



**Non-financial information in the management  
board's report for listed companies and  
other public interest entities**

# Non-financial information in the management board's report for listed companies and other public interest entities

According to article 391, paragraph 5, Book 2 of the Dutch Civil Code, further regulations by decree can be put in place on the content of the management board's report. These regulations may in particular relate to:

- a corporate governance-statement and compliance with a code of conduct; and
- a non-financial statement.

For the corporate governance statement, since 2004, the "Decree on the management board's report" ("Besluit nadere voorschriften bestuursverslag") has already been in force. This decree has recently been amended by:

- the "**Decree disclosure of diversity policy**" ("Besluit bekendmaking diversiteitsbeleid") of 22 December 2016; and
- the "**Decree content of management board's report**" ("Besluit inhoud bestuursverslag") of 29 August 2017, which identifies the revised Dutch Corporate Governance Code as a code of conduct. The code has been reviewed by the Monitoring Committee Corporate Governance Code, chaired by Jaap van Manen.

The requirements for a non-financial statement are included in the "**Decree disclosure of non-financial information**" ("Besluit bekendmaking niet-financiële informatie") of 14 March 2017.

These decrees all apply to the management board's report relating to financial years starting on or after 1 January 2017. The amended requirements have been included in the amended DAS 400 "Management Board's Report" of the Dutch Accounting Standards Board. In this brochure we briefly explain the content of these decrees.

## Scope

The scope differs per decree and can be summarized as follows:

Decree disclosure of non-financial information (non-financial statement)	Decree content management board's report and decree disclosure of diversity policy (corporate governance-statement)
Large public interest entities (PIE)	Listed companies
<p>PIE's that meet the following criteria:</p> <ul style="list-style-type: none"> <li>• Average number of employees in financial year &gt; 500; and</li> <li>• &gt; € 20 million balance sheet total or &gt; € 40 million net turnover.</li> </ul>	<p>The "decree content of management board's report" is in whole or in part applicable to:</p> <ul style="list-style-type: none"> <li>• Companies with statutory seat in the Netherlands whose securities are admitted to trading on a regulated market;</li> <li>• Certain companies with statutory seat in the Netherlands whose shares are admitted to trading on a multilateral trading facility or a similar system.</li> </ul> <p>The "Decree disclosure of diversity policy" is applicable to:</p> <ul style="list-style-type: none"> <li>• Listed companies that meet two of the following three criteria for at least two consecutive years:                             <ul style="list-style-type: none"> <li>– average number of employees in the financial year &gt; 250</li> <li>– &gt; € 20 million balance sheet total</li> <li>– &gt; € 40 million net turnover</li> </ul> </li> </ul> <p>A detailed schedule of the content of the corporate governance-statement is included in the appendix to this brochure.</p>

# Decree disclosure of non-financial information (non-financial statement)

## Background of the decree

In recent years it turns out that stakeholders attach increasing importance, in addition to the financial information in the financial statements, to transparent reporting of the non-financial information of the management board's report. For example, information about the business model, the value chain developments and the viability of business performance. Aspects of sustainability and corporate social responsibility are part of this. In 2011, the European Commission reiterated the need to improve undertakings' disclosure of social and environmental information in two communications. In 2013, the European Parliament acknowledged the importance of businesses divulging information on sustainability such as social and environmental factors, with a view to identifying sustainability risks and increasing investor and consumer trust. At the end of 2014, the European Union adopted a Directive (2014/95/EU) "Disclosure of non-financial and diversity information by certain large undertakings and groups" to enhance the consistency and comparability of non-financial information disclosed throughout the European Union. EU Member States were obliged to bring this EU directive into force in national law within a period of two years. This has resulted in the "Decree disclosure

of non-financial information" and in the "Decree disclosure of diversity policy", the latter decision being part of the corporate governance-statement. The "Decree disclosure of non-financial information" obliges large PIEs to include a non-financial statement in the management board's report.

