The Hundred Group
of Finance Directors

Investor Relations and Markets Committee

By email: markt-review-consultation@ec.europa.eu

Mr Jeroen Hooijer
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European Commission
SPA 2/JII – 01/112
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Dear Sir

European Commission Consultation: Disclosure of Non-financial information by companies

We are pleased to submit our comments on the above consultation.

Who we are

The Hundred Group is a non-political, not-for-profit organisation which represents the finance directors of the UK's largest companies, with membership drawn mainly, but not entirely, from the constituents of the FTSE100 Index. Our aim is to contribute positively to the development of UK and International policy and practice on matters that affect our businesses, including taxation, financial reporting, corporate governance and capital market regulation. Whilst this letter expresses the view of The Hundred Group of Finance Directors as a whole, they are not necessarily those of our individual members or their respective employers.

Our views

[Note: this consultation was completed online only as included within the Appendix].

Please feel free to contact me if you wish to discuss our comments on the proposals.

Yours sincerely

Robin Freestone
The Hundred Group – Investor Relations and Markets Committee

Appendix 1

Question 1: How would you consider the current regime of disclosure of non-financial information applicable in your country? Please explain. In replying to this question, please provide information on what way current reporting provides useful information, and to what extent it is sufficiently tailored to the circumstances of the company. Please also comment on whether you find non-financial information useful for the decision-making of a company.

Very Good.

As a representative group of UK Listed companies, we comment on the disclosure regime in as required under UK law, UK listing rules, International Financial Reporting Standards, and as regulated by UK regulatory bodies, including the Financial Reporting Council and its enforcement arms such as the Financial Reporting Review Panel.

In the UK there are two primary methods of reporting non-financial information to investors. Firstly, considerable information is included within the narrative reporting in the Annual Report. Additionally, companies will consider reporting outside of the Annual Report, using a combination of presentations, investor dialogue and website information. Websites in particular have been used very effectively as a medium to ensure that information provided in specific presentations is shared with all stakeholders who are then able to access a wide variety of information on the company. In some circumstances such additional reporting involves separate reports on particular topics, e.g. Corporate Social Responsibility reports. The degree and nature of specific reporting will depend on the company, the countries in which it operates and the nature of the business. In our response, we consider all forms of disclosure to be covered by this consultation.

In our opinion, the primary vessel for communicating the historic performance of a company is through the Annual Report as, by its very definition, this is an annual and retrospective appraisal of performance. However, other methods of information disclosure are more appropriate throughout the year for current information, through a different media.

The Annual Report should include information which is required to fully understand the historic performance of a company. In our opinion this includes information over a company's strategy, risks faced, the mitigation of these risks and subsequent analysis of performance. In certain circumstances this may be enhanced by disclosure of non-financial data. For example, a clothing manufacturer with production outsourced in India may wish to report on how it ensures ethical sourcing of products including compliance with international child-labour laws. Alternatively a UK based service provider would not report on how they comply with these laws as this would not be a relevant risk to the operation or reputation of that company. The UK service provider may, however, decide to provide additional information to shareholders and investors through another medium, such as its website, over its policies on ethical appointment of suppliers which constitute part of, but not a material part of, its business.

In our opinion the key need is to effectively identify specific information for inclusion in the Annual Report which is critical and relevant to the particular Company's operations and business model. Without clear identification of what information is useful to the reader, specific to the Company, there is a significant risk that the Annual Report becomes a 'catch all' for disclosures which merely add to its already weighty disclosures. We are very concerned that a trend towards transparency leads to an increase in irrelevant information, and would urge the EU to consider carefully any subsequent recommendations within this context.

We are broadly content that the current UK regulatory regime as applicable to our members, which establishes a disclosure framework for the Annual Report, is aligned with these principles. We believe that the provisions of the Fourth and Seventh Directives, as enacted in UK company law, provide an appropriate legal framework which focuses on the success of the company for the benefit of the shareholders, while taking account of wider stakeholder interests when these are relevant to that long term success. This legal framework is helpfully supplemented in the UK by non-mandatory guidance in the form of the UK Accounting Standards Board's Reporting Statement *Operating and Financial Review*. The work of the UK Financial Reporting Review Panel (FRRP) is also important in providing an external incentive for companies to make an effort to improve their reports whilst not acting as a deterrent against those companies seeking to present information in more innovative ways.

