

Ewelina PAPAJ\*

## NON-FINANCIAL INFORMATION REGARDING THE AMENDED ACCOUNTING ACT BILL

### **Summary**

*In recent years, the idea of non-financial information has been gaining more and more popularity. Its meaning in the decision-making process has been underlined by the European Parliament. To provide users of financial statements with access to the non-financial data, Directive 2014/95/UE was proposed to be implemented into national legislation systems. The aim of the paper is to examine whether the changes in the accounting law would result in reduction of information loopholes of reports recipients' and could increase the quality and comparability of statements published by the companies. Research methods applied in the article include critical analysis of the literature and legal acts and a comparative analysis of the survey results.*

**Key words:** *non-financial information, The Accounting Act, Directive 2014/95/UE, financial report*

### **Introduction**

Socio-economic conditions, in which organisations operate exert a significant influence on the accountancy system. So far an accounting paradigm has been based on an economic measure<sup>1</sup>. Nowadays, the challenge involves presenting non-financial information in a financial reports. It is a result of promoting the idea of *moderation economy*, which places a great emphasis on sustainability: economic, social and ecological<sup>2</sup>. Reports' users not only expect standard financial data but

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<sup>1</sup>A. Karmańska, *Wybrane obszary badań w globalnych uwarunkowaniach działalności gospodarczej*, [in:] M. Gmytrasiewicz, A. Karmańska (ed.), *Polska szkoła rachunkowości*, Warsaw School of Economics Publishing House, Warszawa 2004.

<sup>2</sup> M. Karwowski, *Model biznesu jako nowe wyzwanie sprawozdawczości zewnętrznej*, [in:] B. Nita (ed.), *Teoria rachunkowości. Sprawozdawczość i analiza finansowa*, Wrocław University of Economics Publishing House, Wrocław 2015.

also non-financial information. Providing this type of information would undoubtedly require new, innovative research<sup>3</sup>. Both theory and practice of accountancy would have to elaborate standards to meet reports' recipient expectations, while preserving the highest quality features.

The necessity to introduce amendments of the reporting system was noticed by the European Union. Directive 2014/95/UE imposes on the Member States an obligation to implement home legal provision systems concerning the necessity to disclose non-financial information by public interest units. An actual reply to the Directive is prepared by the Ministry of Finance in the form of the amended bill of the Accounting Act. It encloses a directory of new reporting obligations within non-financial information. Preparing the amendment bill of the Accounting Act, public consultations were introduced in the areas where the Directive allowed countries for freedom of solutions.

The purpose of the paper is a critical analysis of a research literature, domestic and foreign legal acts, which will enable to explain assumptions of the Directive. The following questions should be answered: whether changes made in the accounting law would significantly influence a reduction of the information loopholes or would allow for data comparison within the European Union? Will the amendments bill of the Accountancy Act impact the quality and utility of non-financial data? Is it possible to meet the information needs of reports' recipients without charging companies?

The paper consists of two parts – the first is theoretical, the second one empirical. In the first two chapters the analysis of literature was used as a research method, as well as the analysis of domestic and foreign legal acts. The third chapter is based on a comparative analysis of surveys' data collected by the Ministry of Finance as a result of public consultations.

## **1. The importance of non-financial data in the report**

A financial report as a document presenting a status of accounting records of a unit is inseparable with the most important function of the

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<sup>3</sup> J. Krasodomska, *Sprawozdawczość zintegrowana jako nowy obszar badań naukowych w rachunkowości*, Zeszyty Teoretyczne Rachunkowości vol. 82 (138), SKwP Rada Naukowa, Warszawa 2015.

accounting system – informative function<sup>4</sup>. Data presented in the financial statement are key elements influencing decision-making process of a wide group of reports' recipients. Receivers expect reliable, up-to-date information, compatible with rules defined in the Accounting Act<sup>5</sup>. As far as preparation of financial statements is concerned, entities have to preserve the highest quality level of the information disclosed<sup>6</sup>. Over the past years, a huge interest accompanies a concept of social responsibility and sustainability<sup>7</sup>. Consequently, there is an increasing need for non-financial data<sup>8</sup>. Non-financial information is supposed to support financial data in creating a view on the value of an enterprise. Amongst non-financial information published by organisations, the most frequent ones are: information connected with social business responsibility, companies sustainability, corporate governance, business model, and the future prospects<sup>9</sup>. A change in the approach to information of the financial statement and increased interest in non-financial data resulted in the development of additional reports addressed to investors. The reports enclose information that go beyond the framework of a standard financial statement. They include inter alia<sup>10</sup>:

- CSR – Corporate Social Responsibility
- ICR – Intelligent Character Recognition
- Environmental Responsibility Report

Publication of data as separate reports is a result of current market trends and a code of good practice, used by more and more companies,

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<sup>4</sup> A. Dziuba–Burczyk, *Podstawy Rachunkowości w świetle międzynarodowych standardów*, Andrzej Frycz Modrzewski Kraków University, Kraków 2003.

