 387 CC Already in CC, 379.4
17.2 transactions within a Group: Member States may permit or require that only transactions with related parties that have not been concluded under normal market conditions be disclosed; may permit those 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; 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 specific cases (….)	CC 379
18.2 large undertakings and public-interest entities may be exempted from the additional provision to disclose information on 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; 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.	380, 382a cc
CC19.3Member Stat es may exempt small undertakings from the obligation to prepare management reports, (…); and small and medium-sized undertakings from the obligation to report on information relating to	Already in CC and in 'Besluit van 23 december 2004 tot vaststelling van nadere voorschriften omtrent de inhoud jaarrekening'.

environmental and employee matters, in so far as it relates to non-financial information.	
22.2 Additional duty for consolidation for mother companies in specific cases, plus (22.7) in additional cases	2:406 jo. 24a, 24b en 24d CC
23.2 Exemption from consolidation duty for mid-size groups	Not applied
23.3 Duty that certain documents be published in the official language of the member State and that the translation be certified;	CC 408
23.6 Exemption from consolidation may be subject to the disclosure of additional information.	Option not used 23.5 same
23.8 Exempt from consolidated financial statements and a consolidated management report for any parent undertaking (the exempted undertaking) governed by its national law which is also a subsidiary undertaking (…), including a public-interest entity if certain conditions are fulfilled	CC 408
28.3 Member States may allow certain information required for the consolidated financial statements 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.	CC 410 and 414
31. 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 abridged balance sheets and abridged notes to their financial statements	396, 397
36. Member States may exempt micro-undertakings a number of obligations and allow them to publish abridged balance sheets and abridged notes to their financial statements	362
37. 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, under certain conditions.	403 CC
Note: The following options regarding technical accounting details have been left out in this overview: 3.9, 3.11, 6.2, 6.5, 7, 8,9, 10, 11,12,13.1, 20.2, 20.4, 22.1c&d, 24 3b&e, 24.8, 25, 26, 27.2b, 30.2	