The City of London Law Society

The Law Society

Smarter Regulation Non-financial Reporting Review: call for evidence

16 August 2023

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Introduction

1. The views set out in this response have been prepared by a Joint Working Party of the Company Law Committees of the City of London Law Society (**CLLS**) and the Law Society of England and Wales (the **Law Society**). The response also contains the views of the CLLS ESG Committee and the Law Society Climate Change Working Group.

2. The CLLS represents approximately 17,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 20 specialist committees.

3. The Law Society is the professional body for solicitors in England and Wales, representing over 170,000 registered legal practitioners. It represents the profession to Parliament, Government and regulatory bodies in both the domestic and European arena and has a public interest in the reform of the law.

4. The Joint Working Party is made up of senior and specialist corporate lawyers from both the CLLS and the Law Society who have a particular focus on issues relating to company law and corporate governance.

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Response

5. We agree that it is useful to review the UK's framework for non-financial reporting (NFR) to ensure that it remains fit for purpose and delivers decision-useful information to the market. We believe that there is significant scope to simplify the thresholds and qualification provisions relating to NFR. Many of these overlap in some way but are calculated and apply in different ways and to different entities, which can make it difficult and confusing to work out which requirements apply to a particular entity. In addition, the NFR requirements are set out in a number of pieces of legislation and other regulation (including the UK Listing Rules) which adds to the difficulty and confusion. Ideally, to the extent feasible, we think it would make the NFR regime more transparent and accessible if the relevant reporting requirements were to be set out in one place.

6. There are duplicative requirements that should be removed and/or consolidated. In some cases, the requirements overlap completely, and, in others, they differ slightly, meaning that companies are required to make similar and overlapping but separate disclosures. We believe that there is also scope to streamline reporting by group companies where there is equivalent reporting at an appropriate holding company level.

7. We would welcome the opportunity to collaborate further with the Department for Business and Trade as the review progresses and would be happy to assist at subsequent stages of the project.

Q1 How valuable, if at all, is the preparation and/or disclosure of non-financial information for the effective running of your company? *Please consider whether the information: Helps to attract investment; Supports setting of strategy, understanding and improving the long-term value creation of the company and; Your transition to net-zero*

Q2 What challenges, or costs, if any, does the preparation, disclosure and distribution of non-financial information create for your company? *Please consider the aspects which are difficult to comply with, the cost related to compliance or the production of information.*

Q3 What, if any, are the key drivers of cost when having to comply with non-financial reporting requirements? *Please respond in line with the following considerations listed below:*

Staff costs; Time costs; Production costs; IT infrastructure costs; Any other relevant costs.

Q4 Please select the most applicable statement: The benefits of preparing and disclosing non-financial reporting information outweigh the costs; The costs of preparing and disclosing non-financial reporting information outweigh the benefits; The benefits of preparing and disclosing non-financial reporting information are proportionate to the costs.

8. As we are not, directly, preparers of relevant information, we do not have sufficient insight to respond specifically to questions 1-4.

   That said, our sense is that companies do generally recognise that NFR requirements can have a positive benefit in informing both internal and external stakeholders about the progress and direction of travel of the business by reference to the relevant criteria. In particular, we anticipate that existing and forthcoming disclosures for UK companies on climate and sustainability matters (including under the TCFD, ISSB and transition-plan disclosure frameworks) are likely to help ensure that users of NFR receive accurate, comparable and decision-useful sustainability information, and to provide tools for companies to understand and disclose their sustainability risks and impacts and their approach to the net-zero transition.

   Naturally, the nature and extent of the matters encompassed by NFR will inevitably vary from company to company, depending on factors such as the size and complexity of the organisation, the nature of its business activities, any public statements it has previously made (such as in relation to sustainability, responsibility, purpose, corporate governance and diversity, equality and inclusion). Preparing and publishing NFR inherently requires material time and resource, and it is important that energy is not directed unduly at disclosure to the detriment of running the organisation's business and, indeed, implementing any objectives it has set and disclosed within its NFR.

