CNMV
Comisión Nacional del Mercado de Valores

Report on the CNMV's supervision of non-financial information and main enforcement priorities for the following financial year

2022

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This publication, like most of those produced by the CNMV, is available on the website www.cnmv.es.

Layout: Cálamo y Cran

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Introduction

This report describes the supervision carried out by the CNMV in 2023 of the non-financial information statement (NFIS) for 2022 of the issuers of securities admitted to trading on regulated markets in the European Union (EU), when Spain is the home Member State (the "issuers" or "entities"). In addition, it identifies areas for improvement that issuers must consider in order to improve the quality of the non-financial information (the "non-financial information" or "sustainability-related information") they provide to the market.

For the third year, it has been presented as a separate report. In previous years, this information was included as a specific section of the Report on the CNMV's review of annual financial reports.

The NFIS forms part of the management report, and therefore of the annual report that must be prepared and published by issuers. The annual report is subject to the supervisory authority of the CNMV, in order to reinforce confidence in the reliability of information published by issuers.

The preparation of the NFIS was made mandatory for the first time for the financial years beginning on or after 1 January 2017 for companies included in the scope of application of Royal Decree-Law (RDL) 18/2017, of 24 November, which included the obligations imposed by Directive 2014/95/EU, of 22 October, on non-financial and diversity information ("NFRD"). Later, Law 11/2018, of 28 December, applicable to financial years beginning on or after 1 January 2018, repealed the aforementioned RDL, expanding its scope, increasing the content of non-financial information reported by companies and requires that the information included in the NFIS be verified by an independent provider of assurance services.

In application of the mandate contained in the NFRD, in July 2017 the European Commission (EC) published non-binding guidelines on the methodology applicable to the presentation of non-financial information (2017/EU guidelines), which was supplemented in June 2019 with information related to climate change (the "Climate Supplement"). The Climate Supplement includes the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) working group – sponsored by the Financial Stability Board (FSB) – within the EU's sustainable finance framework.

Additionally, Regulation (EU) 2020/852, of the European Parliament and of the Council, or Taxonomy Regulation, published in June 2020, together with Delegated Regulations 2021/2139 (Climate Delegated Act or CDA) and 2021/2178 (Disclosures Delegated Act or DDA), published in December 2021, established the obligation to include, for the first time, in the 2021 NFIS, the proportion of economic activities eligible to achieve the objectives of climate change mitigation and adaptation which, in the case of non-financial entities, entailed reporting said proportion in relation to their turnover (revenue), their investments in capital expenditure (CapEx) and their operating expenses (OpEx).

In the 2022 NFIS, non-financial issuers were obliged to provide the aforementioned indicators relative to economic activities, both eligible and aligned with the taxonomy, to achieve climate change mitigation and adaptation objectives.

In addition, Delegated Regulation (EU) 2022/1214 (the "Complementary Delegated Act" or "CDA"), relating to nuclear energy and gas, published in March 2022, amends the CDA and DDA and requires filling out the nine templates, included as Annex XII of the DDA, since 2022.

This Regulation was accompanied by various publications by the EC, aimed at addressing any doubts that issuers may raise regarding the application and interpretation of the regulatory texts.

Taking into account that 2022 was the first financial year in which non-financial entities were obliged to disclose not only their degree of eligibility, but also their alignment with the climate taxonomy, the CNMV published, in October 2023, the *Report on EU Taxonomy-related disclosures [Informes sobre los desgloses relativos a la Taxonomía Europea]*,[1] which analyses the quality of the qualitative and quantitative information published pursuant to Article 8 of the EU Taxonomy Regulation, which is described in further detail in Chapter IV on special analyses carried out in 2023. On the same date, the European Securities and Markets Authority (ESMA) also published a study analysing the practices adopted by European issuers based on a sample of 54 issuers from 22 Member States.[2]

Chapter I, relative to the regulation, describes the legislation that will affect the preparation and content of the sustainability-related information that issuers must prepare in the coming financial years.

To help with the reading of this report, a glossary of acronyms is included as Annex 2.

Some of the main chapters of the report are summarised below. However, in the case of securities issuers obliged to prepare an NFIS and their verifiers, we recommend reading the entire document.

1 https://www.cnmv.es/portal/publicaciones/otrosdoc.aspx?lang=en

2 ESMA32-992851010-1098_-_Summary_of_findings_Results_of_a_fact finding_exercise_on_corporate_reporting_practices_under_the_Taxonomy_Regulation.pdf (europa.eu).

Executive summary

Regulatory changes in sustainability-related reporting

The additional regulatory requirements, which already applied to the 2022 NFIS, make reference to the new disclosures related to the taxonomy of sustainable activities, in particular: i) those relating to the obligation to fill in the templates of Annex XII to the Disclosure Delegated Act, relative to nuclear energy and gas; and ii) the added obligation for non-financial entities to disclose the proportion of economic activities aligned with the taxonomy in relation to their turnover, CapEx and OpEx.

In 2023 and the first months of 2024 there were important regulatory developments, most notably the following:

– On 5 January 2023, the new Corporate Sustainability Reporting Directive (EU) 2022/2464 (CSRD) entered into force, which replaces the NFRD Directive and must be transposed by the Member States into their national legislation by 6 July 2024.

  The CSRD increases the number of entities obliged to report sustainability-related information and its content, using the European Sustainability Reporting Standards (ESRS) as a reference, and requires that sustainability information be presented in electronic format.

– In October 2023, the first set of ESRS standards, consisting of 12 general standards, applicable to all institutions, irrespective of the nature of their business, was adopted by delegated act.

  In January 2024 the European Financial Reporting Advisory Group (EFRAG) published two draft ESRSs for SMEs and sectoral standards will follow shortly.

– In relation to sustainability taxonomy, in June 2023 two delegated regulations were issued which, on the one hand, extended the technical selection criteria and scope of the eligible activities for the climate change mitigation and adaptation objectives and, on the other, implemented the technical selection criteria for the other four environmental objectives, whose eligibility should have been reported in the 2023 NFIS.

Verified non-financial statements of information

Of the 126 issuers that submitted consolidated accounts for the 2022 financial year, 102 were obliged to include the NFIS in their management report (81% of the total) and, of these, 89 were obliged to include taxonomy information.

No issuer presented qualifications in the NFIS verification report. Almost all the reports were subject to limited review which, in most cases, was carried out in accordance with the requirements established in the revised ISAE 3000 review standard, considering the clarifications in the guidelines of the Spanish Institute of Chartered Accountants (ICJCE) or that of the Register of Auditing Economists (REA), although in some specific cases they included additional scope.

In general, the verifiers that follow the aforementioned guidelines only verified the information required by law, and identified in a summary table. The CNMV stresses the importance of both verified and unverified information being accurately identified and traceable.

In 81% of the cases, the verifier was one of the "big four" in Spain: Deloitte, E&Y, KPMG and PwC.

As in previous financial years, the reference framework most commonly used by issuers was the Global Reporting Initiative (GRI).

Supervision of non-financial information

The CNMV's enforcement work on the NFIS follows a similar approach to its supervision of financial information. It carries out: i) a formal review of compliance with presentation requirements, the content of the verifier's report and other specific aspects; and ii) a substantive review of a specific number of companies, focused mainly on the enforcement priorities issued by ESMA and the CNMV, and on the material aspects of each entity.

In 2023, with respect to 2022, a total of 14 issuers were subject to substantive review. In addition, a more in-depth analysis of taxonomy information was conducted for 25 non-financial entities, as this was the first financial year in which they reported alignment with the two climate objectives.

23 entities were requested to provide additional information and recommendations were made to 27, for consideration in future NFIS, mainly regarding the following aspects: i) disclosures of Article 8 of the Taxonomy Regulation; ii) climate-related matters, such as risks and opportunities, transition plans and carbon footprint; iii) description of the business model and participation of third parties in the issuer's value chain, including the identification of risks and opportunities posed by non-financial issues; iv) disclosures of the methodology used to perform the materiality analysis and its results; v) the scope considered, its exclusions and the inclusion of the value chain; vi) disclosures of the evolution of indicators, or KPIs, with respect to previous financial years and to the established objectives; vii) information about the NFIS data collection processes; viii) methodology and concepts considered to calculate the wage gap, explanation of the data and their evolution; and ix) consistency between the content of the financial statements and the NFIS, mainly in relation to climate matters, business model and provisions and contingencies.

In most cases, the explanations provided by the issuers in response to the CNMV's requests satisfactorily completed the disclosures required by law or recommended by ESMA and the CNMV in their enforcement priorities, although there is still room for improvement, as described below.

The CNMV wishes to draw attention to several aspects that could be improved in the NFIS for future years. In addition, some of the disclosure requirements set out in the ESRS, effective from the 2024 financial year, have been included in the report for each of the matters addressed.

! At the end of each of the matters addressed, tables have been included with this format, containing some of the disclosure requirements of Delegated Regulation (EU) 2023/2772 (the "DR"), adopted by the ESRS (see Chapter I on regulations). It is not intended to be a comprehensive list of ESRS disclosures, which must be consulted in their entirety, but rather some examples of disclosures that reflect or are in line with the information requested or recommended to issuers in this 2022 financial year. It should be noted that some ESRS obligations are applied progressively and most of the disclosures are subject to a materiality analysis.

Furthermore, certain incidents identified during the review of the non-financial information are included in tables, generally accompanied by recommendations or good practices aimed at improving the quality of the non-financial information.

Business model. Participation in the value chain

An adequate description of the entity's business model and its value chain is essential to put the rest of the NFIS information in context, which must be consistent with the information included in the notes to the annual accounts. There is still room for improvement in the description of issuers' activity, the key phases of their value chain and the role of the issuer and the different stakeholders in each of them, when significant. Entities must expand their explanations about the significant non-financial or sustainability-related risks and opportunities in the short, medium and long term, including those associated with the participation of third parties in their value chain, and indicate how they manage these risks. The CNMV recommends entities to expand the information on their strategies and objectives.

Materiality

Materiality analysis is the cornerstone for determining which information is relevant for stakeholders and preventing the omission of material information. To this end, this analysis must be adequately disclosed in the NFIS as a basis to facilitate understanding of the rest of the report, with which it must be consistent.

Although a gradual improvement in the quality of disclosures is observed, issuers must better explain the criteria and methodology used in their analysis and, in particular, expressly indicate whether their analysis takes into account the double materiality perspective, which underlies the legislation in force (in general, disclosures tend to be more focused on an impact perspective and should be completed from a financial materiality perspective), clearly identify the results of the analysis and include explanatory disclosures on the judgements used.

One of the disclosures with the greatest room for improvement is that relating to the time horizon considered in the analysis, which is recommended to include the short, medium and long term.

NFIS scope

This has been one of ESMA's enforcement priorities for the 2022 NFIS. The scope of the NFIS must be clearly and explicitly defined in general terms and whether it is consistent with all the information included in the NFIS, indicating those cases where there may be exceptions, which must be adequately explained and justified, in addition to providing a measure of the relevance of the excluded information. Issuers must also indicate whether the scope is homogeneous with that of the comparative period.

Issuer must indicate whether the scope of the NFIS is consistent with that used in the financial information and whether it also includes, and to what extent, associates and joint ventures or some aspects of the value chain. In all cases, issuers must at least explain the assessment of the non-financial risks they assume through said investees and stakeholders.

Key performance indicators (KPI)

This is a transversal subject, to the extent that the disclosure of different KPIs is required for all the thematic aspects of non-financial information (social, environmental and governance aspects). The most specific aspects of each KPI are addressed in detail in this report, in each of the thematic areas.

From a general perspective, the aspects of the KPIs most recommended for improvement were those relating to: i) explanations of their evolution (the importance of providing comparative quantitative and qualitative information on variations); ii) the relationship between the entity's non-financial objectives and the main KPIs (essential to be able to assess their evolution and the level of attainment of objectives); and iii) information about the definition of and the calculation methodology used for the KPIs that are most significant for the entity, including those relative to the source of the data applied (especially in cases where estimates have been used due to a lack of reliable data).

Robustness of the data used for the NFIS

This issue was an enforcement priority in the 2022 NFIS, taking into account that the value of these reports will depend on the quality of the underlying data.

Issuers are encouraged to be transparent about their data collection processes and internal control systems implemented in relation to them, in addition to involving the Board of Directors, the Audit Committee and other relevant internal decision-making bodies.

Climate-related matters and other environmental issues

This issue was an enforcement priority in the 2022 NFIS for both ESMA and the CNMV, and will also be a priority for ESMA in 2023. The importance of consistency between the information included in the NFIS and that contained in the IFRS financial statements was stressed. Given its relevance, those issuers that do not consider this aspect material must justify it appropriately. The aspects that should be improved include the disclosure of the risks and opportunities in the short, medium and long term, their possible financial impacts and the description of the actions included in their transition plans.

All recommendations made for KPIs in general are applicable in these areas.