<sup>5</sup> The Act of 29 September 1994 on accounting (Journal of Laws from 2013, item 330, as amended).

<sup>6</sup> M. Rówińska, *Cechy jakościowe sprawozdania finansowego jednostek gospodarczych*, Szczecin University Scientific Journal no 757, *Finanse, Rynki Finansowe, Ubezpieczenia* no 58 (2013), Szczecin 2013.

<sup>7</sup> G. Michalczyk, T. Mikulska, *Sprawozdanie zintegrowane jako produkt finalny rachunkowości społecznej*, Szczecin University Scientific Journal no 827, *Finanse, Rynki Finansowe, Ubezpieczenia* no 69 (2014), Szczecin 2014.

<sup>8</sup> C. Shapiro, *Potęga informacji. Strategiczny przewodnik po gospodarce sieciowej*, Helion, Gliwice 2007.

<sup>9</sup> J. Salemak, *Zintegrowane sprawozdanie finansowe przedsiębiorstwa społecznie odpowiedzialnego*, Poznań University of Economics Publishing House, Poznań 2013.

<sup>10</sup> D. Jędrzejka D. (2012), *Raportowanie zintegrowane jako nowe podejście do współczesnej sprawozdawczości*, Acta Universitatis Lodzinsis. Folia Oeconomica, no 266.

also in Polish reality<sup>11</sup>. Amongst tasks, which are to be implemented before issuing additional reports, there are, inter alia, a reduction of information asymmetry between reports' recipients and an organisation. Data presented in non-financial statements ensure investors an access to information which so far has been reserved only for people close to the company environment<sup>12</sup>.

The above mentioned reporting is entirely independent from regulations of the accounting law and it is employed optionally by companies as a way of creating a positive image. Though, it should be noticed how the regulations of the accounting law relate to the issue of non-financial information. The Accountancy Act, Article 49, paragraph 1 imposes an obligation to prepare reports of unit activity on managers of limited companies, joint-stock partnerships, mutual insurance companies, cooperatives and state-owned companies, as well as unlimited companies and limited partnerships, whose all partners with unlimited liability are capital companies, joint-stock partnerships, or companies from other member states of a similar legal arrangement to the above companies. The report should enclose substantial information concerning company's assets and financial situation, including assessments of obtained results and indication and description of risk factors.

Stronger reporting obligations were imposed on companies listed on a government-recognised stock exchange. According to the regulation of the Minister of Finance of 19 February 2009 on current and periodic information provided by issuers of securities, and the conditions for the recognition of equivalent to the information required by the law of the Member State which is not a Member State, companies are obliged to prepare a detailed activity statement. A list of obligatory disclosures is very extensive, data resulting from the Regulation include inter alia: a description of important risk factors, information concerning domestic and foreign sales markets, changes of the basic rules of company's management<sup>13</sup>.

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<sup>11</sup> P. Nowak, *Czekają nas kolejne zmiany w prawie bilansowym*, [in:] A. Pokojńska (ed.) *Rachunkowość i audyt*, Dziennik Gazeta Prawna nr 45 (4192), Warszawa 2016.

<sup>12</sup> M. Marcinkowska, *Kapitał relacyjny banku. Ocena banku w kontekście relacji z interesariuszami*, Łódź University Publishing House, Łódź 2013.

<sup>13</sup> Regulation of the Minister of Finance of 19 February 2009 on current and periodic information provided by issuers of securities and the conditions for the recognition of equivalent to the information required by the law of the Member State, which is not a Member State (Journal of Laws from 2014, item 133).

The International Accounting Standard No. 1 *Presentation of financial statements* describes the basis of an entity's activity financial statement. It constitutes that many companies apart from the financial report prepare additional reports and statements which disclose information regarding investment policy, funds resources, influence of entity's activity on natural environment, as well as concerning gained value added<sup>14</sup>. However, the reports are optional.