   Accordingly, it will be important that any changes in relation to NFR disclosure requirements going forward ensure that the regime is proportionate, avoids undue duplication and strikes an appropriate balance in terms of the cost-benefit analysis (taking into account the time, resource and cost involved in gathering and reporting relevant data) so as to ensure that NFR requirements do not risk operating as a disincentive to the establishment of companies in the UK.

   As a result, and whilst we make no specific recommendations on this point at this stage, we believe that, in relation to NFR in general, any regime should seek at all times to prompt (and, where appropriate, require) useful disclosure to both investors and other stakeholders to an extent, and in a form and format, that is both efficient for organisations and accessible and sufficiently extensive for an organisation's key stakeholders.

Q5 To what extent do the Companies Act non-financial reporting requirements align with other regulatory requirements your company might be in scope of? *For example these might include requirements that are set by the Financial Conduct Authority (FCA) and the Prudential Regulatory Authority (PRA) (or other regulators).*

9. A number of NFR reporting requirements overlap with requirements set out in the Listing Rules (LRs), Disclosure Guidance and Transparency Rules (DTRs), the UK Corporate Governance Code (UK CGC) and other rules and guidelines applicable to UK regulated companies.

10. There are many overlapping disclosure requirements. These include those relating to principal risks and uncertainties, strategy and business model, engagement with employees, diversity (numerical disclosures and policies), climate-related financial disclosures, KPIs, business review, post-balance sheet events and disclosures relating to s172 of the Companies Act 2006 (CA 2006). In some cases, one disclosure can be used for the purposes of various reporting requirements, and where that is the case, this does not present as much of an issue. However, where companies are required to prepare separate but overlapping disclosures, potentially containing different information, this can cause issues.

Taking gender-related disclosures as an example:

- quoted companies must disclose the number of persons of each sex who were directors of the company, senior managers (including directors of all subsidiaries included in the consolidation) and employees of the company in the strategic report (s414C(8)(c) CA 2006);

- premium listed companies must disclose the gender balance of those in the senior management and their direct reports in the annual report (Provision 23 UK CGC and LR 9.8.6R(6));

- premium and standard listed companies must disclose standardised numerical disclosures relating to the gender identity or sex of their board, key board positions and executive management team in the annual report (LR 9.8.6R(10) and 14.3.33R(2)); and

- the definitions of "senior manager" in s414C(9) CA 2006,"senior management" under the UK CGC and "executive management team" under the LRs do not directly align.

It is important to bear in mind that the CA 2006, LRs, DTRs and UK CGC are directed at different constituencies of companies. For example, the LRs, DTRs and UK CGC apply to certain non-UK companies as well as certain UK companies. However, ideally, there would be greater alignment between the regimes to ensure that companies are not required to look to multiple sources of regulation when compiling and making disclosures. It would also be helpful for there to be alignment, so far as possible, in relation to requirements and relevant criteria internationally as well as domestically.

Q6 What changes, if any, would you like the UK Government to make to the current legal requirements for companies to prepare non-financial information, and why? *You may wish to consider: The merits and disadvantages of individual requirements; The level of difficulty in using or preparing certain types of non-financial information; Whether there are opportunities to rationalise or simplify reporting requirements.*

Liability – s463 CA 2006

11. It is important to consider the application of s463 CA 2006 which provides a limited "safe harbour" for information provided by directors in specific reports and statements. For example, some companies may choose to include key points relating to sustainability reporting in the strategic report, alongside the other information required to be included in the strategic report. This reporting will benefit from the s463 safe harbour. But some sustainability reporting may be reported outside the annual report in a separate sustainability report. Separate sustainability reports may include TCFD reporting and detailed transition plans, which will contain forward-looking information. These may be cross-referred to in the strategic report and may also link to other forward-looking statements in the strategic report, such as the resilience statement. It is important that the s463 safe harbour protects all this information, wherever it is published, even if that is outside the specific reports/statements currently specified in s463. We believe it would also be useful to clarify the extent to which the safe harbour extends to information that is included in the annual report voluntarily and to information that is cross-referred to in one of the specified reports. Another approach could be to attach the safe harbour protection to the type of information provided rather than just to the section of the annual report in which it appears, which would facilitate the protection applying to information contained in separate reports published on the company's website.