Issuers must put more effort into the establishment of objectives, their description and degree of attainment. Most notably, those relating to greenhouse gas (GHG) emissions, with special emphasis on Scope 3, whose calculation is relevant and, if not possible, issuers must provide accurate information, explain the reasons and actions envisaged for their achievement and provide qualitative information on the relevant categories, for example, among the 15 established by the GHG protocol, and their relative importance. Disclosures related to the water footprint are also considered relevant.

The chapter on special analyses includes the conclusions obtained from the data provided by the 102 issuers that submitted the 2022 NFIS, from their Scope 1, 2 and 3 emissions, and shows that there is still a considerable number of companies which have not fully implemented the disclosure of Scope 3 GHG emissions, due to which it includes some recommendations from the CNMV in this regard.

Social and employee matters

The CNMV stresses the importance of improving disclosures on these matters and on their KPIs, explaining the scope used and providing: comparative data, an explanation of their evolution in relation to the objectives, if any, that have been set and, when relevant, a description of the plans and measures for attaining them.

Particular attention has been paid to the wage gap, where a number of different calculation and presentation methods are still observed. Details should be provided of the salary items included in its calculation (which should generally be all of them) and the methodology used. It would be desirable for the global figure to be provided and segmented, at least by professional category and geographic region, which would improve understanding of the objective pursued, namely to demonstrate the entity's actions to promote diversity and eliminate gender bias.

Issues about respect for human rights

Although progress has been observed in this area, areas for improvement continue to be identified relative to the need to be more specific in the assessment of risks of human rights violations, and in their policies and procedures, taking into account their activities and the countries where they take place, indicating whether it also extends to supply and distribution chains, where the risk of non-compliance with human rights is usually significantly higher.

Additional KPIs consistent with these policies should be provided, explaining whether risks with a significant impact in this area have materialised and the specific measures applied.

In this area, it would be advisable to offer clear information on how the issuer addresses frameworks which are referred to in the Taxonomy Regulation (International Labour Organization (ILO), Organisation for Economic Cooperation and Development (OECD), United Nations) to ensure compliance with the minimum safeguards necessary for an activity to qualify as aligned.

Issues relating to the fight against corruption and bribery

Entities should be more explicit and specific about their materiality analysis and the main risks associated with this area in the different companies where they operate and the internal control and diligence procedures established. The risks affecting the other links in the value chain, such as supply and distribution chains, must also be made clearer.

By way of a reminder, it is important that the information provided on liabilities and contingencies in the notes to the financial statements be consistent with the information included in the NFIS, in those cases where significant risks in this or other areas are materialised, such as personnel and human rights. In this regard, the statement issued by the CNMV on 25 November 2019, resulting from cases of alleged irregular practices that affected some issuers, should once again be noted. In the event that a significant risk materialises, entities must provide sufficient information to ensure its significance is understood, explain the actions carried out and the changes made to prevent the recurrence of such risks.

Whistleblowing channel and other communication channels

Whistleblowing channels are one of the main instruments used to detect violations in the areas of personnel, human rights, and corruption and bribery.

The CNMV notes the importance of improving information on the characteristics and management procedures of these channels, as well as their results (breaking down the reports received by nature, among those relating to the entity itself and those relating to third parties, and detailing the number of cases resolved and pending) and explaining any significant impacts. Entities should not confine themselves to reports received through the whistleblowing channel, but should also provide information on violations reported and resolved through other channels, whether internally, through the courts or through other procedures, and on communications received from international organisations or other external channels.

Company information

Law 11/2018 covers four major areas on this issue: company commitments to sustainable development, subcontracting and suppliers, consumers and tax information.

In relation to the entity's commitment to sustainable development, entities are advised to avoid including general information and specify their policies and how they contribute to local development, beyond including their occasional collaborations with different organisations.

Issuers must adequately disclose the operation of consumer complaint systems and provide KPIs comparable to the previous financial year, detailing the risks materialised in the year.

In the case of tax information, entities are advised to explain the significant tax risks to which they are exposed.

The analysis of the area of subcontracting and suppliers was carried out within the framework of the CNMV's "participation in the value chain" priority.

Special analyses carried out in 2023: Article 8 of the Taxonomy Regulation

Due to its novelty and relevance, in October 2023, the CNMV published its *Report on EU Taxonomy-related disclosures [Informes sobre los desgloses relativos a la Taxonomía Europea]*, which analyses both the quantitative and qualitative presentation of the information published by issuers in the 2022 NFIS.

Considered an enforcement priority by ESMA and the CNMV in both the 2022 and 2023 NFIS, the taxonomy-related disclosures in the 2022 NFIS have ample room for improvement, as evidenced by the fact that they have generated the most actions by the CNMV.

The CNMV considers it relevant to remember that issuers obliged to report taxonomy information must: i) use the templates established in the delegated acts, which are mandatory; ii) provide the relevant explanations when they avail themselves of the materiality exemption for the OpEx KPI; iii) improve the disclosures of qualitative information that accompany the templates, including descriptions of the entities' activities and explaining clearly and specifically, for each of the objectives to which they contribute, how they have evaluated their compliance with the technical selection criteria, with the "do no significant harm" principle and with the minimum safeguards; iv) detail the concepts included in the turnover, CapEx and OpEx KPIs, explain how the concepts assigned to the numerator are determined and reconcile the denominators to the figures of the financial statements; v) explain how they have avoided double recording, in the event that they contribute to more than one objective; and vi) explain any change in criteria, where appropriate, in the calculation of the KPIs with respect to the previous financial year.

In particular, issuers are reminded that, in the case of activities that contribute to the adaptation objective but are non-facilitating, the turnover generated by said activity should not be considered eligible, but rather only the CapEx and OpEx.

2023 NFIS enforcement plan

It should be noted, due to its relevance, that in October 2023 ESMA published its common enforcement priorities for the 2023 non-financial information statements, which refer to climate-related matters and other environmental issues and, in particular, on the following issues: i) disclosures relating to Article 8 of the Taxonomy Regulation; ii) the disclosure of climate-related objectives, metrics and progress; and iii) Scope 3 GHG emissions.

In addition, issuers are once again reminded of the importance of consistency between the information contained in the financial statements and the NFIS in relation to climate-related matters.

Likewise, the CNMV wishes to draw attention to its decision to include as an additional enforcement priority for non-financial information a more detailed analysis of the disclosures relating to the Taxonomy Regulation by credit institutions and insurance companies.

Other specific issues that may be relevant for each issuer of securities subject to supervision by the CNMV will also be reviewed.

I Regulations on sustainability-related reporting

Regulatory changes applicable to the 2022 NFIS

The regulatory requirements applicable to the 2022 NFIS remained substantially unchanged compared to the previous year, except for: i) the obligation to fill in the templates of Annex XII of the CDA, relative to nuclear energy and gas; and ii) the added obligation on non-financial issuers to disclose the proportion of economic activities aligned with the taxonomy in their turnover, CapEx and OpEx, with respect to the two climate objectives. The analysis carried out in relation to these matters is presented in Chapter IV of this report.

Regulations published in 2023 and start of 2024

In 2023 and the first months of 2024 there were important regulatory developments, which are briefly described below.

CSRD Directive

En 2021 the European Commission assessed the situation of various Directives, including Directive 2014/95/EU (NFRD).[3] It concluded that this Directive required substantial improvements, since many entities did not provide certain significant information on sustainability-related matters, the comparability and accessibility of this information were limited, and its scope of application was narrow.

With the aim of addressing these deficiencies, in December 2022 the new Corporate Sustainability Reporting Directive (EU) 2022/2464[4] (CSRD) was approved, which replaces the NFRD Directive in relation to the disclosure of sustainability-related information.

The CSRD Directive entered into force on 5 January 2023 and must be transposed by the Member States into their national legislation by 6 July 2024. In Spain, the draft bill for its transposition was submitted to public consultation in May 2023.

The CSRD extends the content of the NFRD and increases the number of entities obliged to report sustainability-related information, although Law 11/2018 already provided for a broader scope than the NFRD. The content of this information should be based on the European sustainability reporting standards (ESRS).[5] It also requires that sustainability-related information be presented in a specific section in the management report, be

3 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095

4 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2464

5 European Sustainability Reporting Standards.

published in electronic format and be verified by an independent assurance services provider, supervised by a public authority.

In October 2023, the EC proposed modifying the thresholds to determine what undertakings are considered large and, therefore, are subject, among others, to the new CSRD Directive, which reduces the number of entities within their scope of application. This change was formalised in December 2023 through the publication, in the *Official Journal of the European Union (OJEU)*, of an amendment to Directive 2013/34/EU[6] relative to the adjustment of size criteria of micro, small, medium-sized and large undertakings or groups, adjusting the thresholds by 25% to take into account the high inflation recorded mainly in 2021 and 2022, in addition to that accumulated since the last threshold review.

At the start of February 2024 the draft bill, which aims to transpose the aforementioned amendment to Directive 2013/34/EU, relative to the adjustment of size criteria, into our national legislation was submitted to public consultation.[7]

Consequently, for the purposes of the CSRD, micro, small, medium-sized and large undertakings shall be considered to be, among others, those which meet, at least, two of the following three criteria for two consecutive financial years, on the closing date of each:

Concept	Large undertakings	Medium-sized	Small	Micro undertakings
Total balance	> €25 million (previously €20 million)	< €25 million (previously €20 million)	< €5 million (previously €4 million)	< €450,000 (previously €350,000)
Turnover	> €50 million (previously €40 million)	< €50 million (previously €40 million)	< €10 million (previously €8 million)	< €900,000 (previously €700,000)
Average No. of employees	> 250 (unchanged)	< 250 (unchanged	< 50 (unchanged)	< 10 (unchanged)

SMEs which have issued securities admitted to trading on regulated EU markets, with the exception of micro undertakings, are also included within the scope of the CSRD.

Insurance companies and credit institutions that meet certain size requirements[8] are also subject to compliance with the CSRD. In the case of small and non-complex credit institutions, in addition to insurance and captive reinsurance companies, the standard establishes that they may submit an abridged sustainability report and apply the sustainability reporting standards for SMEs.

Lastly, undertakings of third-party countries that generate a net turnover of more than €150 million in the EU and have a subsidiary or branch in said territory fall within the scope of the CSRD. Listed micro undertakings and unlisted SMEs are not subject to compliance with the CSRD, although they have the option of voluntarily complying with its provisions.

6 Directive (EU) 2023/2775, which modifies Directive 2013/34/EU, was published in the *OJEU* on 21 December 2023.

7 https://eur-lex.europa.eu/eli/dir/2013/34/oj

8 The net turnover criterion must be adapted for credit institutions and insurance companies by reference to the definition of net turnover of Directive 86/635/EEC and Directive 91/674/EEC of the Council, rather than the general definition established by Directive 2013/34/EU.

The type of each undertaking will determine the data on which they are obliged to report pursuant to the CSRD Directive, as indicated in the table below:

When?	Who?
In 2025 on financial year 2024	Large undertakings of public interest with more than 500 employees
In 2026 on financial year 2025	Other large undertakings (250+ employees or turnover of €50 million or total assets of €25 million)*
In 2027 on financial year 2026	Listed SMEs** (except micro undertakings), small and non-complex credit institutions and captive insurance and reinsurance companies
In 2029 on financial year 2028	Non-European undertakings generating a turnover of €150 million in the EU and which have a subsidiary or branch in the EU that exceeds certain thresholds

* Thresholds fixed after the amendment of Directive 2013/34/EU in December 2023.
** Each SME may opt for deferring the obligation and not reporting until financial year 2028 (publication in 2029).

Additionally, the CSRD addresses the concepts of double materiality, value chain and due diligence.

In relation to this last concept, on 15 March the European Council, after making amendments to the original text, voted in favour of the Corporate Sustainability Due Diligence Directive (CSDDD[9] or CS3D), which is expected to be formally adopted by the European Parliament in April 2024.

Due diligence is aimed at guaranteeing that undertakings operating in the EU that exceed a minimum size (more than 1,000 employees and turnover of €450 million) adopt measures and plans to identify, prevent, mitigate, stop and remediate the adverse impacts of their activities on human rights and the environment, in addition to those of their subsidiaries or value chains.

Lastly, it should be noted that the CSRD requires undertakings obliged to report sustainability-related information to prepare their management report in the electronic format for reporting specified in Article 3 of Delegated Regulation (EU) 2019/815[10] and to mark up or tag their sustainability-related information required by Article 8 of the Taxonomy Regulation.

This digitalisation is expected to facilitate the consolidation and comparison of EU sustainability data to a greater extent than that achieved in the sphere of financial information, to which end it would appear relevant to reduce the possibility of extensions and degrees of freedom of the system.

Sustainability reporting standards

In October 2023, the European Parliament adopted the first set of ESRSs,[11] which were published in the *OJEU* on 22 December and will apply to financial years beginning on or after 1 January 2024.