It is important that the requirements for narrative and non-financial reporting allow commentary to be tailored to the circumstances of the reporting company, as is generally the case under the current framework in the UK. It should be recognised that management commentary differs from most other information in the financial statements in that its form and content is much more variable, based upon the circumstances of the company and the judgments made by management. Indeed the value of commentary is directly derived from its bespoke nature. Whereas users may benefit from financial information communicated in a standardised format, such standardisation in management commentary would be likely to result in 'boiler-plate' narrative disclosures of little value.

We are also content with the level of disclosure of non-financial information that is disclosed outside the Annual Review. We note that recent years have seen an increase in the volume, quality and relevance of non-financial information provided in company websites. In addition we note that assurance providers have increasingly been requested to provide assurance over this information. As preparers we are keen to meet Investor requests for information on the performance of our companies wherever and whenever possible and consequently make significant investment in to our investor relations departments and associated activities. We continue to respond to investor pressure and carefully track best practice behaviour to ensure that reporting remains relevant to our stakeholders.

As set out in the question, we do use non-financial information for decision making internally and track non-financial information as a matter of course. This includes, for example market share data; information on regulatory matters; health and safety 'incidents'; employee data statistics on diversity and customer services performance statistics. For some of our members non-financial data is operationally vital, particularly those operating in highly regulated markets.

Question 2: Have you evaluated the effects, and costs and benefits, of any current corporate disclosure of environmental and social information?

No. We note that, as the disclosure of non-financial information has increased, as has the corresponding cost of this reporting. However, we have not evaluated the individual costs and benefits of separate monitoring or disclosures and we do not believe it would be possible to do so accurately.

Where non-financial information is critical to management of the company, for example information on health and safety incidents or breaches of laws and regulations, this information is collated as part of management reporting. Costs associated with the external disclosure of internal information are then relatively minimal. Additional requirements for corporate disclosure of non-financial data which is not being collated or monitored, as suggested in the consultation, would vary depending on the level of additional requirements that may be made over and above that which is already monitored by management.

Question 3: If you think that the current regime of disclosure of non-financial information should be improved, how do you suggest that this should be done?

We believe that the current regime for the disclosure of non-financial information is an effective framework for satisfying the information needs of users. Furthermore, in the UK we feel that management commentary and other non-financial information disclosure has seen continuous improvement in recent years. We support the ongoing efforts of the UK FRC to promote and reward good practice and welcome the current reviews of UK requirements designed to build on and extend this.

The FRRP set out in their 2010 annual report a number of features that they believe make for good reporting within the framework of an Annual Report. We agree with these features.

We have selected below three areas which we believe are particularly illustrative of how companies can improve the quality of their management commentary without changes to the existing regulatory framework. It is our belief that these themes are critical to the disclosure of all non-financial information regardless of when or where it is published.

A single story

The FRRP stresses the need for consistent messages within the annual report, i.e. the same story should be told throughout. We would reinforce this that investors want to hear 'the voice of management' speaking with one voice, consistently, concisely and focused. To achieve this objective, there needs to be a clear strategy, risk assessment and focus. Without this, there is a risk that the volume of disclosures may continue to grow with no improvement, or perhaps even deterioration, in the clarity and coherence of reporting.

Consistency, Coherence

Consistency and coherence between management commentary, non-financial disclosures and the financial statements is also important. This requires management to go beyond ensuring that where the same numbers appear they are in agreement, but is more a consideration of the messages, terminology and coherence of information.

Cut the clutter

Good management commentary and good disclosure tells the story of the business. It is relevant. As such its volume and format should be expected to vary with the circumstances of the individual business. Reports that are padded with generic text, included with a view chiefly to satisfy regulatory requirements, are unattractive to stakeholders and uninformative. Aside from being unwanted, such generic information detracts from the real story.

We strongly believe that companies should focus on what they perceive to be the most significant information and not extensive lists of generic disclosure applicable to any company. In this respect we consider that, in some circumstances, less disclosure can provide more meaningful information to users. Users of information provided by companies – whether financial or non-financial – should be able to quickly understand the most important factors relevant to their decision making. It is our view that mandating additional disclosure on numerous facets of company business could in fact serve to confuse and dilute key messages rather than clarify.