## Scope

The "Decree disclosure of non-financial information" is applicable to a "large PIE", i.e. a company meeting the following criteria:

1. it qualifies as a Public Interest Entity (according to article 398, paragraph 7, Book 2 of the Dutch Civil Code);
2. of which the average number of employees during the financial year exceeds 500; and
3. that on two consecutive balance sheet dates did not meet at least one of the requirements as meant in article 397, paragraph 1, sub a and b, Book 2 of the Dutch Civil Code.

An exemption can be applied for a large PIE which, as a subsidiary, is part of a group and whose ultimate parent includes a non-financial statement in its management report. The ultimate parent entity will then provide non-financial information for the entire group.

## Contents non-financial statement

According to the decree, the non-financial statement shall include the following information:

- a. a brief description of the business model of the entity;
- b. a description of the policies, including the applied due diligence procedures and the results of this policy, with regards to the following themes: (i) environmental, social and human affairs; (ii) human rights respect; and (iii) corruption and bribery;
- c. the main material risks with regards to the topics mentioned in sub b related to the activities of the entity including, where relevant and proportional, the business relations, products or services of the entity likely to have adverse effects on these subjects and how the entity manages these risks;
- d. non-financial performance indicators that are relevant to the specific business activities of the entity.



The description of the business model concerns a general description of the core processes and activities of the entity or the group in order to place non-financial information in context.

The topics on which non-financial information is to be provided relates to information on the themes relevant to the concerning entity. These may be the themes listed in the resolution. However, for certain entities other themes may also be relevant, such as biodiversity and animal welfare.

Information on environmental issues may include data on the use of renewable energy sources, greenhouse gas emissions, water consumption and air pollution. The information may also relate to the use of natural capital (e.g. ecosystem services such as pollination) and natural resources (e.g. minerals and drinking water) or on the contribution of the company to a more circular economy. Relating to animal welfare, the information may relate to animal welfare aspects in animal and livestock systems, transport and animal killings. Information on social and human affairs may take into account measures taken to ensure equality between men and women, working conditions, respect for the right to information and consultation of employees. But also the dialogue with local communities and measures taken for 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 on the prevention of human rights violations and on instruments that the entity deploys to combat corruption and bribery.

For each theme, attention should be paid to the following aspects:

- a description of the policies pursued by the company, including due diligence procedures applied. The decree does not require the establishment of due diligence procedures;
- the outcome of those policies;
- the principal risks related to those matters linked to the entity's operations including, where relevant and proportionate, its business relationships, products or services which are likely to cause, or which caused, adverse impacts in those areas, and how the entity manages those risks. The severity of those effects shall be assessed based on their size and importance. The risk of adverse effects may be the results of the activities of the entity itself or related to its business activities and its products, services and business relations, including the supply and subcontracting chain;
- non-financial performance indicators that are relevant to the specific activities of the entity. These shall only be mentioned if this is necessary for a good understanding of the development, results and position of the entity and the effects of its activities. The entity that published a non-financial statement has thereby complied with the requirement in article 391, Book 2 of the Dutch Civil Code to include non-financial performance indicators in the analysis of the situation of the entity.

The non-financial statement shall also, where appropriate, include references to, and additional explanations of, amounts reported in the financial statements. In exceptional cases, information of which the disclosure would be seriously prejudicial to the commercial position of the entity may be omitted. The omission of information should not preclude a fair and balanced understanding of the development, results, position of the entity and the effects of his activities. It is possible that the management board's report in the following financial year addresses the reasons why certain announcements were not included in the previous financial year.

#### **Relying on frameworks**

There are several (international) frameworks developed relating to Corporate Social Responsibility (CSR) reporting. For example, the Global Reporting Initiative (GRI) for sustainability reporting, the International Integrated Reporting Council (IIRC), and the OECD guidelines for multinational enterprises. Nationally, the Dutch Accounting Standards Board published a guidance for social reporting ("Handreiking voor Maatschappelijke verslaggeving"). When drafting the non-financial statement, an entity may include national and international frameworks, including frameworks of the European Union, provided that the entity in the management board's report states which framework is used. When relying on frameworks, the entity is responsible to verify whether the information required by the decree is included in the non-financial statement.