Consolidation

12. It would be helpful for the legislative NFR requirements to be consolidated into one place. Currently the bulk of the requirements are set out in sections 414A-419A CA 2006, The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (SI 2008/410) (LMCG Regs) and The Small Companies and Groups (Accounts and Directors' Report) Regulations 2008 (SI 2008/409), (SCG Regs) as well as in other legislation. Having to look in multiple places, many

of which have different thresholds/qualification requirements, adds to the complexity of the regime. Simply consolidating the requirements into one place would go a long way to making the regime more accessible and transparent.

13. Setting out different reporting requirements for companies based on their size in separate pieces of legislation (the LMCG Regs and SCG Regs) is also not helpful for companies. After considering all of the different thresholds and definitions (for example, quoted company, traded company, PIE, large PIE, large company required to report on corporate governance arrangements etc), many of which overlap and some of which are calculated in different ways, putting together a full list of reporting requirements for an individual company can be very complicated. We think that consolidating the NFR requirements into one piece of NFR legislation with "building blocks" for different sizes of company or companies in different situations (for example, PIEs, traded companies, etc.), modelled along the lines of the Prospectus Regulation building blocks could be a way of making the reporting regime more accessible and transparent thereby ensuring better compliance and better outcomes.

14. We believe there is merit in considering whether it would also make the regime more accessible and transparent to incorporate non-CA 2006-related NFR into a new regime. Examples include the slavery and human trafficking statement required by s54 Modern Slavery Act 2015, gender pay-gap reporting under the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (SI 2017/172) (GPG Regs) and reporting on payment practices under the Reporting on Payment Practices and Performance Regulations 2017 (SI 2017/395) (RPPP Regs)[1]. This could require all NFR to have the same "snapshot" date for provision of the relevant information, namely the financial year-end (rather than, for example, 4 April for the GPG Regs). This might also mean moving to a 12-month reporting period for the RPPP Regs (rather than six-monthly, as at present). However, this might make preparation of this information easier for companies and would make the information more accessible to investors by allowing for its publication at a single point in time alongside other relevant information in the annual report. For example, gender-pay gap information sits naturally alongside information which is required to be published in the annual report relating to, for example, board gender breakdown and CEO pay ratios. We suggest that the Department for Business and Trade either considers allowing companies to adopt a flexible approach as to when in a particular year they report or consults on the question of the timing of reporting as part of the next stage of the review process in order that companies can express a view on this particular point.

Duplication

15. We think that it would be helpful for unnecessary duplication to be removed from the legislation. For example, there are directly overlapping requirements in s414C and s414CB. There are other areas of duplication including para 7(1)(b) of Schedule 7 of the LMCG Regs and s414C7(a) relating to future developments. See also our answer to Q5 above.

As noted in paragraph 26 below, we would also encourage Government to consider whether there is greater scope to provide exemptions for reporting by individual group companies where there is also equivalent reporting at an appropriate holding company level. The individual group company's annual report could then simply cross-refer to the information that is being disclosed at the holding company level.

Separate directors' report and strategic report

16. As reporting requirements have developed over time and new requirements have been added on a piecemeal basis, the distinction between the directors' report and the strategic report has become blurred. It might be argued that there is an almost arbitrary division of information requirements between the two. For example, SECR information goes in the directors' report, but climate-related financial disclosures go in the strategic report. Information on engagement with employees and how

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[1] We note the Government's recent comments that it does not currently intend to introduce mandatory ethnicity pay-gap reporting. Should the Government decide to do so at any point, thought could be given to incorporating this too into a centralised NFR regime.

the directors have had regard to suppliers and customers go in the directors' report, but the s172(1) CA 2006 statement goes in the strategic report. In addition, the directors' report may contain lists of cross-references, which can disrupt the narrative. There is currently some flexibility, in that s414C(11) CA 2006 allows a company to put information in its strategic report that would otherwise be required to be included in the directors' report if it is of strategic importance. In addition, not all companies produce strategic reports. However, we think that a single report, broken down into themed sections, might reduce the length of the annual report and improve the flow and coherence of the narrative section without leading to strategically important information being hidden, omitted or overlooked. We note that the Financial Reporting Council (FRC) consulted in October 2020 on a new principles-based approach to corporate reporting[2] which, in some respects, would have entailed a more thematic approach to NFR. Although the FRC subsequently decided not to explore its proposal further, following feedback to the consultation, in designing any new regime, it may be worth bearing those proposals in mind and taking advantage of any learning gained by the FRC at that time.