The legal acts mentioned above prove that information that goes beyond the framework of a standard financial statement is essential for companies. The problem that is faced by individuals responsible for the reports preparation is a wide margin of discretion as far as the content is concerned, as well as mostly discretionary nature, which cause codes of good practice and framework guidelines with *Global Reporting Initiative (GRI)* to become the leaders over legal acts.

## **2. The European Union regulations concerning non-financial data disclosure**

Non-financial data and need of their disclosure have been investigated over a few years by the European Union Institute in a form of legislative work. In 2011 the European Commission announced publicly the need to increase social and environmental information released to the public *Single Market Act - twelve levers to boost growth and strengthen confidence - working together to create new growth*<sup>15</sup>. The European Parliament emphasised that disclosure of information by companies concerning social and environmental factors, as well as data connected with sustainability, increases both investors and consumers' trust. Non-financial information is very useful for purposes of measurement, supervision and management with the reference to entities results.

The above arguments caused that the European Parliament applied to the Commission regarding a preparation of a legislative proposal concerning the disclosure of non-financial information. The reason

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<sup>14</sup> International Accounting Standard 1, Presentation of Financial Statements , OJ. EU from 29 November 2008, L320/5.

<sup>15</sup> Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, OJ.EU from 15 November 2014.

behind the initiative was the necessity to coordinate national regulations valid in the Member States and a register development of a minimum scope of disclosed non-financial data across the European Union. Such actions seem to be particularly important, taking into account the fact that in the era of globalisation, many companies operate in more than one Member State.

Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, is a result of the European Commission work. It should be noticed that the Commission's clear intention was preparation of a legal act which would impose on companies an obligation to disclose non-financial information, though would allow for a considerable range of flexibility. In this way, a nature of social business responsibility in the strategy of modern enterprises was supposed to be emphasised. On the other hand, the European authorities wanted new legal regulations to ensure comparability and easy access to non-financial data for investors and consumers. One could ask whether there was a chance for concurrent realisation of two objectives. Whether an increase of information resource transmitted to report's recipients and possibility of their comparability would be possible, being flexible at the same time concerning the disclosure of non-financial data by companies. While trying to find answers to these questions, it should be pointed out that the Directive isolated areas, for which the Member States have freedom of use. Practically it means, that in the appointed areas, based on public consultations, the Member States may have a wide margin of discretion for introduced regulations. It may lead to a situation where in the Member States of the European Union, despite the Directive implementation, other standards will be applicable as far as non-financial data disclosure is concerned. The objective of increased transparency and first of all reports comparability amongst the European Union countries becomes questionable.

The Directive's entry imposes on the Member States enforcement of obligations within the disclosures of non-financial data and assurance to access procedures for all natural or legal persons. They should be complying with the Directive's regulations. The Member States had time until 6 of December 2016 to implement the Directive. The first reporting year to accept the introduced regulations is the year 2017.

### **3. Draft amendments introduced to the Accounting Act**

As an answer to Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU, a project of 7 April 2016 amending the Accounting Act was developed. The project constitutes changes inter alia in Articles 49 and 55, which will be extended according to the Directive's assumptions.

The Directive imposes the obligation to publish non-financial information by the largest public interest units, as well as the biggest capital groups, where the dominant entity is a public interest unit. In practice the following entities are classified to this unit directory: entities operating on financial markets such as banks, social insurance institutions, and issuers of securities. In the amended bill of the Accountancy Act, in Article 49b, paragraph 1 apart from legal form companies obliged to disclose non-financial data, also additional criteria connected with employment and total balance sheet assets, were introduced, and the net revenue from the sale of goods and materials. Companies listed in Article 49b, paragraph 1, which in a financial year a financial statement is made for, and in a previous year, exceeded the following amounts:

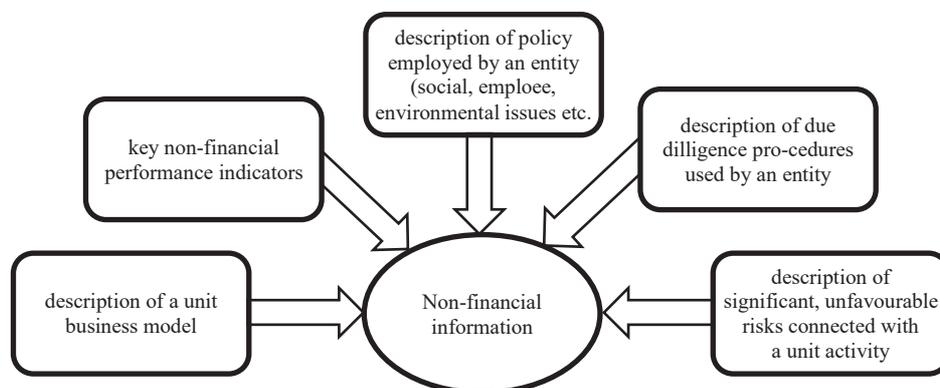
- 500 people - in case of annual average employment expressed in full time equivalents and
- 85,000,000 PLN - in case of total balance sheet assets at the end of the accounting year or 17,000,000 PLN - in case of the net revenue from the sale of goods and materials in the financial year are obliged to disclose non-financial information in the activity report <sup>16</sup>

The scope of disclosed non-financial information in accordance with the assumptions of draft amendments of the Accounting Act was presented in Figure 1.

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<sup>16</sup> The bill of the Accounting Act amendment of 7 April 2016 issued by the Law Department of Ministry of Finance.

**Figure 1. The scope of non-financial information of the amended Accounting Act.**



Source: Own description based on the bill of the Accounting Act amendment of 7 April 2016.

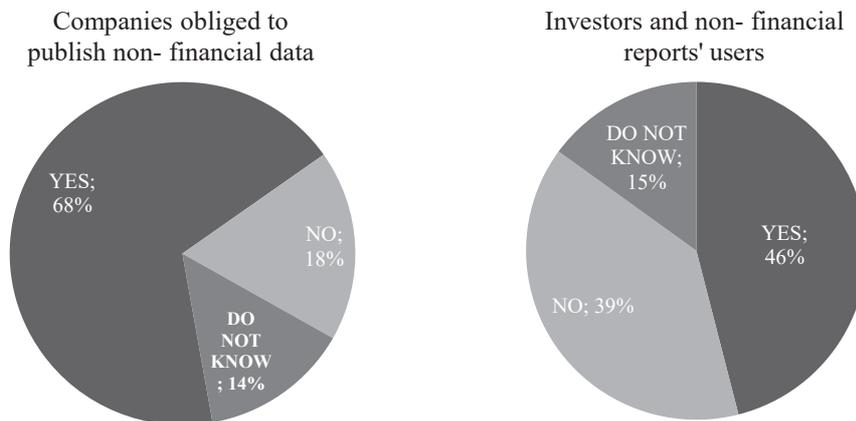
The analysis of the above figures and records of the bill amendments of the Accounting Act results in a register of five basic areas which will have an obligation to disclose information. Though the areas have not been characterised or explained it may be beneficial for units preparing a non-financial data statement because they will have more freedom within content of disclosed data, however, lack of regulation may result in 'information chaos'. The absence of clear guidelines is often a huge challenge for people responsible for preparing financial reports, as they have to make their own decisions regarding the scope of disclosed information. The author claims that a wide margin of discretion concerning information disclosed, may lead to a failure in reaching the Directive's objective, which is increased transparency and comparability of data shared by companies addressed to reports' recipients.

EU Institutions introduced three areas, where the Member States have flexibility in terms of solutions employed, covered by the Directive, namely:

- in exceptional cases, a permission to omit information regarding expected events or subjects of negotiation, if their disclosure would have harmful effect on the situation of a unit;
- permission to present information by an entity in the form of a separate report;
- requirements for the published non-financial information would have become a subject of investigation by the statutory auditor or other body providing assurance services.

The above issues became an area of investigation within public consultations conducted by the Ministry of Finance. Questions concerning the areas mentioned were addressed to both, investors and non-financial information users, as well as companies which will be obliged to comply with the regulations of the amended Act. The following entities were participants of the consultations: the Ministry of Economy, the Ministry of State Treasury, the National Chamber of Statutory Auditors, the Financial Supervision Authority. The issue of publication form of non-financial data was the first area investigated.