### European Commission Guidelines

In July of 2017, the European Commission published non-binding "Guidelines on non-financial reporting (methodology for reporting non-financial information)" (2017/C 215/01). These guidelines are designed to assist entities in reporting non-financial information in a relevant, useful, consistent and comparable manner. The non-binding guidelines can be a best practice for all entities that disclose non-financial information and include, among other things, examples and performance indicators in the areas where information is to be provided in the non-financial statement.

### Form of reporting

The entity must include the non-financial statement as part of the management board's report. A statement separate from the management board's report cannot suffice. The legislator aims for the non-financial statement to be coherent with the remaining information in the management board's report.



# Decree content of management board's report and Decree disclosure of diversity policy

(corporate governance-statement)

## Background of the decrees

The Monitoring Committee Corporate Governance Code presented the revised Dutch Corporate Governance Code (the "Code corporate governance") in December 2016. This code replaces the existing code of 2008 as per financial year 2017. The new Code corporate governance includes a number of significant changes to the provisions in the 2008 code. The revised Code corporate governance emphasizes the long term value creation of an entity, the importance of a transparent remuneration policy and the added value of a pleasant corporate culture. The "Decree content of management board's report" has legally embedded the Dutch Corporate Governance Code and is designated as a code of conduct on corporate governance. The "Decree content of management board's report" is a change to the "Decree on the management board's report" ("Besluit nadere voorschriften bestuursverslag") of 2004.

The "Decree disclosure of diversity policy" stems from the implementation in Dutch law of the European Union directive (2014/95/EU) "Disclosure of non-financial and diversity information". The information required under this Decision is part of the corporate governance-statement described below.

## Scope

The (revised) "Decree content of management board's report" and the legally embedded Code corporate governance is applicable to entities whose securities are admitted to trading on a regulated market as referred to in article 1, paragraph 1, of the Financial Supervision Act ("Wet op het financieel toezicht"). Parts of the decree also apply to companies referred to in Article 1, paragraphs 2 and 3 of the decree, as shown in the appendix to this brochure. The "Decree disclosure of diversity policy" applies only to listed companies that meet the criteria of a large company as described in Title 9, Book 2 of the Dutch Civil Code.

## Contents statement corporate governance

The "Decree content of management board's report" states that the entities concerned should publish a corporate governance-statement. In that statement the entity must provide information relating to:

- compliance with the principles and best practice provisions of the Code corporate governance and any other codes of conduct and corporate governance practices that, voluntarily or not, adhere to the entity;
- the main features of the control system of the entity related to the financial reporting process of the entity and the group in which the financial data are included in the financial statements;
- the functioning of the shareholders' meeting, including its main powers, and the rights of shareholders, including how these may be exercised, insofar as this does not immediately result from the law;
- the composition and functioning of the management board, the supervisory board, and their committees (e.g. nomination, remuneration and audit committees);
- the diversity policy relating to the composition of the management board and the supervisory board. The entity includes the objectives of the policy, the manner in which the policy was implemented and the results thereof in the past financial year;
- to the extent applicable, all information to be included based on "Decree article 10, takeover directive" ("Besluit artikel 10 overnamerichtlijn") of 5 April 2006.

Providing information relating to the diversity policy is a new requirement and applies only to listed companies that meet the criteria of a large legal entity in accordance with Title 9, Book 2 of the Dutch Civil Code.

The other five subjects mentioned above were already included in the "Decree on the management board's report" ("Besluit nadere voorschriften bestuursverslag"), as applicable since 2004. However, the principles and best practice provisions of the Code corporate governance have been revised. The most important changes are summarised hereafter.

### Diversity policy

In providing information relating to the diversity policy of an entity, different aspects can be included, such as age, gender, geographical origin, education and professional experience. If the entity does not have a diversity policy, it shall provide an explanation of the reasons for this. The EU directive enables to constructively challenge the 'group-think' phenomenon, meaning a similarity of views of management board and supervisory board caused by a lack of diversity.