17. Currently, information is required to be included in the directors' report regardless of the directors' view of its materiality or importance to the company. This includes, for example, engagement with employees, suppliers, customers and others (Part 4 of Schedule 7 LMCG Regs) and likely future developments and activities in the field of research and development (Para 7(1) of Part 1, Schedule 7 LMCG Regs). This contrasts with the position in relation to the strategic report. Although the provisions relating to the strategic report do not use the term "material", there are qualifiers relating to many provisions that effectively introduce a materiality filter. For example, the following wording is included in relation to certain strategic report requirements: "to an extent necessary for an understanding of the company's development, performance and position" or "to an extent necessary for an understanding of the company's development, performance and position and the impact of its activity" or "necessary for an understanding of the company's business". There are also exclusions for sensitive information. We think that companies should be given more discretion over whether non-financial information should be included in the annual report so that immaterial information that is not regarded as being decision-useful does not need to be included. Any qualifiers, exclusions or materiality thresholds should be clearly set out, so it is clear which disclosures they relate to. We believe that where stakeholders would find certain disclosures of particular benefit then this would be reflected in the relevant company's assessment of what is or is not material and that this additional flexibility would allow companies to focus their approach to NFR disclosures appropriately.

Q7 Thinking about the future of your organisation and the UK's transition to a net zero economy, what changes, if any, do you think may be required to the type of non-financial information produced to guide decision making, and why? *You may wish to consider whether additional information is required to support decision making (such as Transition Plans and Green Taxonomy disclosures covered by the recently published Mobilising Green Investment: 2023 Green Finance Strategy).*

18. As we are not, directly, preparers of relevant information we do not have sufficient insight to answer question 7.

Q8 How should the standards being prepared by the International Sustainability Standards board (ISSB) be incorporated into the UK's non-financial reporting framework? *You may wish to consider: The role that reporting against any of these standards could have in simplifying the UK's legal framework; The role that reporting against any of these standards could have in guiding the transition to a net zero economy; The Exposure Drafts for IFRS S1 General Sustainability-related Disclosures and IFRS S2 Climate-related Disclosures first two standards issued by the ISSB.*

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[2] https://www.frc.org.uk/news/october-2020/frc-publishes-future-of-corporate-reporting-discussion paper

Alignment with the UK's previous approach to TCFD-related requirements

19. We consider there to be significant benefits, when incorporating the recently published IFRS S1 and IFRS S2 ISSB standards into the NFR regime, in adopting an approach that is consistent with how the UK has introduced TCFD-related disclosure requirements to date - ie on a "comply-or-explain" basis under the LRs for premium listed and standard listed companies first, and then subsequently on a mandatory TCFD-aligned basis under the CA 2006. This is especially the case given that the ISSB standards are built on the TCFD recommendations and pillars, and we note that the FCA has already stated it will update its climate-related disclosure rules to reference the ISSB standards once endorsed in the UK, pursuant to the UK Sustainability Disclosure Standards (UK SDS).

In integrating ISSB into the UK's NFR framework, it would be helpful if, at the same time, greater clarity could be provided to companies caught by both the LRs and the CA 2006 regime for climate-related disclosures, in particular, on what they are required to do to meet regulatory requirements and expectations. Currently, guidance notes that where a UK-registered listed company is subject to both sets of requirements, disclosure in a manner consistent with all of the TCFD recommendations and recommended disclosures for the purposes of the LRs in its annual report is likely to involve use of similar information to the disclosures required by the CA 2006. This indicates that such disclosures will also normally meet the requirements of the CA 2006.