9 Corporate Sustainability Due Diligence Directive.

10 https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R0815

11 Adopted by EC Delegated Regulation (EU) 2023/2772, of 31 July.

These standards were approved after the EC announced that it would postpone[12] the adoption of sector-specific ESRSs and ESRSs for third-country undertakings with significant presence in the EU by two years. This delay, validated in 2024, was accompanied by the request to publish sector-specific sustainability reporting standards in eight areas as soon as they are ready.[13]

The first set of ESRS standards consists of 12 general standards, applicable to all reporting entities, irrespective of the nature of their activity. Two of these are cross-cutting standards, which apply to all sustainability issues, while the other 10 are specific thematic standards:

Cross-cutting standards	ESRS 1 General requirements
	ESRS 2 General disclosures
Thematic standards - Environment	ESRS E1 Climate change
	ESRS E2 Pollution
	ESRS E3 Water and marine resources
	ESRS E4 Biodiversity and ecosystems
	ESRS E5 Resources and circular economy
Thematic standards - Social	ESRS S1 Own workforce
	ESRS S2 Workers in the value chain
	ESRS S3 Affected communities
	ESRS S4 Consumers and end-users
Thematic standards - Governance	ESRS G1 Business conduct

At the end of 2023, a draft GRI/ESRS interoperability index[14] was published that maps the common disclosure obligations between the two sustainability reporting standards in table format.[15]

Entities that use the ESRS report "with reference" to GRI standards.

In December 2023, the EFRAG[16] submitted the first set of three ESRS implementation guidance documents to public consultation until the start of February 2024:

– EFRAG IG 1, which is materiality assessment implementation guidance.[17]

– EFRAG IG 2, or value chain implementation guidance.[18]

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12 From June 2024 to June 2026.

13 The sector-specific standards listed on the EFRAG's website correspond to the following sectors: oil and gas; coal, quarries and mining; road transport; agriculture, livestock and fisheries; motor vehicles; energy production; food and beverages; and textile, accessories, footwear and jewellery.

14 Interoperability allows entities to streamline their reporting processes by reducing the burden of complying with multiple standards, which saves costs and allows them to focus on improving their actual ESG performance.

15 https://www.globalreporting.org/media/z2vmxbks/gri-standards-and-esrs-draft-interoperability-index_20231130-final.pdf

16 European Financial Report Advisory Group (www.efrag.org).

17 Draft EFRAG IG 1 MAIG 231222.pdf

18 Draft EFRAG IG 2 VCIG 231222.pdf

– EFRAG IG 3, or ESRS datapoints and implementation guidance and accompanying explanatory note.[19]

In January 2024, the EFRAG published two draft ESRS standards for SMEs, which will be submitted to public consultation until 21 May 2024. These drafts differentiate between two types of SMEs: those of public interest (ESRS LSME ED)[20] and other SMEs and micro undertakings (VSME ED).[21] The first, the most relevant for the purpose of listed SMEs, aims to establish adequate requirements proportionate to the scale and complexity of the activities, capabilities and characteristics of the listed SMEs, enabling them to access financing.

At the end of 2023, the EFRAG launched a platform [22] for questions and answers on the use and understanding of ESRS standards aimed at compiling questions and answering them once analysed, with the aim of supporting the implementation of the standards.

On 6 February 2024, the EFRAG published the first set of answers with non-binding technical explanations arising from the questions raised to date.[23] These explanations refer to issues where the content of the ESRSs provides an adequate answer and merely indicate the point in the standard where this content can be found. On 28 February 2024, the ICAC published a Spanish translation of the document on its website.[24]

On 1 March 2024, the EFRAG published a second set of questions on the application of the ESRSs. This organisation plans to produce a quarterly publication compiling explanations in response to the questions received.

On 8 February 2024, the EFRAG submitted a draft taxonomy of the XBRL electronic format for public consultation,[25] including all the datapoints required by the first set of ESRS standards, in addition to another draft XBRL taxonomy relative to the disclosures of Article 8 of the Taxonomy Regulation. Both drafts enable the markup or tagging of the sustainability reports in machine-readable XBRL format. The consultations have been open to comments until 8 April 2024.

Lastly, other sustainability standards relevant to issuers subject to the CNMV's supervision are the two standards published by the International Sustainability Standards Board (ISSB) in June 2023, which they may have to apply in the event of issuing securities in countries that decide to transpose them into their national legislation, or if they opt for voluntarily adopting them in response to requests from investors or the company.

The first standard is IFRS S1 "General Requirements for Disclosure of Sustainability-related Financial Information" and the second is IFRS S2 "Climate-related Disclosures".

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19 Draft EFRAG IG 3 DPs explanatory note 231222.pdf

20 *Exposure Draft ESRS for listed SMEs.*

21 *Exposure Draft for the voluntary reporting standard for non-listed SMEs.*

22 https://www.efrag.org/lab7

23 https://efrag.org/news/public-485/EFRAG-ESRS-Question-and-Answer-Platform-releases-first-set-of-technical-Explanations

24 https://www.icac.gob.es/sostenibilidad/normativa

25 eXtensible Business Reporting Language.

They are based on the recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD)[26] and sector-specific standards of the Sustainability Accounting Standards Board (SASB).[27] The definition of materiality used by these standards, from the perspective of financial materiality alone, is aligned with the conceptual framework of the International Financial Reporting Standards (IFRS).

On 25 July 2023, the International Organisation of Securities Commissions (IOSCO) announced its endorsement to said standards, considering them adequate for their use in capital markets.

EU taxonomy for sustainable activities

In June 2023, the EC issued two delegated regulations, published in November in the *OJEU*, which implement new technical selection criteria to determine when an activity is aligned with the sustainability criteria of the Taxonomy Regulation.

Specifically, Delegated Regulation (EU) 2023/2486[28] implements the technical selection criteria for considering when an economic activity contributes substantially to any of the four non-climate environmental objectives established in the taxonomy and when it does not do significant harm to any of them. These objectives include the sustainable use and protection of water and marine resources, transition towards a circular economy, prevention and control of pollution, and protection and recovery of biodiversity and ecosystems.

Delegated Regulation (EU) 2023/2485[29] extends the technical selection criteria of the climate change mitigation and adaptation objectives, broadening the scope of the eligible activities under the taxonomy, by including new activities belonging to various sectors.[30]

In June 2023, the EC published a notice[31] providing clarification on how the requirements for compliance with the minimum social guarantees are to be understood.

In October, the EC published two documents[32] that clarify certain aspects relative to the required disclosures and to the technical selection criteria applicable to the economic activities that contribute to mitigating or adapting to climate change.

26 From 2024, the ISSB will assume the responsibility for monitoring the reports submitted by companies in relation to compliance with the TCFD's directives, following the request of the Financial Stability Board (FSB).

27 In December, the ISSB published amendments to the SASB standards, to improve their international applicability, that eliminate and replace jurisdiction-specific references and definitions, with the aim of improving their use for preparers, irrespective of their geographical location or operational scope.

28 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302486

29 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302485&qid=1725463580790

30 Transport; manufacturing; disaster risk management; water supply; sewage and waste management; information and communication; and professional, scientific and technical activities.

31 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0616(01). These documents were published as drafts in December 2022.

32 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202300305 and https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202300305

In December, a draft FAQ was published[33] with the aim of assisting the financial industry in its efforts to break down the degree of alignment of its activities with the taxonomy, which must be reported, for the first time, in the 2023 NFIS.

The table below summarises the reporting obligations of financial and non-financial entities obliged to provide sustainability-related information in the coming financial years under the EU taxonomy:

	Environmental objectives	2023	2024	2025
Non-financial entities	Climate (mitigation and adaptation)	Eligibility and alignment	Eligibility and alignment	Eligibility and alignment
	Environmental + new activities climate objectives	Eligibility		
Financial entities	Climate (mitigation and adaptation)	Eligibility and alignment	Eligibility and alignment	Eligibility and alignment
	Environmental + new activities climate objectives	Eligibility	Eligibility	

Lastly, it should be noted that, in 2023, the Platform on Sustainable Finance[34] created a mechanism for stakeholder requests/suggestions on EU taxonomy in collaboration with the EC.[35] This mechanism allows stakeholders to make suggestions, endorsed by scientific or technical evidence, on new economic activities that could be included in the EU taxonomy or on possible reviews of the technical selection criteria of existing activities. Although it operates on a continuous basis, in 2024 the Platform will prepare a summary of the requests received until December 2023, describing how they were evaluated and presenting its recommendations.

Subsequently, the EC will review this information to decide on the need to amend the EU taxonomy in future delegated acts. This mechanism will continue operating after December, enabling the submission of contributions at any time.

European Single Access Point (ESAP)

The CSRD requires sustainability information to be prepared and disclosed in XHTML format, pursuant to the transparency standard for the management report and financial statements of issuers of securities. This information will be integrated in the European Single Access Point (ESAP), which will centralise companies' digital financial and sustainability reporting.

In December 2023, Regulation (EU) 2023/2859 of the European Parliament and of the Council, establishing the aforementioned ESAP and which will provide centralised access to publicly available information relevant to financial services, capital markets and sustainability, was published in the *OJEU*.

33 https://ec.europa.eu/finance/docs/law/231221-draft-commission-notice-eu-taxonomy-reporting-financials_en.pdf.

34 Platform on Sustainable Finance – European Commission (europa.eu).

35 Stakeholder request mechanism – European Commission (europa.eu).

The ESAP will be operational by mid-2027 and will be progressively implemented. After that year, users may access all public financial and sustainability information on a single platform, which will facilitate the search and analysis of key data.

Corporate sustainability reporting directives

In December 2023, ESMA submitted for public consultation a proposal for guidelines,[36] aimed at facilitating harmonised supervision of sustainability-related information published by listed companies by the competent authorities under the CSRD, the ESRS and the Taxonomy Regulation.

These guidelines seek to establish a consistent supervision of the sustainability-related information provided by issuers of securities listed on regulated EU markets. Likewise, they aim to guarantee that national authorities carry out this supervision harmoniously.

The deadline for responding to the consultation was 15 March 2024 and ESMA is expected to publish the guidelines at the end of the third quarter of 2024.

ISSA 5000

In August 2023, the International Auditing and Assurance Standards Board (IAASB)[37] submitted the ISSA 5000 "General requirements for sustainability assurance engagements" to public consultation until December.

The standard, which aims to increase confidence in the quality of sustainability reports, addresses both limited assurance and reasonable assurance engagements (although the CSRD only requires limited assurance in the first years) and applies to sustainability-related information prepared under multiple frameworks (ESRS, ISSB and others).

The ISSA 5000 proposal can be used both by auditors and other verifiers of sustainability-related information that meet certain criteria. The standard is expected to be completed at the end of 2024 or start of 2025 so that it can be used in the assurance of the 2024 sustainability reports, which will be issued in 2025.

At the end of January 2024, the International Ethics Standards Board for Professional Accountants (IESBA)[38] submitted a draft on ethical standards and independence in the verification of sustainability reporting to public consultation until May 2024.[39]

Other initiatives

In September 2023, the Taskforce on Nature-related Financial Disclosures (TNFD)[40] published its recommendations on the management and disclosure of nature-related

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36 https://www.esma.europa.eu/sites/default/files/2023-12/ESMA32-992851010-1016_Consultation_Paper_on_Guidelines_on_Enforcement_of_Sustainability_Information.pdf

37 International Auditing and Assurance Standards Board.

38 International Ethics Standards Board for Accountants.

39 International Ethics Standards for Sustainability Assurance (IESSA).

40 It is a science-based international group backed by the G7 and G20 and financed, among other sources, by the contributions of the Governments of Australia, Germany, Norway, the Netherlands, Sweden and United Kingdom, in addition to the United Nations.

risks, with the aim of integrating these risks in the decision-making process of undertakings and capital providers. The adoption of these recommendations is voluntary and will be followed up by an annual status update report from 2024.

In December, the EFRAG and the TNFD signed a cooperation agreement to develop a tool for determining the interoperability between the two frameworks, which is expected to be published in early 2024.

In October 2023, the Transition Plan Taskforce[41] (TPT) published its disclosure framework, which is consistent with the ISSB standards, and which provides recommendations to facilitate consistent and comparable disclosures on entities' transition plans.

In November 2022, the report "Integrity Matters" was presented at COP 27 in Sharm el-Sheikh (Egypt)[42] at the request of the UN Secretary-General. This report, prepared by a group of 17 experts, sets the guidelines for fighting against greenwashing by entities committed to the fight against global warming. The document includes concrete recommendations for those who wish to present credible or serious commitments in this regard.

The creation of the Taskforce on Net Zero Policy was announced at COP 28, in Dubai, with the aim of implementing and creating a regulation based on the 10 recommendations of the report.

In September 2023, the Corporate Governance Committee of the Organisation for Economic Co-operation and Development (OECD) published a review of the 2015 Corporate Governance Principles. One of the main objectives of this review was to promote the implementation, in the different jurisdictions, of corporate governance policies that endorse undertakings' sustainability and resilience, contributing to the sustainability and resilience of the economy as a whole.

On 6 February, the EC proposed new intermediate net emission reduction objectives for 2040,[43] which include natural carbon sequestration and sinks. On that same date, the European Council and Parliament adopted a provisional resolution on the regulation that establishes a framework of measures to strengthen the net zero technology manufacturing ecosystem in Europe, better known as the "Net Zero Industry Act" (NZIA).