To facilitate the necessary focus it is imperative that management is allowed sufficient discretion; guidance should be built around core principles (already provided in the existing legislation), which gives a high-level framework to allow management to determine the most useful information to include in their disclosures to stakeholders.

Question 4: In your opinion, should companies be required to disclose the following:

I. **Whether or not they have a CSR policy, and if they do, how they implement that policy and what the results have been.**

II. **The principal business risks and opportunities arising from social and environmental issues, and how they are taken into account in company strategy.**

III. **Key information regarding issues such as employee engagement (eg. Employee training policy, equality and diversity, etc); customer satisfaction (eg. Customer loyalty); public perception of the company (eg. Stakeholder dialogue); environmental policies (eg. Energy efficiency, waste reduction); and innovation (eg. R&D expenditure);**

IV. Other, please specify.

II – Principal business risks and opportunities.

In our opinion, mandating management commentary on specific topics does not lead to good corporate reporting. To the contrary we believe that this can provide confusing, misleading and uninformative dialogue with investors.

We support the requirements currently contained in the Fourth and Seventh Directives for companies to disclose principal business risks and uncertainties in their Annual Report. We believe that this information is useful to capital providers. We also believe that it is important that emphasis be placed on 'principal' risks – those factors that have both the potential and the likelihood to have a material effect on the financial statements, and not to have these obscured by other factors of lesser importance (particularly if there is no explicit ranking to allow the reader to distinguish the most important items). Where environmental or social factors form part of these principal risks we strongly believe that these should be disclosed and that there is value for users in doing so.

However, the factors that are relevant to understanding a company's risk environment vary from organisation to organisation. Requiring the disclosure of particular metrics that may be irrelevant or ancillary to the disclosing business does not result in information that is useful to investors, and may indeed obscure other, more relevant information. This is particularly the case as this type of requirement is likely to be met by generic boiler-plate narrative disclosures that add little value.

If a company believes that its stakeholders, including investors, employees and customers, would be interested in information which is ancillary to these principal risks we believe that companies should be able to choose the medium, information and positioning of this information in a way that is most relevant to them. For example, providing information on employee training may be particularly relevant for attracting new joiners and so be appropriate for disclosure on a company's website. Through peer pressure and requests from investors companies will, in this way, provide information which is relevant to their stakeholders for their company.

Question 5: In your opinion, for an EU measure on reporting of non-financial information to achieve materiality and comparability it should be based upon:

I. Principles
II. Key Performance Indicators
III. Other

I - Principles

a) In case you consider that Key Performance Indicators (KPIs) would be useful, would you think that they should be general for all economic sectors or sector specific

We do not consider that KPI's would be a useful tool to require companies to disclose. We consider that boilerplate requirements generate boilerplate disclosures. By requiring companies to disclose information that they do not, as a matter of management priority, monitor and track, this will distract management time and effort from those items which are of relevance and should be a priority.

In the UK, and indeed, across Europe, companies operate in jurisdictions with strong employee law and protections, anti-bribery provisions, health and safety laws and regulations and under the auspices of international law. As part of their corporate governance strategy management must ensure that these provisions are adhered to. Reporting by exception will occur if a significant breach is encountered. Further information and broad KPI's does not improve an investor or stakeholder's understanding of a business, but merely provides the market with unstructured, surplus and often incomparable information.

We agree that KPIs are an important element of good management commentary and note that the Fourth and Seventh Directives already require the disclosure of KPIs by large companies and of financial KPIs by medium-sized companies. We support this disclosure. However, we believe that the choice of KPIs must be determined by companies themselves.

b) Please indicate which indicators you would consider to be the most relevant for all economic sectors

We do not believe that specific KPIs should be mandated. KPIs are as distinct as an organisation's business model and as such are bespoke to that organisation's policies and circumstances. What is 'key' to one organisation may not be key to another, and mandating a pre-determined set of KPIs that may be irrelevant or misleading as indicators of an organisation's success is highly inappropriate.

Question 6: In your opinion, what should be the process to identify relevant principles and/or indicators (whether general or sector-specific)? Please explain In replying to this question, please comment on whether the Commission should endorse or make reference to any existing international frameworks (or a part of them), such as Global Reporting Initiative (GRI), UN Global Compact, the OECD Guidelines, ISO 26000, or other frameworks; or whether companies should be required to select relevant indicators together with their investors and other stakeholders and to disclose information according to such indicators, depending on the use that different stakeholders would make of such information.