### Communication on compliance with the Code corporate governance

The revised Code corporate governance contains a number of best practice provisions ('bpp') on the content of the management board's report. The "Decree content of management board's report" obliges entities to report compliance with the principles and bpp's of the Code corporate governance in accordance with the "comply-or-explain" principle. The most important changes to the bpp's are included below; for the full text or further explanation, refer to the Code corporate governance.

The revised Code corporate governance emphasizes the value creation of an organization in the long term and underlines the added value of a pleasant corporate culture. In the management board's report, management should give a more detailed explanation of its view on long-term value creation and the strategy for its realisation, as well as describing which contributions were made to long-term value creation in the past financial year. Management should report on both the short-term and long-term developments (bpp 1.1.4). With regards to corporate culture, the management board discloses (bpp 2.5.4):

- i. the values and the way in which these are incorporated in the entity and the group; and
- ii. the effectiveness of, and compliance with, the code of conduct.

In the previous code, a bpp was already included in which the management board confirms that the internal risk management and control systems provide reasonable assurance that the financial reporting does not contain any material misstatements (bpp II.1.5). In addition to this provision, the management board now confirms in the management board's report with clear substantiation that (bpp 1.4.3):

- i. the report provides sufficient insights into any shortcomings in the effectiveness of the internal risk management and control systems;
- ii. based on the current state of affairs, it is justified that the financial reporting has been prepared on a going concern basis; and
- iii. the report states those material risks and uncertainties that are relevant to the expectations of the entity's continuity for a period of twelve months after the preparation of the report.

According to the explanatory notes to the Code, pursuant to bpp 1.4.3 the management board should make a statement confirming that it has provided sufficient insight into the risks, including risks that are foreseen in the future that will be relevant to the continuity of the entity. This includes both material shortcomings that have been identified and material risks and uncertainties that can reasonably be foreseen at the time at which the statement is issued.

If the management board works with an *executive committee*<sup>1</sup>, the management board should take account of the checks and balances that are part of a two-tier system. This means, among other things, that the management board's expertise and responsibilities are safeguarded and the supervisory board is informed adequately. The supervisory board should supervise this whilst paying specific attention to the dynamics and the relationship between the management board and the *executive committee*. In the management board's report, the following should be disclosed (bpp 2.1.3):

- i. the choice for working with an *executive committee*;
- ii. the role, duty and composition of the *executive committee*; and
- iii. how the contacts between the supervisory board and the *executive committee* have been given shape.

1. An *executive committee* is a committee that is closely involved in the decision-making of the management board and which, in addition to members of the management board, also includes members of senior management. Bpp 2.1.3 also applies in case another name is used than *executive committee*, but its function is effectively the same.

### Form of reporting

According to the "Decree content of management board's report", the listed companies concerned publish the corporate governance-statement:

1. As a specific section of, or attached to, the management board's report; or
2. By electronic means, making the statement directly and permanently accessible. In case of electronic disclosure, the management board's report specifically states where the corporate governance-statement can be found. The Dutch Accounting Standards Board recommends that, using electronic disclosure, in addition to the Code, a short summary of the deviations of the Code ("explain") is included in the management board's report.



## Role of the auditor

The auditor will verify whether the non-financial statement and the corporate governance-statement:

- is in accordance with the "Decree publication non-financial information" and the "Decree content of management board's report" respectively;
- is compatible with the financial statements; and
- in the light of the knowledge and understanding gained during the audit of the financial statements, contains material misstatements.

Any shortcomings shall be reported by the auditor in the audit report on the financial statements (article 393, paragraph 5, Book 2 of the Dutch Civil Code).