41 It is a group promoted by the British HM Treasury in April 2022, within the framework of COP 26 in Glasgow.

42 https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf

43 https://ec.europa.eu/commission/presscorner/detail/en/ip_24_588

II Verification of the non-financial information statements

Number of issuers required to publish an NFIS and disclosures relating to taxonomy information

It should be noted that the number of issuers obliged to prepare NFIS in 2022 differs from those obliged to provide taxonomy information, since the thresholds that determine each obligation are not the same (250 employees for NFIS[44] and 500 employees for taxonomy).[45]

The changes in the NFIS received[46] by the CNMV were as follows:

NFIS received by the CNMV TABLE 1

	2020	2021	2022
Consolidated NFIS	96	102	102
Taxonomy-related information (Article 8)	N/A	89	89
Individual annual reports received	145	136	132
Consolidated annual reports received	136	128	126

Source: CNMV.

Of the 126 issuers that submitted consolidated statements for the 2022 financial year, 102 included an NFIS in their individual management report (81% of the total).[47] Of these, 89 provided taxonomy-related information.[48] Although the same number of NFIS

44 The threshold stipulated by Law 11/2018, which established the obligation for issuers with an average workforce of more than 500 during the financial year to prepare an NFIS was reduced to 250 three years after the entry into force of the law (i.e. after financial year 2021), except for SMEs, pursuant to Directive 2013/34/EU.

45 The Taxonomy Regulation establishes that the obligation to provide this type of information applies only to issuers obliged to disclose an NFIS pursuant to the NFRD, i.e. public interest entities (PIE), including issuers, with more than 500 employees.

46 Issuers' annual accounts and management report, including, where applicable, the NFIS and the verifier's report, are published on the CNMV's website and filed in the official register as provided in Article 244 of the LMVSI and Article 2 of Royal Decree 815/2023 implementing the LMVSI.

47 It excludes two entities that availed themselves of the exemption option provided in Law 11/2018, as these companies and their subsidiaries are included in the consolidated management report of another company that meets the NFIS obligation.

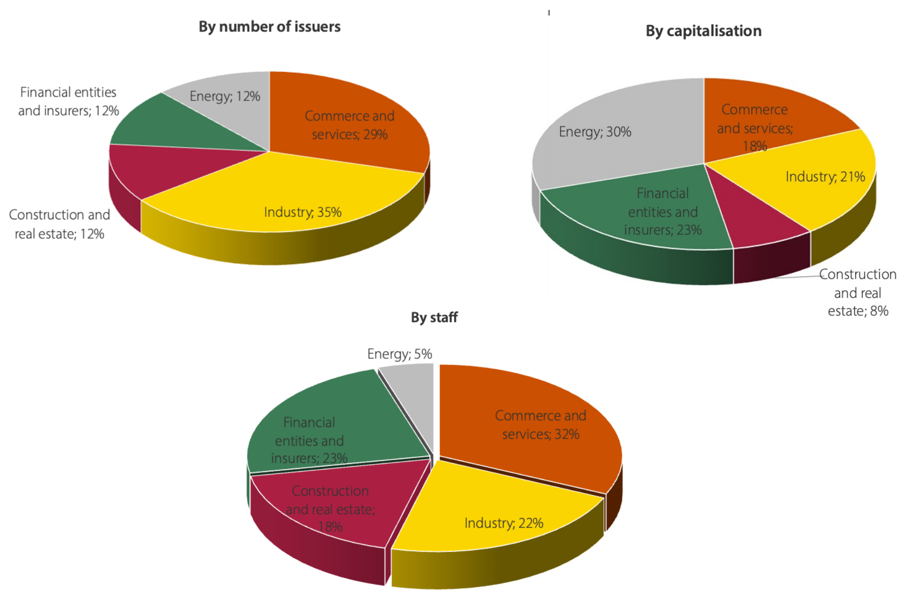
48 This figure does not include an entity that, despite having submitted the NFIS and having more than 500 employees, does not report taxonomy-related information, as it is provided by its parent company in Germany. Additionally, five entities having less than 500 workers on average in the 2022 financial year and that voluntarily submitted certain taxonomy-related information were not considered either, as this information was not comprehensive in all aspects.

were received in 2022 as in 2021, they do not correspond to the same issuers, because: i) two companies that did not submit an NFIS in 2021 did so in 2022, upon exceeding the threshold of 250[49] employees; and ii) another two companies that had submitted an NFIS in previous years did not do so in 2022. One of them was delisted due to a takeover bid,[50] while the other was no longer subject to periodic reporting obligations.[51]

Of the 132 issuers that submitted individual annual accounts:[52] 44 included a reference to the consolidated NFIS in their individual management report, four included their consolidated NFIS in the individual management report and only two submitted a specific individual NFIS.[53] Of the issuers that only submit an individual annual report, due to not having a consolidated group, none were obliged to prepare an NFIS.

The following figures show the distribution by sector of the 102 issuers that submitted a consolidated NFIS in 2022. In the first figure, the weight of each sector has been calculated considering the number of entities belonging to each. In the other two figures, the market capitalisation[54] and average workforce of the issuers have been taken into account.

Distribution by sector of issuers that submitted an NFIS for 2022 FIGURE 1



Source: CNMV.

49 Grenergy Renovables, S.A. and Merlin Properties, SOCIMI, S.A.

50 Zardoya Otis, S.A.

51 Ibercaja Banco, S.A.

52 These do not include securitisation funds or bank asset funds.

53 Same figure as in 2021.

54 At 31 December 2022, three issuers belonging to the trade and services and financial and insurance institutions sectors had not been included, as they only trade on fixed income markets.

Lastly, it should be noted that two Ibex 35 entities were not obliged to prepare an NFIS or taxonomy-related information, as they did not exceed the threshold relative to the number of employees (three entities in 2021).[55]

Verification reports

Law 11/2018 requires that the information included in the NFIS be verified by an independent assurance services provider.[56] As in the previous financial year, all issuers submitted the corresponding consolidated NFIS verification report.

Additionally, one of the two issuers that submitted a specific individual NFIS included an individual verification report.

Qualifications

In 2022 all the verifications were concluded without qualifications (in 2021 one issuer presented a qualification[57] and in 2020 no issuers presented qualifications).

Emphasis of matter paragraphs

91% of the verification reports of issuers obliged to submit taxonomy-related information for the 2022 financial year included an emphasis of matter paragraph relative to this matter (94% in 2021).

The 2022 financial year was the first in which non-financial entities were obliged to report on the criteria followed by directors and on eligibility indicators, which were reported for the first time in 2021.

The emphasis of matter paragraphs, in addition to referring to the chapter of the NFIS that explains the criteria followed by directors, highlight the lack of inclusion of comparative information on alignment for 2021.[58] Additionally, in 60% of cases the eligibility information disclosed is not strictly comparable with that of 2021 and, in some cases, it indicates that it has been restated (since, in general, in 2021 the same level of detail was not required as in 2022).

Verification firms

As in previous financial years, a significant degree of concentration is observed in the main verification firms. In 81% of the cases, the verifier was one of the “big four” audit firms in Spain: Deloitte, EY, KPMG and PwC (82% in 2021). As regards the remaining 19%, Aenor, Bureau Veritas Certification and Mazars Auditores stand out, each of which issued approximately 3% of the consolidated verification reports received in 2022.

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55 Inmobiliaria Colonial, SOCIMI, S.A. and Solaria Energía y Medioambiente, S.A.

56 Article 49.6 of the Code of Commerce. As the information of Article 8 of the Taxonomy Regulation is part of the mandatory content of the NFIS, pursuant to the applicable regulatory framework, it must be included in the NFIS verification process as a whole.

57 Amrest Holdings, SE.

58 Aspect compliant with the regulation, that did not require providing comparative data the first year.

In 69% of cases (72% in 2021), the verification firm was the same as that which audited the entity's 2022 annual accounts.[59]

Figure 2 shows the distribution of the verification reports prepared by the four main firms in the last three years.

Distribution of verifications by firm FIGURE 2

Fuente: CNMV.

Both in 2022 and 2021, all the Ibex 35 companies[60] that submitted an NFIS were verified by one of the top four audit firms.

Nature of the verification

As in 2021, almost all the verification reports of the 2022 consolidated NFIS correspond to a limited review report:[61]

– Most were audit firms (95%), which performed their work in accordance with the requirements set out in the revised ISAE 3000 (ISAE 3000R)[62] assurance standard issued by the IAASB of the IFAC and considering the criteria of the *Action guidelines* on *NFIS verification orders* of the Spanish Institute of Chartered Accountants (the "ICJCE Guidelines"),[63] expressing a limited assurance as to whether the NFIS had been prepared, in all significant aspects, in accordance with prevailing mercantile legislation and following the criteria of the standards

59 In the case of 17 issuers (15 issuers in 2021), the auditor and the verifier were the same natural person.

60 It includes the 32 Ibex 35 companies that submitted an NFIS to the CNMV. Arcelor Mittal is not obliged to submit financial information to the CNMV, as Spain is not its home Member State, and Inmobiliaria Colonial, SOCIMI, S. A. and Solaria Energía y Medioambiente, S. A. are not obliged to submit an NFIS.

61 Except in three cases where the verifier was not an audit firm and the scope is not clearly specified.

62 This regulation addresses the review of certain non-financial aspects and has been approved by the International Auditing and Assurance Standards Board (IAASB), which is part of the International Federation of Accountants (IFAC). In Spain it has been adapted by the ICJCE.

63 Among the different possible verification frameworks, both the ICJCE and the Registry of Accredited Companies (REA) published action guidelines in 2019, which specify and clarify the scope of these reviews, based on the ISAE 3000. The ICJCE subsequently published various addenda to its guidelines. The verifier of only one of the issuers mentions the *Action guidelines on NFIS verification orders* published by the REA of the Spanish General Council of Economists (CGEE); the rest refer to the ICJCE Guidelines.

selected by the persons in charge of their formulation (mostly the Global Reporting Initiative, as will be described in this chapter).

– The remaining verifiers were not audit firms. Of these, Aenor stands out, which performs limited assurance on whether the NFIS has been prepared pursuant to Law 11/2018 and, where appropriate, with Article 8 of the Taxonomy Regulation, indicating that the verification was carried out mainly in accordance with ISO/IEC 17029:2019.[64]

Additionally, in some cases, an additional review of certain GRI indicators with the scope of reasonable assurance was carried out, in accordance with ISAE 3000R. Furthermore, some financial institutions requested limited assurance on the report on the Principles for Responsible Banking published by UNEP FI.[65]

Lastly, four Ibex 35 issuers provided an additional report accompanying their NFIS (directly or by reference to the place where it is published), sometimes from a third party other than the NFIS verifier. In most cases it is a limited assurance or reasonable assurance report on the GHG emissions inventory corresponding to financial year 2021 or 2022,[66] among others, pursuant to UNE-EN ISO 14064-3[67] or ISAE 3410.[68] The CNMV recommends that, if issuers commission these reports, they be included in their NFIS as an annex or include them by reference in another document that is available to the public in an accessible form.

Verification scope

In general, issuers include in their NFIS, or in the rest of their management report, non-financial information in addition to that required under current mercantile legislation. Chapter 22 of the ICJCE Guidelines indicates that the verification report of the NFIS must clearly identify the scope of the verification carried out.

In 2022, as in previous financial years, the verification work did not generally extend to the additional disclosures that issuers voluntarily chose to include. Most of the verifiers that follow these guidelines only verified the information identified in a summary table, namely that required by Law 11/2018, together with the criteria of the standards or frameworks selected and the page or chapter of the report in which it is located. It should be noted that, in a significant percentage of cases, the verification also included the

64 ISO/IEC 17029:2019: *Conformity assessment. General principles and requirements for validation and verification bodies.* The ISO (International Organisation for Standardisation) and IEC (International Electrotechnical Commission) form the specialised system for global standardisation. National member bodies of ISO and IEC participate in the development of International Standards through technical committees established by the respective organisation.

65 UN Principles for Responsible Banking, promoted by the United Nations Environment Programme Finance Initiative (UNEP FI) following the Limited Assurance Guidance on Responsible Banking Principles Reporting published by UNEP FI.

66 Examples of other reports are: limited assurance under ISAE 3000R and ISAE 3410 of the Report on green bonds included in the NFIS of an issuer or a reasonable assurance report from the same verifier, under ISAE 3000R, on six indicators set within the framework of strengthening the internal control of its non-financial information in certain group entities.

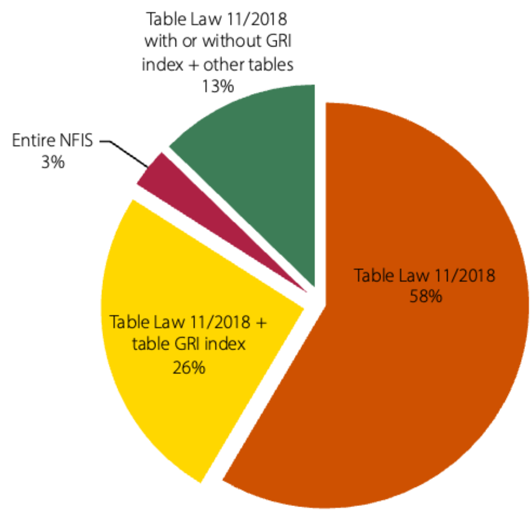
67 The ISO 14064-3 standard establishes the principles and requirements for the verification of GHG inventories, determined following ISO 14064-1 and for the validation or verification of GHG projects.