However:

- It would be simpler and clearer if any amendment to the CA 2006 reporting requirements (in particular s414CA and 414CB) could specifically reference disclosure consistent with, or aligned with, the ISSB standards, rather than requiring disclosures aligned with the ISSB standards but which do not directly reference them (as is currently the case for TCFD).

- We note that there are small differences between the LRs and CA 2006 approach, in that the LRs provide for full "comply-or-explain" in relation to all TCFD recommendations, whereas s414CB(4A) provides that some, but not all, of the climate-related financial disclosures can be omitted where "not necessary for an understanding of the company's business" (and then needs a clear and reasoned explanation). Ideally, we would aim to avoid any duplication of reporting requirements, so the CA 2006 might contain an acknowledgement that filings under the LRs will satisfy the CA 2006 requirement, without the need for further or separate reporting.

This would ensure alignment between CA 2006 reporting requirements and other regulatory requirements (as per our answer to Q5 above).

Supporting international consistency

20. We believe there is a strong benefit in keeping the UK SDS as aligned as possible to the content of the ISSB standards, in order to promote international consistency and integration. We support the approach publicised by the Department for Business and Trade on 2 August 2023 that the UK SDS should only diverge from the global standards if strictly necessary for UK-specific matters.

Interoperability with international regulatory requirements

21. There are likely to be many companies which are required to report under the UK NFR and the EU Corporate Sustainability Reporting Directive (CSRD). Consideration should be given to how the ISSB standards in the UK can be made as compatible with the EU sustainability reporting standards (ESRS) as possible. For example, could the implementing legislation requiring reporting in accordance with the ISSB standards provide for a mutual recognition regime (ie recognising the CSRD as equivalent to ISSB) for those companies that are obliged, or elect, to report in accordance with CSRD instead (the UK NRF could still require including such reporting in the annual report as if it was a UK SDS report)? Or could there be a general allowance for non-compliance with the ISSB standards but only where that non-compliance is as a result of the company in question having

reported in accordance with an aspect of ESRS/CSRD which is not compatible with the ISSB standards?

The points raised in this section are also equally applicable in relation to other international reporting standards and requirements. Greater alignment of regimes internationally would both simplify reporting for companies that operate internationally and also aid comparability for both investors and other stakeholders as between companies established in different jurisdictions.

Q9 To what extent do you agree or disagree that current size and company type thresholds for non-financial reporting information could benefit from simplification? *You may wish to consider: The different scope requirements and the ease or difficulty of following these; Whether there are any size and/or type thresholds that are particularly well targeted, or by contrast, inappropriate or no longer fit for purpose; Application of exemptions and ease of use; How thresholds interact with requirements set by other regulators (for example the Financial Conduct Authority and Prudential Regulation Authority).*

22. We think there is significant scope for simplifying the company size and company type thresholds for NFR information. In addition to the different company size requirements that link to reporting requirements in both the CA 2006, and the LMCG Regs and SCG Regs (micro, small, medium and large), there are various thresholds that relate to individual reporting requirements. For example:

- reporting on engagement with employees (which has a threshold of 250 UK employees employed by the ***group***) and reporting requirements related to company policy concerning the employment of disabled persons (which has a threshold of 250 UK employees employed by the ***company***);

- reporting on suppliers, customers and others, which is required by large companies and is based on the size thresholds in the CA 2006 but without the relevant exclusions from being treated as medium-sized that are set out in s467 CA 2006; this contrasts with section 172 statements, which are required by large companies (s414CZA(2) CA 2006) and relate to the CA 2006 provisions generally and therefore are subject to the relevant exclusions in s467 CA 2006;

- the statement of corporate governance arrangements, which has its own qualification thresholds under Part 8 of Schedule 7 of the LMCG Regs (based on company turnover and employees employed by the ***company worldwide***, but which does not align with other thresholds);

- quoted companies have additional reporting requirements under 414C(7) and (8) CA 2006, but the non-financial information and sustainability statement requirements (s414CB CA 2006 apply to large PIEs (including "traded companies", the definition of which overlaps with, but is not the same as the definition of "quoted companies");

- the requirement for a non-financial information and sustainability statement applies to large PIEs (including traded companies) i.e. PIEs with more than 500 employees employed by the ***group*** (s414CA(1) CA 2006);