**Chart 1. Should Poland transpose an option allowing companies for a presentation of non-financial information in a form of a separate report?**



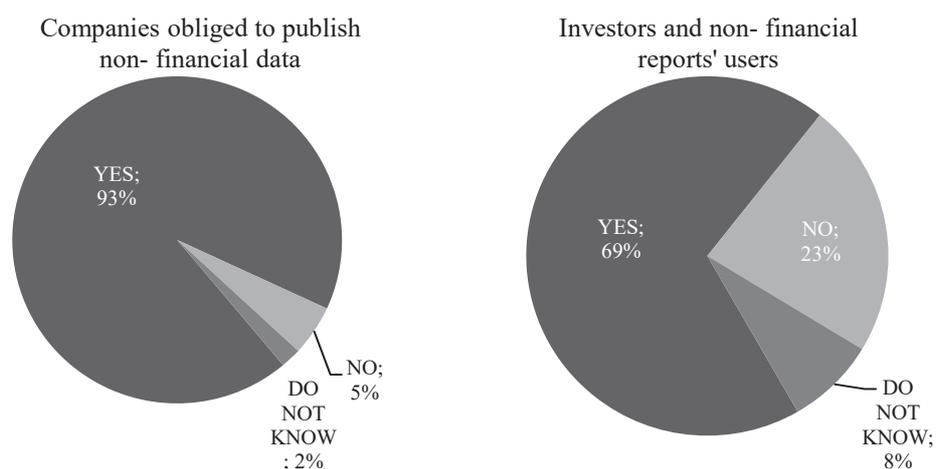
Source: own description based on data made available by the Ministry of Finance [www 1]

As Chart 1 shows, replies to the question on publication of non-financial information in a form of a separate report, were mostly 'yes'. In such situation, entities which currently prepare reports concerning non-financial data, in compliance with assumptions of the amended Accounting Act, will be able to continue such form of reports. One should pay attention to the answers to this question given by reports' addressees. The majority also advocated for non-financial data publication as a separate report. However, 39% of the respondents were against such possibility. It demonstrates a lack of precise expectations in terms of form of non-financial data presentation. The bill of the amended Accountancy Act gives units freedom of choice. Companies will have a possibility to publish non-financial information in a form of a statement

within activity report or as a separate report. Such decision is undoubtedly beneficial from a corporate point of view, reporting non-financial data, which de facto will not be burdened with any new report obligations. Companies which have not disclosed such information, will be able to decide to issue a statement attached to activity report. This solution is definitely less time consuming and it is cheaper than a preparation of separate reports. However, one should ask about advantages for financial statements' recipients. Will the increase of transparency and data comparability assumed by the Directive be able to be implemented in case of any form of reporting? The author claims that it will be undoubtedly very difficult for individual reports' recipients, who may have a problem with a comparison of data amongst companies. The difficulties will be additionally compounded by the fact that Directive 2014/95/EU defines that a unit while disclosing non-financial data may use any standards, both domestic or EU, or international ones. Such solution certainly will not influence transparency positively, nor data comparability provided to financial reports' recipients. Therefore, it should not be expected that the publication obligation of non-financial data by public interest companies will contribute to substantial minimising of informative loopholes.

The next area within conducted social consultations was the possibility not to publish the non-financial data by companies in exceptional situations. The data involved included the information whose disclosure could have harmful effect on trade situation of a unit. Chart 2 presents opinions of entities obliged to publish information as well as data recipients.

**Chart 2. Should Poland transpose an option allowing companies for omission of some non-financial information due to harmful effect on a unit trade situation ?**

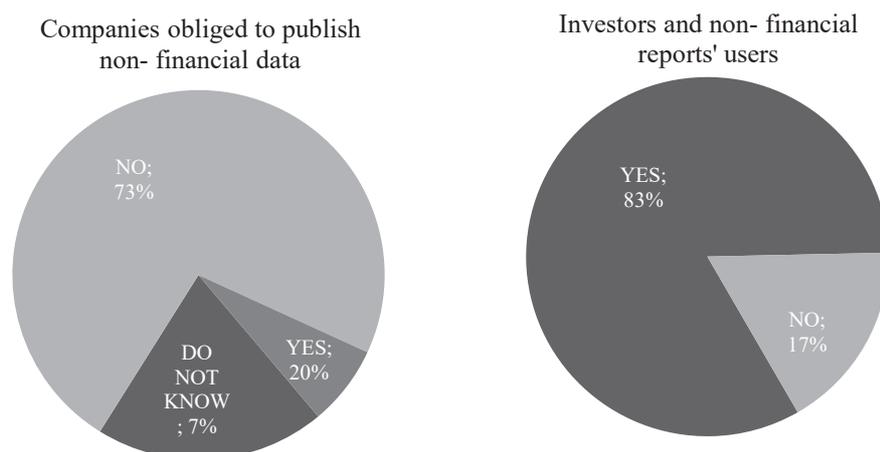


Source: own description based on data made available by the Ministry of Finance [www 1].