68 ISAE 3410: *Assurance Engagements on Greenhouse Gas Statements, issued by the IAAASB of IFAC.*

information identified in a GRI content index table and, at times, in an additional table (basically an index of SASB content and, in the case of some financial institutions, with a table of contents of the Principles for Responsible Banking created by UNEP FI).

Figure 3 shows the scope of the verification of the limited security reports of the verifiers that followed the ICJCE Guidelines in the 2022 financial year.[69]

Verification scope FIGURE 3



Source: CNMV.

In line with the ICJCE Guidelines, the CNMV highlights, as in previous years, the importance that the verified and non-verified information be perfectly identified and traceable. The use of a table helps to achieve this objective. However, as indicated in the "Characteristics and presentation of NFIS information" section of Chapter III of this report, in many cases these tables can be improved, as they do not make it possible to clearly determine which information has been verified and which has not. It is also considered good practice for the verification to cover the entire content of the NFIS.

Other issues

For verification to be carried out, the non-financial information must be prepared based on common standards, which highlights the importance of the non-financial information standards of the EU and the ESRS discussed in Chapter I on regulations, which will contribute to comparability and uniformity in sustainability reports.

The growing importance of sustainability-related information makes it more important to strengthen and appropriately design the internal control system for non-financial information, which should cover the entire non-financial information reporting process: management of non-financial risks; data and information collection and communication

69 The "Entire NFIS" figure corresponds to the reports in which the verifier that followed the ICJCE Guidelines did not expressly indicate that the content of the management report included additional information to that required by mercantile legislation in relation to non-financial information, nor that their work was limited to certain identified information.

processes; supervisory activities; and the due diligence applied to these data by the Board or other relevant internal bodies.[70]

This will contribute to improve the quality of the data included in the NFIS. In this regard, the robustness of the data was one of the priorities established by ESMA for the 2022 NFIS. The areas for improvement identified are summarised in Chapter III of this report. It should be noted that ESMA stressed this aspect once again in relation to the 2023 NFIS.

Reference frameworks used

Law 11/2018 establishes that, to disclose non-financial information, entities must use recognised national, EU or international regulatory frameworks, specifying the frameworks used. Additionally, pursuant to the NFRD, the degree of use of those frameworks must be detailed (e.g. if they have been fully or partially applied and explaining which disclosures were prepared using each framework and why).

As in previous financial years, the reference framework most commonly used by issuers was the Global Reporting Initiative (GRI),[71] in 99% of cases. 2% of issuers that used the GRI did not indicate the option followed and, in those cases where they detailed it, a positive growing trend towards the most comprehensive option was observed. In this regard, in 2022 seven additional issuers, with respect to the previous year, applied the "in accordance" option or previous comprehensive GRI option.

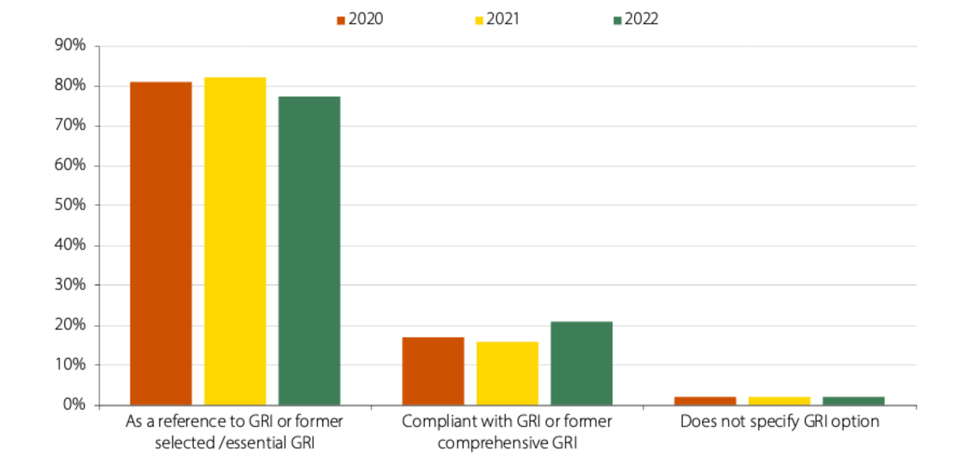
Figure 4 below shows the evolution of GRI options used by issuers:[72]

70 The review of the Good Governance Code of June 2020 recommends reinforcing the powers of the audit committee, attributing to it the supervision of the control systems and management of non-financial risks and ensuring that the internal control policies and systems are applied effectively in practice, in line with the guidelines established in 2017 through *Technical Guide 3/2017* of the CNMV. It should be noted that the update of this Technical Guide to include, among others, the changes in the processing of sustainability-related information and associated risks, was submitted to public consultation until 18 March 2024.

71 At the end of 2021, the Global Sustainability Standards Board (GSSB) completed an update to the GRI Universal Standards, which became effective for the preparation of reports published on or after 1 January 2023 and includes standards GRI 1, 2 and 3 in replacement of GRI 101, 102 and 103 (2016). Before the update, the existing GRI options were as follows: Selected GRIs, basic GRI and comprehensive GRI which, after the update, became: "in reference" or "in accordance" with GRI.

72 For the purposes of Figure 5 and with the aim of illustrating the evolution of the different GRI options used in 2020, 2021 and 2022, the following were assimilated: i) on the one hand, the selected GRI and basic GRI options to "in reference" to GRI, and ii) on the other, comprehensive GRI to "in accordance" with GRI.

GRI options used by issuers FIGURE 4



Source: CNMV.

In some cases (14 issuers), the verifier mentions in its report that the entities took into account one of the applicable GRI[73] or SASB sector supplements, depending on the sector, namely "Financial services", "Oil & gas" and "Electric utilities".

In addition to the GRI standards, it is common for issuers to mention other frameworks to which they adhere or which they take as a reference. In this regard, following the growing trend of recent years, 56% (46% in 2021) of reporting entities indicated that they were following or in the process of implementing TCFD recommendations, although not all of them addressed the four recommended areas (governance, strategies, risks and metrics).[74]

Other frameworks were also reflected to a varying extent for all or part of the contents of the NFIS, most notably: i) UN Global Compact; ii) Sustainable Development Goals (SDG); iii) SASB; iv) in the social sphere, the provisions of the International Labour Organization (ILO) and the OECD Guidelines for Multinational Enterprises; v) in the environmental sphere, the Carbon Disclosure Project (CDP); vi) the UN Guiding Principles on Business and Human Rights; and vii) the International Integrated Reporting Framework (IIRF). Figure 5, included in the "Characteristics and presentation of NFIS information" section of Chapter III, shows the frameworks for which issuers included a table.

73 The GRI sector supplements were developed by the GRI G4 guidelines and published in 2014. These GRI G4 guidelines subsequently became the GRI Standards. The GRI Standards apply to reports or other materials published on or after 1 July 2018. The GSSB has started to develop Sector Standards which will describe the most significant impacts of a sector from a sustainable development perspective. In 2021, the GRI 11 standard for the oil and gas sector was published, effective since 1 January 2023. In 2022, the GRI 12 (coal) and 13 (agriculture, aquaculture and fishing) standards were published, effective since 1 January 2024. The GRI 14 (mining) standard will be published in 2024 and will be effective in 2026.

74 For example, 11% of issuers refer to them only in the climate risk assessment.

III Supervision of non-financial information

Review of the 2022 NFIS

Law 6/2023, of 17 March, on Securities Markets and Investment Services (the "LMVSI"), empowers the CNMV with supervising the NFIS submitted by issuers, to the extent that it forms part of their management reports. To exercise this function, the CNMV can require issuers to publish additional information that supplements the disclosures provided by them; to publicly disclose that the information published includes certain material errors or omissions and, therefore, that there is a need to make certain future corrections; and that, where appropriate, they assume retroactive correction commitments, either by restating the figures and comparative disclosures in the next financial statements or by reissuing the previously published non-financial information.

In this process, the CNMV can address issuers, requesting information in writing to obtain clarification or data on concrete matters. On occasion, additional information is collected orally, either by telephone or through meetings.

In the first years of the mandatory nature of the NFIS, the supervisory effort of the CNMV focused on issuing recommendations, issuing written requests only in cases of inclusion of qualifications in the verifier's report or in specific cases. Progressively, a greater volume of additional information has been requested, especially on aspects that are considered an enforcement priority in the NFIS review.

It is important to remember that these requests are tools for investigating possible breaches, but that not all requests are ultimately related to a failure to observe accounting regulations and, consequently, some responses given by entities do not lead to any corrective action by the CNMV.

The CNMV's supervisory work on annual financial reports involves two levels of review: a formal and a substantive level. By analogy with the principles set out in ESMA's guidelines on enforcement of financial information,[75] substantive reviews may, in turn, be full or partial, with the latter type only covering certain specific aspects of the financial information.[76]

All of the NFIS received are subject to a formal review of compliance with certain legal requirements. This type of review also entails other specific issues that are described in the following chapter.

75 https://www.esma.europa.eu/sites/default/files/library/esma32-50-218_guidelines_on_enforcement_of_financial_information_en.pdf

76 In general, the priorities defined by ESMA and the CNMV.

In addition, a substantive review is carried out on a certain number of NFIS. A mixed selection model is used to identify which entities should be subject to this review based on risk and random rotation, in accordance with ESMA's guidelines on enforcement.

The concept of risk used in the model combines two factors:

– The probability that the financial statements and the non-financial information may contain a material error.

– The potential impact of any material errors on market confidence and investor protection.

The risk-based selection is supplemented by sampling and random rotation criteria to ensure that the financial information of all issuers is reviewed at least once in every rotation cycle.

Formal review

All NFIS filed were subject to a formal review that involved, at least:

i) Checking that both the NFIS and the verification report are included in the consolidated or individual management report submitted by the entities that are required to do so and confirming consistency with the section entitled "Other information: management report" in the audit report of the annual accounts and identifying the global frameworks used to prepare the NFIS.

ii) Analysing the content of any qualifications included in the verification reports, as well as the nature and scope of the verification.

iii) Following up on whether aspects formally requested in previous years' reviews have been corrected or properly disclosed.

The 2022 NFIS also included checks on whether the reporting issuers provided the information required under Article 8 of the Taxonomy Regulation.

As a result of this formal review, three entities were contacted by telephone, mainly for: i) not including the verifier's report; and ii) defects in the inclusion of the NFIS by reference in the management report, in addition to inaccuracies in the content of the certificate of the Board secretary.

Substantive review

In 2023, a total of 14 issuers were subject to substantive review. In seven of these cases, the substantive review of the NFIS focused basically on the priorities set by ESMA and the CNMV, and on certain significant aspects specific to each entity. In the other seven undertakings subject to substantive review, selected on the basis of risk criteria and the sector, a more in-depth review of their NFIS was carried out.

By sector, 43% of these 14 entities corresponded to the trading and services sector, 7% to the financial and insurance sector, 36% to industry and 14% to construction and real estate.

By market capitalisation, at 31 December 2022 these 14 companies represented 57% of the financial and insurance sector, 9% of trading and services, 12% of industry and 22% of construction and real estate.

Additionally, in 2023 a more in-depth analysis of climate taxonomy information was carried out in the 2022 NFIS, for a sample of 25 non-financial entities, since it is the first financial year in which they reported alignment. Chapter IV of this report includes the section in which the supervisory actions resulting from this analysis are described.

The distribution by sector and market of these 25 entities, according to the number of issuers and their market capitalisation at 31 December 2022, is set out in the *Report on EU Taxonomy-related disclosures. Financial year 2022 [Informes sobre los desgloses relativos a la Taxonomía Europea. Ejercicio 2022]*, on the CNMV's website,[77] along with a general description of the information submitted by all the reporting issuers.

In 2023 **additional information was requested** from 23 entities on different aspects related to non-financial information, particularly taxonomy-related disclosures, of which a total of 12 companies were subject to substantive review (partial or complete).

In addition, various **recommendations** were made to 27 entities, for consideration in future NFIS, of which a total of 14 companies (i.e. the entire sample) were subject to substantive review (partial or complete).

Most significant actions in 2023

This section explains the main actions carried out by the CNMV in relation to priority areas that were anticipated in the *Report on the CNMV's supervision of non-financial information and main enforcement priorities for the following financial year*, 2021,[78] in relation to the review of the 2022 NFIS, in addition to other areas.

ESMA established the following common **enforcement priorities** for reviewing the 2022 NFIS: i) disclosures relating to Article 8 of the Taxonomy Regulation; ii) certain aspects of climate-related matters; and iii) disclosures relating to NFIS scope and data quality. Likewise, the CNMV decided to include, among its enforcement priorities, a more in-depth analysis of the taxonomy disclosures and, in particular, the criteria used to determine whether an activity is eligible or non-eligible or whether or not it is aligned with the taxonomy.