- the climate-related financial disclosures in the non-financial information and sustainability statement apply to large PIEs and large AIM companies and high turnover companies (based on group turnover); and

- there are overlapping definitions, such as:

    - "quoted company" and "traded company" (with different definitions of traded company for the purposes of Part 15 generally (s474 CA 2006) and in relation to remuneration reporting (s360C CA 2006));

    - Part 6 of Schedule 7 LMCG Regs contains additional disclosure requirements

for certain publicly-traded companies that use none of the CA 2006 definitions; and

- different PIE-related definitions, some of which use the term "public interest entity" (s494A CA 2006 in relation to audit) and some of which do not (s.414CA(1) CA 2006 in relation to the non-financial and sustainability information statement, which applies to large PIEs).

23. In addition, some of these qualification provisions include "smoothing provisions" (for example, reporting on corporate governance arrangements under Part 8 of Schedule 7 LMCG Regs and reporting on engagement with employees, suppliers, customers, and others under Part 4 of Schedule 7 LMCG Regs and pay ratio reporting), but others do not. We think there is merit in considering whether smoothing provisions should apply more widely to give companies time to prepare for new disclosures when they cross thresholds, some of which require the collection and analysis of significant amounts of additional information which may not have previously been collected and/or analysed.

24. Recently new corporate reporting regulations (The Companies (Strategic Report and Directors' Report) Regulations 2023) were laid before Parliament in July which will require certain companies to provide additional statements in their strategic and directors' reports. These contain yet another threshold definition (high level of employees and turnover) for the regulations to apply. These regulations will then be followed in due course by regulations relating to the new 750:750 PIE definition. These two new thresholds need to be considered in the context of this review.

25. We note that, in most cases, securities of large private companies are not widely held and so those companies do not have a broad investor base to which to report. In these cases the NFR disclosures exist principally for the benefit of other stakeholders such as employees, customers, suppliers, regulators and (in some cases) the general public. These NFR disclosures are likely to be of value to many of these stakeholder groupings, and so whilst there is potentially scope to review the nature of the NFR disclosures to be made by such companies, any such review or reconsideration should be undertaken critically and with circumspection.

    At the same time, it is important to bear in mind that large private companies appear in a variety of contexts. They include, for example, family-owned companies, which often have a very closed pool of related investors whose primary understanding of a company and its operations derives not from NFR disclosures but rather from their intimate acquaintance with the family business. In these cases, NFR disclosures operate primarily for the benefit of employees and external stakeholders. These companies are unlikely to be subject to any other regime requiring NFR disclosures and so it is logical for them to be subject to a proportionate and sensible NFR regime that caters appropriately and reasonably for those stakeholders.

    On the other hand, a large company could also be a subsidiary of an even larger group, whose parent undertaking may be headquartered and incorporated in the UK but equally could be established overseas and potentially with its shares publicly listed and traded. In this case, NFR disclosures are for the benefit not only of external stakeholders but also, in the case of listed companies, of investors in the parent undertaking. That listed parent undertaking may well be subject to extensive NFR disclosure requirements by virtue of its own local law or listed or securities exchange rules or regulations. Indeed, those NFR disclosure requirements may well require the parent undertaking to produce consolidated reporting that provides some or all of the useful or desired information on the large subsidiary. In these cases, it may be reasonable to ask whether requiring further NFR disclosures at the large subsidiary level is useful to external stakeholders, given the availability of information promulgated by its parent undertaking, or whether it merely represents an additional administrative burden for the large subsidiary (noting our overarching comments in paragraph 8 above) that might, in turn, divert attention from operating its business. In these cases, there may be value in considering whether to relax some NFR disclosure requirements for very large subsidiaries, either by incorporating them into consolidated NFR or by allowing them to satisfy those obligations by cross-referencing to existing published material by other members of the group.