The option concerning the possibility of omitting some non-financial data was positively evaluated by both companies and reports' recipients. It was generally agreed if information disclosure would have harmful effect on a unit trade situation, publication may be waived. As far as publication of non-financial information is concerned, the Directive assumption is based on the rule '*comply or explain*'. It means that in case of omitting in a statement non-financial data resulting from the Directive's regulations, an entity is obliged to inform about such situation. On one hand, this solution will ensure subjects' security against the effects of data publication, which could affect its market standing, on the other hand the reports' recipients will receive a clear signal that there are areas left with undisclosed information.

The last area, where the Directive's regulations left the Member States an option is the issue of non-financial information verification. Chart 3 demonstrates public consultation results within this issue.

**Chart 3. Should Poland transpose an option imposing on companies the obligation to provide non-financial information to be verified by bodies providing assurance services?**



Source: own description based on data made available by the Ministry of Finance [www 1]

The analysis of replies to the question regarding an obligation to verify published non-financial data points out a conflict amongst companies expectations and reports' addressees. 73% of the investigated subjects which were imposed on with the obligation to publish non-financial information, favours the rejection of verification by the assurance bodies. It is mostly connected with financial issues. As the data concerning CSR (Corporate Social Responsibility) report verification shows, the costs of such examination varies between 25 to even 70 thousand zlotys<sup>17</sup>. Therefore similar amounts should have to be calculated in the event of a compulsory non-financial data investigation. Undoubtedly, it would have been a considerable burden on companies. On the other hand, an objective research of data published by an entity carried out by an assurance service, gives the reports' recipients a high degree of certainty. Hence, 83% of examined users of non-financial information voted in favour of an obligation of non-financial data verification by eligible bodies. In the amendment bill of the Accounting Act, the legislator adopted a solution beneficial for companies. The

<sup>17</sup> <http://www.mf.gov.pl/ministerstwo-finansow/dzialalnosc/rachunkowosc/aktualnosc> (access 19.05.2016).

option enabling the obligation of non-financial information verification was not used. This decision was supported by an argument that this type of non-financial reporting should be developed on a voluntary basis through market trends. The draft of amendments of the Act, is supposed to introduce additional requirements for companies, apart from the ones required by the Directive. Such position is certainly an advantageous conclusion for companies, however again the interest of the reports' recipients was not the most important. From their point of view, an independent non-financial information verification is fully justified. The acceptance of such outcome is another negative reply to the questions posed at the beginning of the paper. Taking into account the discretionary approach to the issue of non-financial information disclosure, it will not be possible to meet two of the objectives set in the Directive at the same time.

Summing up the bill of amendment of the Accounting Act, it should also be noticed that consequences of data non-disclosure have not been clearly defined. In order to achieve the Directive's objectives, appropriate verification means ensuring compliance with its assumptions should be introduced.

## **Conclusions**

Contemporary financial reporting is a subject to constant changes. They are a result of evolving expectations concerning information they are suppose to provide. In recent years, non-financial information is becoming more and more popular. Market trends appearing in this area, contributed to many companies preparing various financial reports for a long time. So far they have been optional. From 6 December 2016 the obligation to publish non- financial data for public interest units is a result of The Accounting Act. It was a date by which Poland must have implemented Directive's 2014/95/EU regulations, regarding the obligation of non-financial data disclosure. The purpose of the EU bodies was to increase access to the data for the recipients and possibility of their comparison in the Member States. At the same time, considering the nature of changes introduced, the European Union left the Member States an option of form in several areas. Poland took advantage of this possibility, introducing public consultations. The result of the analysis was presented in Chapter 3, and shows that it will be impossible to reach all of the Directive's objectives. The information loophole between

reports' recipients and companies will not be eliminated because of a wide margin of discretion regarding accepted forms and standards while preparing reports, as well as the possibility of resignation from some non-financial data disclosure, and also a lack of verification obligation by assurance service authorities. Moreover, one should be aware that the entities which since December 2016 are obliged to disclose non-financial information, mostly have been doing so. It is essential though to define more detailed guidelines referring to a form and scope of disclosures, as only they will allow for data comparability and may contribute to increase quality reports to recipients. The changes introduced to the accounting law connected with non-financial information prove that it is more important subject. Though, it should be pointed out that ensuring the right quality of disclosed data will require an effort of both theoretical and practical side of accountancy.

#### **Legal Acts**

- [1.] Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, OJ.EU from 15 November 2014.
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