Additionally, the ESMA's financial priorities include the analysis of consistency between the information reported in the IFRS financial statements and in the NFIS on climate-related matters throughout the annual report, including the management report. The CNMV stressed that this consistency should not be limited to climate-related matters, but should extend to all NFIS sustainability-related matters.

Table 2 summarises the supervisory actions carried out in 2023:

77 https://www.cnmv.es/DocPortal/Publicaciones/OTROS/Informe_Taxonomia_2022.pdf

78 https://www.cnmv.es/DocPortal/Publicaciones/Informes/IEINF_2021_EN.pdf

Enforcement actions carried out in relation to the NFIS TABLE 2

	Number of entities[79]	
	Request for information	**Recommendations**
1. Cross-cutting areas		
Business model and participation in the value chain	5	10
Materiality	2	13
Scope (**priority enforcement area**)	3	10
Key performance indicators (KPI)	1	13
Robustness of the data (**priority area for review**)	1	10
2. Thematic issues		
Climate-related matters (**priority area for review**)	9	14
Disclosures relating to Article 8 of the Taxonomy Regulation (**priority area for review**)	17	19
Other environmental issues	3	3
Social and employee matters	3	7
Issues about respect for human rights	0	3
Issues relating to the fight against corruption and bribery	1	2
Whistleblowing channel	0	6
Consumers	1	1
Tax information	0	2
3. Other issues		
Characteristics and presentation of NFIS information	0	9
Reference framework	1	4

Source: CNMV.

In most cases, the explanations provided by the issuer in response to the CNMV's request completed the disclosures required by law or those recommended by ESMA and the CNMV in their enforcement priorities for the 2022 NFIS, although there is room for improvement in some areas, as can be seen in the comments below. However, in those situations in which the criterion used by the entity was not consistent with the standard or was material, the CNMV requested a commitment to future correction or restatement in the next NFIS, or a corrective note relative to one or more specific issues was published.

79 Requested or recommended aspects relating to consistency between IFRS financial statements and non-financial information are included in the corresponding areas by nature (e.g. in climate, business model or corruption). In those cases where an issuer was recommended to provide additional information about an aspect that, due to its nature, affects more than one area, it was generally considered in both (e.g. a personnel KPI). It does not include entities to which requests for information and recommendations were made in respect of APMs.

In this regard, the main results of these actions are highlighted below:

– One issuer included in their response to the request, published on the CNMV's website, a **corrective note**[80] concerning the disclosures relating to the Taxonomy Regulation.

– In 17 cases, corresponding to 14 issuers, the enforcement actions carried out with regard to the 2022 NFIS gave rise to a **commitment to future correction** of the non-financial information. The main issues were as follows:

  i) NFIS Scope (one issuer).

  ii) Materiality analysis (one issuer).

  iii) Climate change (two issuers).

  iv) Disclosures relating to corruption and bribery (one issuer).

  v) Relevance of value chain participants (one issuer).

  vi) Policies and disclosures of the Taxonomy Regulation (10 issuers).

  vii) And in general in relation to APMs.

– In two cases, corresponding to two issuers, the commitment to future correction also included a retrospective **restatement commitment** of the comparative figures for 2022 in the 2023 NFIS. Both actions make reference to Taxonomy Regulation KPIs.

In all cases, issuers undertook to change the accounting treatment or expand the disclosures in their 2023 annual accounts.

The main supervisory actions carried out in 2023 are described in greater detail below, along with some areas for improvement.

In relation to the enforcement priority relative to **Article 8 of the Taxonomy Regulation**, the CNMV carried out a special analysis in 2023, the conclusions of which can be found in Chapter IV of this report.

80 According to the guidelines on enforcement of financial information published by ESMA, a corrective note is the issuance by a supervisor or issuer, initiated or requested by a supervisor, of a note making public a material misstatement with respect to one or more particular items included in already published financial information and, unless impracticable, the corrected information.

! At the end of each of the issues addressed, tables have been included with this format, containing some of the disclosure requirements of Delegated Regulation (EU) 2023/2772 (the "DR"), adopted by the ESRS (see Chapter I on regulations). It is not intended to be a comprehensive list of ESRS disclosures, which must be consulted in their entirety, but rather some examples of disclosures that reflect or are in line with the information requested or recommended to issuers in this 2022 financial year. It should be noted that some ESRS obligations are applied progressively and most of the disclosures are subject to a materiality analysis.

Furthermore, certain incidents identified during the review of the non-financial information are included in tables, generally accompanied by recommendations or good practices aimed at improving the quality of the non-financial information.

Follow-up of cross-cutting areas

Business model. Participation in the value chain

An adequate description of the entity's business model and its value chain is essential as a basis to understand the value creation process and the risks, opportunities and impacts of the group with respect to sustainability issues and, thus, put the rest of the NFIS information in context. It is therefore still one of the areas in which more actions are taken, particularly in relation to subcontractors and suppliers which, in Law 11/2018, are included in the chapter on information about the company, but which, for the purposes of this report, has been included under this heading.

In this regard, it is observed that, although entities in general describe their business model in the NFIS, there is still room for improvement in relation to:

– The **description** of the group's **activity** and its **business model** (strategy, objectives, corporate environment, etc.), emphasising its relationship with non-financial matters. This description should not be too general and be adapted to the specific case of the entity.

– The description of the different relevant phases of the **value chain, differentiating the role of the issuer and that of significant third parties**, particularly of their supply and sale chains.

– The response of one of the issuers obliged by this aspect includes a **future commitment** to expand the information on their suppliers and creditors and their relevance in the value chain, in line with the contents of the chapter on consistency.

Some entities show, in their NFIS or responses to requests, the value chain through **schematic illustrations**, which is considered good practice to facilitate users' understanding, especially if accompanied by qualitative explanations.

Sometimes entities do not provide sufficient information on the nature and importance of suppliers or other third parties in their value chain, preventing readers from properly understanding the extent of the issuer's participation in said value chain, particularly in the manufacturing process.

– The identification and adequate description of the **risks, impacts or incidents and opportunities in the short, medium and long term** posed by each of the non-financial matters to the business model. This remains one of the main areas for improvement. In particular, those stemming from other significant participants in the **value chain and of their associates and joint ventures**, and explain the extent to which they have been included in the **materiality analysis**.

In some NFIS the information on risks and impacts or incidents is not clearly identified and referenced in the tables of contents and is not always sufficiently specific. Information is often scattered throughout the NFIS and, as indicated in the chapter on materiality analysis, the relationship between the risks and impacts and the issues identified as material in said analysis is not always clear.

With regard to the specification of risks, it is recommended that they be classified, if necessary, according to the different types of activity, locations in which they operate, etc. (e.g. countries in which there is greater risk of violation of human rights, etc.).

Risks related to the violation of human rights in entities' supply or sales chain, or in their associated entities, and those related to their tax accountability are generally improvable. It should be noted that they are areas in which few KPIs are provided and, therefore, it is difficult to monitor the possible materialisation of the risks and impacts.

Some entities affirm that they do not have relevant risks or impacts related to a specific issue (e.g. corruption), without clarifying the context and reasons for that affirmation.

In various issuers of the analysed sample, the lack of explanations about the extent to which the materiality analysis includes incidents, risks and opportunities of the value chain was observed.

– Disclosures on issuers' **strategies** and main quantitative and qualitative **objectives**, their scope, the measures adopted to attain them, taking the current market circumstances and their specific circumstances into account, the time frame in which they are established, the existing uncertainties, the resources that will be dedicated to the necessary investments. Entities must include information on their progress, relating it to the KPIs provided (this issue is discussed in the chapter on KPIs).

In general, the disclosures on objectives related to the supply and sales chains, which in many issuers are only qualitative, must be expanded.

– Issuers must explain whether there have been **modifications to their business model**, especially as a result of relevant changes in the entity (e.g. as a result of greater digitalisation) or in the environment, as occurred in recent years due to COVID-19 or, more recently, the Russian invasion of Ukraine and the changing macroeconomic environment.

Some issuers were requested to expand the information on the impact of the Russo-Ukraine war and the macroeconomic environment on their supply chain and whether it caused changes in their business model.

– The necessary **consistency** between the business model described in the NFIS and the information included in the report on its activity, breakdowns of income and expenses or segmented information, among others (see section entitled "Consistency between the IFRS financial statements and the financial information"), and in the NFIS itself (e.g. between the strategic sustainability plan and specific objectives).

– Need to expand the information on the **governance** of non-financial matters, namely:

i) Issuers must indicate the bodies responsible for approving policies in respect of non-financial matters and, in particular, whether they have been approved by the Board of Directors and on what date.

ii) Issuers must describe the main characteristics of their policies and procedures.

In relation to the NFIS, the internal control and due diligence procedures applied by the governing bodies to guarantee the quality of the reported data are of particular relevance (see section entitled "Robustness of the data used for non-financial reports").

iii) When there are remunerations linked to objectives related to non-financial matters, such as the attainment of climate objectives, issuers must describe their scope, the weighting criteria and how their performance will be measured.

– In relation to the reporting requirements of Law 11/2018 relative to **subcontracting and suppliers**, issuers are recommended to expand the information on the **policies and procedures** applied to identify, assess and control potential inadequate conduct in relation to non-financial issues, and also on the **specific KPIs** related to the results of their evaluations of suppliers and other relevant third parties, in addition to the measures adopted to resolve them in those cases where non-compliance is detected.

Typical procedures described by issuers in NFIS include supplier certification, the inclusion of clauses in contracts with suppliers, or suppliers' request for certificates of commitment to frameworks such as the UN Global Compact, and the establishment of a supplier supervision and audit system.

Some entities provided KPIs on supplier evaluation procedures relating to, for example, environmental, security and health or human rights issues, but the result of the actions carried out or measures adopted to address the incidents detected is not always clear.

ESRS 1. Chapter 5 specifically addresses the value chain. Undertakings must include material information on the incidents, risks and opportunities arising from their commercial relationships in the previous or subsequent phases of their value chain. If they are unable to obtain the required information, they must estimate it. These requirements apply gradually.

ESRS 2. Chapters 2, 3 and 4 include the general disclosure requirements on **governance, strategy and management of incidents or impacts, risks and opportunities** related to sustainability matters. **ESRS S2** relates to **workers in the value chain**.

The EFRAG has published a guidance document, currently in draft form.

Materiality

Despite not being a priority for the 2022 NFIS, materiality is one of the areas that give rise to most actions, since its analysis is the cornerstone for establishing which information is relevant for stakeholders and prevents the omission of material information or the inclusion of irrelevant information. To this end, this analysis must be adequately disclosed in the NFIS as a basis to facilitate understanding of the rest of the report.

Although all the entities in the sample included explanations about their materiality analysis and a gradual improvement is observed in this regard in recent years, the main areas for improvement identified are indicated below:

– Entities must expand their explanations on the **criteria and methodology** used in their analysis, expressly indicate whether they have taken into account the **double perspective of materiality** underlying current regulations[81] and is explained in future ESRSs "outside in" or "**financial** materiality" and "inside out" or

81 It takes into account the impact of non-financial matters on the situation and results of the entity and the impact of the entity on the environment and, therefore, on the different stakeholders. As mentioned in previous reports, this double perspective underlies Directive 2014/95/EU, in the EU Directives of 2017 and in Law 11/2018, and was developed in 2019 in the Climate Supplement (this document serves as a basis for understanding financial materiality in this sphere). Therefore, in accordance with current legislation, non-financial information must be disclosed if it is significant from either of the two risk perspectives, which are closely related and in some cases overlap. Neither perspective is isolated and the impact perspective will, to some extent, end up having financial effects.

"environmental or social materiality" or "**impact** materiality") and, where appropriate, how they did it.

Although the number of undertakings that expressly indicate that the methodology used included the double materiality perspective has increased, the explanations of how this approach has been taken into account must be expanded. There are still entities that, although it can be inferred from their NFIS that this dual approach was at least partially taken into account, did not explicitly mention it.

As in previous financial years, issuers' disclosures were generally more focused on an impact or incident perspective[82] and must be completed with the financial perspective.[83]

Some entities admitted in their response that they had not followed this dual perspective in the 2022 financial year, but that they were considering how to include it in their analysis, to be followed in future financial years and, in any case, when the ESRSs come into force.

– The **time horizon** used to assess which non-financial information is material or not must be explained. Entities are reminded that is advisable to consider a longer-term horizon than that traditionally used in the case of financial information, to avoid concluding that a non-financial matter is not material just because the related risks are considered long-term risks.

They should explain which matters they consider material in the short term and which they consider in a broader horizon, in the medium and long term. There are areas of the NFIS where it is more common to find references to time horizons, for example in relation to greenhouse gas (GHG) emissions objectives, which is often not the case when explaining the materiality analysis carried out.

Some entities differentiate between the short and medium-long term, but without specifying to which period they refer.

– The **results** of the materiality analysis must be clearly identified, explicitly indicating which financial aspects are considered material and their relative order of priority, considering the **severity and probability** of the consequences of each. In this regard, it is recommended that entities include explanations about the judgements used to conclude on each matter identified as material.