As a third example (but there may be others), there will be large portfolio companies owned by private equity or venture capital investors. In these cases, the company's investor base will comprise highly sophisticated investors (normally, limited partners in a fund), rather than family members or the public at large, but a similar principle normally applies as with family-owned companies. To the extent they require NFR information, investors may expect to receive it through the private equity sponsor that operates the fund. Public NFR disclosures therefore operate primarily for the benefit of external stakeholders. Unlike family-owned companies, private equity-held portfolio companies may (depending on the precise circumstances) come within the ambit of other reporting frameworks that, to some degree, prompt suitable NFR disclosure. This may result in a sort of "blended" position between family-owned companies and subsidiaries of publicly traded groups.

In summary, as a general statement, we endorse the requirement for NFR disclosures in relation to the activities of large private companies and, at the same time (and in line with our comments in paragraph 8 above), support an approach that provides large companies with a suitable degree of flexibility to make proportionate, stakeholder-relevant and decision-useful disclosures commensurate with both their particular circumstances (including any NFR disclosures they or any relevant parent company may have already made, or are required to make, under other reporting frameworks).

26. Some of the NFR requirements exempt subsidiaries, but others (such as a company's section 172(1) statement, its corporate governance disclosures and its slavery and human trafficking ("modern slavery") statement) do not.

On the one hand, there will often be logic to requiring certain NFR disclosures to be made at the individual entity level. This allows those disclosures to focus specifically on, and to be tailored to, the operations of that entity, which may be materially distinctive in the context of the operations of the group as a whole. It also ensures that, for some such subsidiaries, disclosures are located where external stakeholders are most likely to look for them. For example, a person dealing with a subsidiary that sells products or provides services may well start with that subsidiary's annual report when looking for NFR disclosures on its interaction with customers and suppliers or its modern slavery policies and procedures. However, there is scope for any review of the NFR regime to consider introducing greater flexibility by allowing companies to cross-refer to relevant information on websites, in other published documents or on central portals, rather than in the annual report – including in the case of subsidiaries by cross-referring to information published by a parent. This would both enhance accessibility and transparency and ensure that annual reports can be concise and convey salient information efficiently.

On the other hand, some of the matters covered by NFR disclosures are often addressed, crafted and administered on a group-wide basis (although there may be certain specific applications or modifications for individual subsidiaries). For example, it is not at all uncommon for the corporate governance of a group of companies to be housed within a single group-wide set of policies. This can (depending on the group) also be the case for other aspects of NFR, such as modern slavery, pay equality, workforce engagement, net-zero transition-planning and so forth. In this context, a proper understanding of the relevant matters might be gleaned more effectively through consolidated, group-wide reporting. Requiring reporting at each individual level can potentially fragment the overall picture, creating a more difficult landscape for stakeholders to navigate, as well as impose unnecessary administrative and cost burdens on groups and their individual constituent entities. For some subsidiaries (for example, subsidiaries of parent companies that are listed in London or elsewhere and report on a consolidated group basis and in respect of whom relevant stakeholders may regard the subsidiary as synonymous with the group as a whole), requiring reporting at an individual entity level would likely involve unnecessary duplication and could create confusion and be counterproductive.

As a result, as a general statement (and in line with our comments in paragraph 8 above), we support an approach that provides subsidiaries with a suitable degree of flexibility to make, or, alternatively, where appropriate cross-refer to, appropriate stakeholder-relevant and decision-useful disclosures in the context of their group as a whole.

We would also reiterate the earlier point that subsidiaries and large private companies could be permitted to make certain relevant NFR disclosures in a more flexible way and not necessarily in their annual report but by way of publication on a website or central portal.

Q10 The Companies Act 2006 sets out size categories for UK companies that determine the type of accounts that need to be prepared and filed with Companies House. Do these size thresholds remain appropriate?

27. We note that the thresholds for qualification as medium and small were last updated for financial years commencing on or after 1 January 2016. Other than our comments in the response to Q9 and generally considering whether these thresholds should be reviewed on a regular basis, we do not have any comments relating to the size thresholds. We do, however, consider the review provides a good opportunity to review the various size thresholds in light of the feedback provided in response to the call for evidence.

Q11 Do you have any other comments that might aid the consultation process as a whole?

28. None at this stage but as previously mentioned we are open to further collaboration with the Department for Business and Trade on this project.