As set out in our answer to question 3, we agree with the features of good reporting within Annual Reports that the FRRP set out in their 2010 report, and their application to other non-financial information. We would suggest that were the EC to seek a set of principles that could be used as a framework for good management commentary and disclosure, these may offer a valuable starting point.

Question 7: In your opinion, should companies be required to disclose the steps they take to fulfill the corporate responsibility to respect human rights?

As a group we are supportive of efforts to improve corporate social responsibility and believe that all entities have a duty to respect human rights. However, we question the value of this specific disclosure, and would suggest that disclosure is not always the most appropriate way of changing behaviour.

Where disclosure of this type is mandated we have seen that it is commonly responded to by generic, boiler-plate narrative. We do not believe this is helpful and furthermore are concerned that it could obscure other, more valuable information.

Question 8: In your opinion, should companies be required to disclose the risks they face and the policies they have in the field of corruption and bribery?

Corruption and bribery can represent real business risks for multi-national organisations. In our opinion disclosures over implementation and alignment should be given for companies where this is considered to be a key operational and/or financial risk for the group. However, as set out in our answer to question 4, we do not support mandating this disclosure for all companies.

Question 9: In your opinion, what companies should be required to disclose non-financial information?

I. Large listed companies
II. Large companies (listed and non-listed)
III. Medium—sized and large listed companies
IV. Medium-sized and large companies (listed and non-listed)
V. All listed companies (small, medium and large)
VI. All listed and non-listed companies (small, medium and large)
VII. None
VIII. Other, please specify

VIII - Other

We support the requirements in their current form and do not believe that the non-financial disclosure requirements, currently contained with the Fourth and Seventh Directives and enacted in UK company law, should be extended. We agree that all large and medium-sized businesses should provide a fair review of their business and a description of the principal risks and uncertainties they face, together with information about the performance of the business during the year and of its position at the year-end. We feel that the current disclosure regime is effective in promoting the disclosure of information that is useful to capital providers as the primary users of the financial statements, while not providing a level of prescription that is met merely by generic, boiler-plate narrative disclosures.

Question 10: In your opinion, should institutional investors be subject to specific or additional disclosure requirements, for example to disclose whether and how they take into account environmental and social issues in their investment decisions? Please explain in replying to this question, please provide information on which issues seem to be the most relevant and why; and which institutional investors should be subject to such an obligation.

No. We believe that this is a matter best determined by institutional investors and their clients, who can make their wishes clear in deciding which institution they wish to entrust their money to and on what conditions.

Question 11: In your opinion, should European policy promote the concept of "integrated reporting"? Integrated reporting refers to a report that integrates the company's key financial and non-financial information to show the relationship between financial and non-financial performance (environmental, social, and governance). Please explain. In replying to this question, please indicate the advantages and disadvantages of an integrated report, as well as possible specific costs of integrated reporting.

The Hundred Group actively supports, and is a member of, the International Integrated Reporting Committee. We would support the EU reviewing and responding to the recommendations of this committee in due course and consider that only through an International approach such as this can real change be implemented and supported.

Question 12: In your opinion, should disclosed non-financial information be audited by external auditors? Please explain in replying to this question please provide any evidence you may have regarding costs of auditing non-financial information, as well as your views on other possible forms of independent reviews besides external auditing.

We do not believe information outside the financial statements should be included in the remit for statutory audit, except to the extent that it is possible to provide assurance on whether it is consistent with the financial statements.

We support the view that the Directors of the Company should be clearly accountable for the accuracy, integrity and balance in non-financial reporting, through the auspices of the Audit Committee.

Some external auditors are suitably qualified to examine much of any management commentary. However some of that reporting can be of a nature (eg oil reserves awaiting drilling) which would need technical assessment. A separate assurance engagement – rather than an ‘audit’ engagement – would be more appropriate and allow a more tailored approach.

In setting up any regime for assurance reporting, we suggest a voluntary rather than a statutory approach. This is because the preparedness of businesses and the level of interest in non-financial information among stakeholders is likely to be different according to jurisdiction, industry or entity. The time spent on these engagements would vary markedly, depending on the scope of information covered, the complexities, and how users were intending to use the information. The cost of engagement would be proportionate to the time spent and is impossible to estimate.