82 In this regard, it should be noted that the GRI, which is the framework most commonly used in Spain, is more focused on the impact perspective.

83 As per the Climate Supplement, financial materiality refers to how the value of the undertaking is, or could be, affected by non-financial aspects in a broad sense, not just how it affects the figures in the current financial statements. It should also include aspects that, while unlikely to occur, if they were to materialise, would significantly affect the financial statements or the value of the undertaking, including intangible factors such as reputation (e.g. cases of corruption).

The response of one of the reporting entities include a **future commitment** to clearly identify which aspects are relevant in accordance with their analysis.

It is considered good practice for entities to use matrices and lists of material issues, but they are not always accompanied by sufficient disclosures and qualitative explanations that help users of the information to understand the conclusions of the analysis.

– The analysis must identify both **positive and negative material issues** and take **sectoral issues** into consideration.

Some entities focus on the positive aspects that, for example, climate change represents to their business, without explaining the negative aspects or without specifying that they are not material.

Although there are common risks and opportunities among undertakings in a same sector, there is a need for entities to put more emphasis on which issues are material to them, either because of their sector or their particular circumstances (location of their offices and markets, etc.). To this end, it is good practice to include references to external sources on which they have been based.

– Entities must explain which are the main **stakeholders** of the group and expand the explanations about the relationships between their needs and demands and the aspects identified as material.

Although issuers in general indicate which are their stakeholders, they are requested to improve the explanations on dialogue tools and channels, their needs and impacts in relation to the most significant stakeholders and how they process the results of the materiality analysis.

– It is important that the relationship be understood and that there is **consistency**:

i) Between the **analysis of their material non-financial risks** and incidents, including those related to sustainability, and the materiality analysis.

In some cases, there appears to be contradictions between material non-financial risks and issues identified as material, in which case the causes must be explained.

ii) Between the result of the materiality analysis and the **NFIS disclosures**.

Although some issuers highlight material issues such as the environment, the NFIS does not indicate material impacts, risks or opportunities related to said issue. As mentioned in the section on consistency in climate-related matters, this can also happen with the environmental information included in the notes to the financial statements.

iii) Additionally, as mentioned in the section entitled "Scope", there must be consistency between **exclusions from the scope** and omissions of information, justified by their lack of materiality, and the materiality analysis.

– Issuers must explain how the **value chain** has been included in the materiality analysis (see section entitled "Business model. Participation in the value chain").

– Issuers must indicate whether the materiality analysis has been carried out or has been **updated** during the financial year and, if not, explain why it was not considered necessary.

Although improvements have been observed in this regard, some issuers are still not indicating the data of the last update of their analysis, or indicate it but do not explain the reasons why it was not reviewed in the current financial year.

Updates are especially important when there are significant changes in the group or its environment, such as those that can be triggered by the recent COVID-19 pandemic, the Ukraine war or the changing macroeconomic environment.

ESRS 1. Chapter 3 discusses **double relative materiality** as the basis for sustainability disclosures, indicating: i) the need to carry out a materiality analysis to determine the sustainability-related matters that must be disclosed because of their relative importance in financial terms, in terms of impact, or both; ii) the importance of stakeholders in the materiality assessment process; and iii) the breakdown of the analysis by country, by significant location or by significant asset when required to facilitate understanding. The glossary of terms of Annex II to the ESRS defines the concepts of "Relative financial materiality" and "Relative materiality in terms of impact".

ESRS 2. It establishes the disclosure requirements of the **materiality assessment process**. The EFRAG has published a list of datapoints that serve as a tool to assist users, due to being an inventory of all the disclosures contained in the ESRSs (with the exception of ESRS 1). Only 176 of them are mandatory, irrespective of the result of the materiality analysis. The rest are subject to said analysis or are voluntary. The EFRAG has published a guidance document, currently in draft form.

Scope (priority areas for review)

The review work carried out has evidenced the room for improvement in this area, particularly in the following aspects:

– The **NFIS scope** must be clearly and explicitly defined **in general terms** and whether it corresponds to that used in the financial information, preferably in a section related to the basis of presentation.

> There are still issuers that do not explicitly mention the scope of their NFIS. In the case of issuers that do mention it (usually those of the consolidated group), it is not always consistent with all the information of the NFIS or the exceptions are not clear. These exceptions, although shown in greater detail in the report, must be announced in the section where the general scope is indicated.

– Issuers must also indicate **whether the scope is homogeneous** with that of the comparative period and, if not, include the appropriate explanations about the changes.

> Although important, issuers very rarely explain changes in the NFIS scope that allow the evolution of the KPIs to be properly understood by users. These changes may be due to the inclusion or sale of subsidiaries, but those arising from changes in criteria or the obtainment of new information (e.g. due to system improvements) are particularly important. In such cases, issuers are recommended to restate the comparative data or at least include the relevant explanations.

> **ESRS 1. P95.** It indicates that the definition and calculation of **parameters** must be **consistent** over time. The undertaking shall facilitate restated comparative figures, unless it is impracticable to do so (see **ESRS 2 BP-2**), when they have: a) redefined or replaced a parameter or a goal; b) identified new information in relation to the figures estimated and disclosed in the previous period, and the new information provides proof of the circumstances that existed in said period.

– Attention should be paid to **disclosures relating to exclusions from the scope**, which should only occur in exceptional cases, sufficiently justified and clearly identified in the tables of content, as in the case of omissions of the disclosures required by Law 11/2018. In particular, issuers must:

i) Explain the **reasons** for the exclusion (immateriality, lack of access to the necessary data with reasonable effort, etc.) and the **measures** which, where appropriate, will be adopted to address the exclusion and the envisaged **time frame**.

ii) Explain the **type** (subsidiary, geographical area, certain professional categories ...) **and scope** (one or more KPIs, policies ...) of the exclusion and the **relevance** of the excluded information. Issuers are recommended to provide a measure of that relevance and, if lack of materiality is alleged, properly justify it.

> There are still issuers that include very general justifications of their exceptions. As regards the measure of relevance provided, it is often based on financial metrics, such as sales, assets or number of employees, but they must complete their explanations about the reasons why the exclusions are not relevant from the viewpoint of the different non-financial issues.
>
> Some issuers include a column in the tables of content in which they reflect whether the corresponding content has been omitted and, in some cases, also if there are scope exceptions for that content. It is considered good practice, also indicating the reason for the omission or exception (materiality or other), even if it is detailed in the corresponding section, if necessary.

In relation to the scope, reference must be made, not only to the exclusions in KPIs, but also, where appropriate, to those relating to **policies and procedures**.

> In some cases it is unclear whether the described management policies and procedures are implemented at all the subsidiaries.

The response of one of the reporting entities includes a **future commitment** to expand their explanations about the general scope and its exceptions.

– Irrespective of the mandatory NFIS scope, which must be aligned with that of the financial consolidated group, it must be clearly states whether the following **have been included in the scope and to what extent**:

i) **Associates and joint ventures** and, where appropriate, in what aspects (policies, KPIs ...), explaining at least the assessment of the non-financial risks they assume through them.

> These investees are often mentioned in the NFIS and are even included in some KPIs, although it is unclear in what aspects they have been considered.
>
> The CNMV reminds issuers that, irrespective of whether they are material or not in the financial sphere, they should explain whether they are material or not from the point of view of the NFIS.

ii) Some aspect of the **value chain**. In all cases, the information on material non-financial risks assumed through the value chain and how they are managed must be disclosed. The risks of the value chain and

KPIs specific to their management are discussed in the section entitled "Business model. Participation in the value chain".

Regarding what ESMA points out in its priorities, taking into account the new reporting requirements that will be introduced with the ESRSs, that the scope of sustainability goes beyond the financial scope and is expanded to cover parts of the value chain, when necessary to provide material information on non-financial issues, so far not much progress has been made, beyond Scope 3 GHG emissions.

As discussed in the carbon footprint section, which indicates that actions have been taken for entities to expand the categories and activities of their value chain, in the calculation of their Scope 3 GHG emissions or, at least, if reliable data are not available on the reporting date, they must provide qualitative information on said categories. Additionally, information on the value chain has been requested with respect to the water footprint, observing that it is an issue that is less developed and affects fewer issuers.

Although it is a complex issue, some entities are progressing and provide KPIs, such as those relating to the workforce and matters related to the safety and health of subcontractors or franchises, or to complaints to their suppliers relative to human rights or other non-financial issues.

The response of one of the reporting entities includes a **future commitment** to clarify and expand their scope-related disclosures in future NFIS.

ESRS 1, Chapter 5.1. It indicates that the sustainability report will correspond to the entire group and the scope of the information will be extended to disclosures on IROs (impacts, risks and opportunities) of relative importance related to the value chain in Chapter 5.

ESRS 2. DR BP-1. P5. It indicates that issuers must include confirmation that the **scope of consolidation** is the same as for the financial statements and indicate to what extent the sustainability report encompasses the previous and subsequent phases of the undertaking's value chain.

Key performance indicators (KPI)

Directive 2014/95/EU and Law 11/2018 require entities to include key performance indicators or KPIs. Although a general specific point on KPIs is not included among ESMA's enforcement priorities, they continue to be key to complying with the desired transparency on relevant sustainability issues.

It is a cross-cutting issue addressed in all the main thematic issues of the non-financial information in this report, although the most specific KPIs are addressed by issue in each chapter. This section focuses on the aspects that must be improved from a general perspective of the indicators used by the entity.

As a result of the enforcement of the 2022 NFIS, the aspects that have been the subject of the most requests or recommendations are as follows:

– Regarding the evolution of the KPIs, issuers are reminded that they must provide proof of the progress achieved with their non-financial policies, by reference to the figures of their performance indicators, and preferably include comparative quantitative information.

  In order to facilitate understanding, this information must be completed with qualitative explanations about the variations, indicating the context in which they occur and whether the data are positive or not, in addition to whether there are specific expectations of improvement or specific measures have been adopted to manage and, where appropriate, mitigate them.

! **ESRS 1, Chapter 7.1.** It establishes that the undertaking shall disclose **comparative information** on the previous period for all the quantitative parameters and monetary amounts reported in the current period. Entities may defer the preparation of the sustainability statement by one year (**ESRS 1, Chapter 10.3**).

– As regards issuers' non-financial **objectives**, they are recommended to relate them to the most relevant KPIs of non-financial issues, that will allow them to evaluate their performance and degree of compliance.

  In line with ESMA's climate priority, which was established for the 2022 NFIS and is, once again, a priority for the 2023 NFIS, it is important to provide information on the objectives related not only to climate, but to any NFIS issue. These objectives are more useful when they are measurable and their time horizon is specified, providing information on the methodologies and assumptions underlying these objectives, on the scope of the activities and entities they cover, and on the existing uncertainties.

  If objectives were established for any NFIS issue, issuers must explain the degree of attainment achieved in the financial year and the measures adopted to attain it (including dedicated resources), in addition to whether changes were made in the initially predetermined objectives, explaining the reasons. Additionally, issuers must detail how they monitor their compliance, the frequency with which said supervision takes place and the management bodies or departments to which said information is reported.

  In general, it is observed that issuers subject to substantive review establish few quantitative objectives related to issues covered by the law, except those related to climate change.

When reporting objectives, issuers are recommended to be concrete and consistent with the KPIs provided, allowing them to measure their performance and identify the relevant matters for them.

Issuers are also recommended to compare their non-financial objectives with external benchmarks, if any.

ESRS 2. DR MDR-T. P80. The undertaking shall disclose the **measurable**, outcome-oriented and time-bound **targets** on each material sustainability matter it has set to assess progress.

It includes a breakdown of the information that must be included for each measurable target, which is it advisable to consult (including, but not limited to, aspects such as the level defined, scope, base year, the period to which it applies, methodologies and assumptions for defining them, explanation of the changes and their effect on comparability, and performance with respect to the disclosed targets, including information on how the target is monitored and reviewed).

– In the most relevant KPIs for understanding the entity's performance, it is advisable to provide a **definition** of the indicator and calculation **methodology**, in addition to the sources or origin of the data used, including the scope of application. Issuers are reminded that these aspects must be consistent between periods or, if not, clearly explain the changes that may have occurred between periods to understand the implications.

Transparency must be emphasised as good practice with respect to the source of the data used in the KPIs, provided that estimates are used in the calculations, indicating the percentage obtained through estimates and the reasons for which reliable data could not be compiled, in addition to the estimation method used (see section entitled "e. Robustness of the data used for non-financial reports").

ESRS 2. DR MDR-T. P77. It requires disclosing the methodologies and significant assumptions underlying each metric.

As will be seen in the next chapters, the recommendations on KPIs made in 2023 related, mainly, to indicators relative to environmental matters, including frequent requests for additional information relative to GHG emissions and their different scopes, and social and personnel issues including, namely, the gender wage gap.

Robustness of the data used for the non-financial reporting (enforcement priority area)

Among its enforcement priorities for 2022 non-financial reports, ESMA included robustness of the data used and transparency on data quality, indicating that the value of these reports will only be as good as the quality of their underlying data.

