

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)

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 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>(3)</sup>

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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>(4)</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>(5)</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 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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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.
- (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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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, 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>(6)</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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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 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.

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- (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 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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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.

- (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>(7)</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.

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- (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. 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



---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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.
- (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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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>(8)</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>(9)</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>(10)</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 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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- 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 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>(11)</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

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

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.
- (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:

---

**Status:** EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

---

- (1) [OJ C 181, 21.6.2012, p. 84.](#)
- (2) 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.
- (3) [OJ L 222, 14.8.1978, p. 11.](#)
- (4) [OJ L 193, 18.7.1983, p. 1.](#)
- (5) [OJ C 45 E, 23.2.2010, p. 58.](#)
- (6) [OJ L 258, 1.10.2009, p. 11.](#)
- (7) [OJ L 315, 14.11.2012, p. 74.](#)
- (8) [OJ L 157, 9.6.2006, p. 87.](#)
- (9) 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".
- (10) [OJ L 295, 12.11.2010, p. 23.](#)
- (11) [OJ L 55, 28.2.2011, p. 13.](#)