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### Links to relevant documents

- Decree disclosure of non-financial information (Dutch) <https://zoek.officielebekendmakingen.nl/stb-2017-100.html>
- Decree disclosure of diversity policy (Dutch) <https://zoek.officielebekendmakingen.nl/stb-2016-559.html>
- EU-directive 'Disclosure of non-financial and diversity information by certain large undertakings and groups' (2014/95/EU)
  - Dutch version: <http://eur-lex.europa.eu/legal-content/NL/TXT/PDF/?uri=CELEX:32014L0095&from=NL>
  - English version: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&from=EN>
- Guidelines European Commission on non-financial reporting (2017/C 215/01)
  - Dutch version: [http://eur-lex.europa.eu/legal-content/NL/TXT/PDF/?uri=CELEX:52017XC0705\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/NL/TXT/PDF/?uri=CELEX:52017XC0705(01)&from=EN)
  - English version: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0705\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0705(01)&from=EN)
- Decree content of management board's report (Dutch) <https://zoek.officielebekendmakingen.nl/stb-2017-332.html>
- Dutch Corporate Governance Code
  - Dutch version: <http://www.mccg.nl/download/?id=3364>
  - English version: <http://www.mccg.nl/download/?id=3367>

# Appendix: Schedule contents of regulation corporate governance statement listed companies

<p>Dutch company with listing of (certificates of) shares in EEA<sup>2</sup> (e.g. listing of shares on Euronext).</p>	<p>Dutch company with listing of (certificates of) shares on regulated market in an EEA comparable system outside the EU or multilateral trading facility (MTF) or similar system.</p>	<p>Dutch company with listing of securities, not being shares, on regulated market in the EEA, and with listing of shares to multilateral trading facility (MFT) (e.g. listing of bonds on Euronext and shares on Alternext).</p>	<p>Dutch company with listing of securities, not being shares, on a regulated market in the EEA (e.g. listing of bonds on Luxembourg stock exchange).</p>
<p><b>Content CG-statement</b></p> <ol style="list-style-type: none"> <li>1. Dutch CG-code mandatory. State compliance ("Comply-or-explain"). No statement if investment company/collective investment company with separate administrator</li> <li>2. Statement relating to: <ul style="list-style-type: none"> <li>• most important characteristics internal control system in connection with financial reporting;</li> <li>• functioning of shareholders' meeting;</li> <li>• composition/functioning of management board, supervisory board and their committees;</li> <li>• diversity policy relating to composition of management board and supervisory board (only large companies with listing of securities on regulated market in EEA);</li> <li>• information takeover directive (e.g. special voting rights).</li> </ul> </li> </ol>	<p><b>Content CG-statement</b></p> <ol style="list-style-type: none"> <li>1. Dutch CG-code mandatory. State compliance ("Comply-or-explain"). No statement if listing on MTF and assets &lt; € 500 million or investment company/collective investment company with separate administrator</li> <li>2. Not applicable</li> </ol>	<p><b>Content CG-statement</b></p> <ol style="list-style-type: none"> <li>1. Dutch CG-code not mandatory ("Comply-or-explain" not applicable).</li> <li>2. Statement relating to: <ul style="list-style-type: none"> <li>• most important characteristics internal control system in connection with financial reporting;</li> <li>• functioning of shareholders' meeting;</li> <li>• composition/functioning of management board, supervisory board and their committees;</li> <li>• diversity policy relating to composition of management board and supervisory board (only large companies with listing of securities on regulated market in EEA);</li> <li>• information takeover directive (e.g. special voting rights).</li> </ul> </li> </ol>	<p><b>Content CG-statement</b></p> <ol style="list-style-type: none"> <li>1. Dutch CG-code not mandatory ("Comply-or-explain" not applicable).</li> <li>2. Statement relating to: <ul style="list-style-type: none"> <li>• most important characteristics internal control system in connection with financial reporting;</li> <li>• diversity policy relating to composition of management board and supervisory board (only large companies with listing of securities on regulated market in EEA);</li> <li>• information takeover directive (e.g. special voting rights).</li> </ul> </li> </ol>

2. EEA: European Economic Area (the member states of the EU and Liechtenstein, Norway and Iceland).

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