The importance of this issue is evidenced in ESMA's preliminary considerations, in its priorities document for the 2023 financial year.

In relation data robustness and quality, recommendations were made on two aspects that are essential for improving transparency:

– Information on the **data collection processes** followed by the entity.

  In the current context of new information requirements, various entities gave explanations about the implementation of new reporting systems to collect data on different aspects of sustainability, but without going into the characteristics of the systems or the new features implemented (automated or manual collection of data, how they are managed, whether it allows both internal and external verification of the data, etc.).

  As set out in the section on KPIs, entities are reminded of the importance of giving explanations about the sources and origin of the data, clearly differentiating between those obtained directly from measurements and those that include estimates.

> With regard to the sources, it is important to disclose whether they are internal or external, indicating, in the latter case, whether it is information from value chain participants, data providers, Big Data technology or comparative benchmark studies with the market, among others. In the event of changes or modifications between periods, they must be clearly specified, in addition to the reasons and implications they have on the data broken down in the non-financial information.

ESRS 1. Chapter 5.2 discusses estimates through sector-average data and proxies, and **Chapter 7.2** discusses the sources of estimation and uncertainty of the result. Some examples of disclosure requirements are:

ESRS 1. DR S1-6. P50d indicates that undertakings must provide a description of the **methodologies and assumptions used to collect the data**, indicating whether the numbers are communicated in number of persons or in full-time equivalent, and at the end of the reference period, as an average or using another methodology.

ESRS 2. DR BP-2. P10 requires that, when the parameters include **estimated data** on the previous or subsequent phases of the value chain, using **indirect sources**, such as sector-average data or other proxies, the undertaking shall indicate the parameters, describe the basis for preparation, the resulting level of accuracy and, where applicable, the planned actions to improve the accuracy in the future.

– Information on the **procedures carried out by the Board of Directors or other internal bodies** relevant to decision-making in relation to data quality assurance.

In the non-financial information reviewed in the financial year, it was observed that entities are gradually including aspects related to ensuring the level of quality and goodness of the data within the areas of responsibility of the Board of Directors. Mention of internal bodies entrusted with the supervision of specific areas of non-financial information is also relatively frequent such as, for example, control committees (such as the audit committee), or advisory committees on equality or on customer service and quality.

Given the entry into force of the CSRD, in the 2024 annual reports it is recommended that entities be more specific in explaining how they are anticipating the new reporting challenges posed by the regulation and whether it has affected the design of their management and internal control systems to include new methods for compiling and presenting sustainability information.

An effective reporting system requires including non-financial information preparation objectives in entities' internal control systems, better contributing to improve the level of robustness of the published data and their consistency with the financial information.

In parallel, entities must be transparent as to how these changes in their governance structure are addressed, with a clear definition of the responsibilities of the Board of Directors and other management bodies, which comprises the due diligence processes established to supervise these changes, evaluate sustainability performance and report information with an adequate level of quality.

ESRS 2. DR GOV-5. P36d)e) indicates that the undertaking shall provide a description of how it integrates the findings of its risk assessment and **internal controls** as regards the sustainability reporting process into relevant internal functions and processes, in addition to a description of the periodic reporting of the findings referred to the **administrative, management and supervisory bodies**.

Follow-up of thematic matters

Climate-related matters (priority area for review)

ESMA considered climate-related matters a priority in the review of the 2022 NFIS, focusing specifically on disclosures related to transition plans, GHG emissions and the established GHG reduction objectives.

In the course of the supervision carried out on the 2022 NFIS, the following opportunities for improvement in relation to climate disclosures were identified.

– The immateriality of information related to climate change must be properly justified, where appropriate.

It has often been observed that entities do not offer enough justification or detail when explaining why information on climate change was not included in their reports or why they consider that it is not material to their operations.

ESRS 2. DR IRO-2. P57. If the undertaking reaches the conclusion that **climate change** is not of **relative importance** and, therefore, omits all the disclosure requirements established in ESRS E1, it shall disclose a detailed explanation of the conclusions of its evaluation, including a prospective analysis of the conditions that could lead the undertaking to conclude that climate change is of relative importance in the future.

– It is considered important that entities improve the information provided on the risks and opportunities related to climate change in the short, medium and long term. This includes, among other issues, providing a description of their identification process and the possible financial impact that could affect the entity arising from these risks and opportunities.

It has been detected that there are still undertakings that do not describe how climate change could affect their business in terms of risks and opportunities.

Although some entities provide qualitative and quantitative information on financial impacts arising from climate-related risks and opportunities, others only provide qualitative descriptions and omit the quantitative dimension of these impacts.

ESRS 2. DR SBM-3. P48. The undertaking shall disclose a brief **description of its incidents, risks and opportunities** of relative importance, including a description of where they are concentrated in its business model, operations and value chain. It also requires disclosing the **actual financial effects** arising from risks and opportunities of relative importance on the financial situation, financial performance and cash flows when there is a material risk of producing an adjustment of relative importance in the assets and liabilities in the next financial year, in addition to the **financial effects envisaged** in the short, medium and long term.

ESRS E1. DR IRO-1. P20. The undertaking shall describe the process for **determining and assessing climate-related incidents, risks and opportunities**, including the physical risks and transition risks in its own operations and throughout the value chain. **RD E1-9** requires reporting on the financial effects of physical and transition risks, in addition to the potential for leveraging opportunities of relative importance, providing monetary amounts, percentages and narrative disclosures.

ESRS 1. Annex C "List of phased-in disclosure requirements" establishes that it is possible to omit information relative to the financial effects envisaged in the first year of preparation of the sustainability statement, while during the first three years it is possible to disclose only qualitative information if it is impractical to prepare quantitative disclosures.

– As indicated in the section on key performance indicators, it is important to provide comparative data also for climate KPIs, accompanied by an explanation that helps to contextualise and understand the progress with respect to the previous period. Furthermore, it is crucial to detail the methodology and regulatory frameworks used to calculate these indicators, to provide a clear vision of how the data have been obtained and the standards used to evaluate them.

  Any exclusion that affects the calculation on each indicator, such as facilities, activities, countries or subsidiaries, among others, must be detailed, explaining the reasons that justify said exclusion and that endorse the immateriality of the omission.

Additionally, if disclosing rare indicators in the sector, it is important to explain the reasons for considering that they provide valuable information for investors and other stakeholders.

– It is essential for entities to provide more detailed descriptions of the key actions that comprise their transition plans, explaining how they evaluate their development and achievement, and clearly indicating the basis, objectives and methods for monitoring progress. The development and disclosure of these plans is essential to show the entity's commitment to mitigating climate risks.

ESRS E1. DR E1-1. It details the information that must be disclosed in relation to the **transition plans** for mitigating climate change and indicates that, if the entity does not have a transition plan, they must indicate whether they will adopt one and when.

Disclosures related to the transition plan must include a detailed explanation of how the undertaking's targets are aligned with the objective of limiting global warming to 1.5 °C, in accordance with the Paris Agreement, and also with the objective to achieve climate neutrality by 2050. Additionally, it is important for the undertaking to clearly express whether it seeks to achieve the net zero target, clearly and precisely stating its intentions in this regard.

It is important to differentiate between the reductions in the undertaking's own GHG emissions and external emissions, such as the use of carbon credits, which must be considered residual measures. This distinction makes it possible to understand the individual contribution of each of the efforts made to achieve emission neutrality, thereby offering a more complete and transparent vision of the undertaking's climate-related actions.

A third of the entities reviewed that claim to have a transition plan do not include an explicit statement on the alignment of said plan with the objective of limiting global warming to 1.5 °C.

Among the undertakings that seek carbon neutrality, not all of them detail the measures adopted or planned to achieve or contribute to the achievement of this target. Lastly, a very small number of undertakings specify their contribution to emission reduction through carbon credits or GHG removals.

Disclosures on transition plans shall contain the measures that will be adopted to achieve the objectives and the estimated economic resources to make these investments, in addition to the reference scenario used.

Only a small percentage of the undertakings that describe the actions related to the transition plan and the scenario used provide information relating to the resources required to fulfil this plan.

Carbon footprint

As mentioned earlier, the disclosures relating to GHG emissions were an enforcement priority for ESMA in the 2022 NFIS. As a result of the review carried out by the CNMV, the main aspects required or recommended in relation to this issue were as follows:

– Emphasis was placed on the need to provide the data corresponding to gross Scope 1, 2 and 3 GHG emissions and to include details on the methodology and most relevant assumptions used to prepare these metrics.

  Information related to GHG removal and storage derived from projects undertaken by entities or to which they have contributed in previous and subsequent phases of their value chain shall be presented separately. Additionally, entities shall describe the GHG removals or reductions arising from climate change mitigation projects outside of their value chain, that they have financed or intend to finance through the acquisition of carbon credits or green bonds, including the allocation of financial resources to said projects.

  Likewise, comparative information that makes it possible to evaluate their progress in comparison to the previous year shall be provided, along with an explanation of said evolution when relevant.

Although most of the undertakings reviewed provided information on their Scope 1 and 2 emissions, approximately one-third did not detail their Scope 3 emissions. Additionally, some undertakings do not yet provide data from previous years nor include narrative information that explains their progress in comparison to the previous year or the methodology used to calculate the data.

The response of one of the issuers requested to provide this information includes a **future commitment** to start calculating their Scope 3 emissions.

It was observed that a large number of companies do not specify whether the reported emissions were netted with offsets from investment in environmental projects that reduce emissions to the atmosphere.

ESRS E1. DR E1-6. It requires providing Scope 1, 2 and 3 **gross GHG emissions**, in addition to total (net) GHG emissions. **DR E1-7** establishes the disclosures that must be included in relation to GHG absorptions and mitigation projects financed by carbon credits.

– Undertakings were requested to disclose their Scope 2 GHG emissions by geographical location and, where appropriate, by market, following the guidelines established in the "Scope 2 GHG Protocol Guidance".[84]

ESRS E1. DR E1-6. P49. It establishes that information on **gross Scope 2 GHG emissions** shall include emissions by geographical location and market, providing information on the proportion and types of contractual instruments.

– The CNMV considers it important to detail the emissions corresponding to each significant Scope 3 category, whether upstream or downstream, encompassing the entire value chain and considering the categories described in the Corporate Value Chain Accounting and Reporting Standard (Scope 3) of the GHG Protocol[85] and in the Technical Guide.[86]

Less than half of the reviewed undertakings disclose their Scope 3 emissions, providing the figure corresponding to each category. Some are limited to enumerating the categories which have been considered in the calculation of total Scope 3 emissions, without specifying the weight of each.

The category most often considered by the entities in the sample is that corresponding to business trips made by employees, followed by emissions derived from articles and services acquired and from employees commutes.

In those cases where it is not possible to provide accurate data, the reasons for justifying this limitation must be explained, including qualitative information on categories that could be relevant and their importance. Additionally, it is useful to be aware of the actions and efforts under way to collect this information, in addition to presenting a tentative timetable indicating when the methods and data needed to estimate the emissions for the specific Scope 3 categories are expected to be available.

84 Scope 2 Guidance.pdf (ghgprotocol.org).

85 Corporate Value Chain (Scope 3) Standard | GHG Protocol.

86 Technical Guidance for Calculating Scope 3 Emissions.

ESRS E1. DR E1-6. P51 and AR46 indicate that **gross Scope 3 emissions** shall include the emissions corresponding to each significant or priority Scope 3 category for the undertaking, considering the **15 categories** indicated in the Corporate Value Chain Accounting and Reporting Standard (Scope 3) of the GHG Protocol and using adequate estimates. Entities shall disclose a list of Scope 3 GHG emission categories included and excluded from the inventory, justifying the Scope 3 categories excluded.

Annex C "List of phased-in Disclosure Requirements" of ESRS 1 establishes that "undertakings or groups that do not exceed an average number of 750 employees on the balance sheet date during the financial year (consolidated balance sheet, where appropriate) may omit the Scope 3 emission datapoints and total GHG emissions in the first year of preparation of their sustainability statements".

Another aspect identified in relation to Scope 3 emissions is the lack of a detailed explanation on the main estimations considered in their calculation, in addition to the reasons for which certain categories have not been included. In those cases where categories are fully or partially omitted, it is relevant to indicate whether it is due to their lack of materiality or to the practical impossibility to calculate them.

ESRS 1. P89. The use of **reasonable assumptions and estimates** is an essential part of the preparation of sustainability-related information and does not undermine its usefulness, provided that these assumptions and estimates are accurately described and explained.

– The CNMV recommends including GHG emission intensity indicators.

ESRS 1. DR E1-6. P53 and P55 require undertakings to disclose total GHG emission intensity by net revenue amount, along with the reconciliation to the relevant line item or notes to the financial statements relative to the amounts of net income.

– It is considered very useful to accurately describe the reduction objectives of gross greenhouse gas emissions, indicating the scope to which they correspond, whether the target is absolute or relative and in what unit they are measured.

Less than half of the entities reviewed establish quantitative targets for Scopes 1 and 2, and only a quarter provide this information for Scope 3.

When objectives based on emission intensity ratios are established, it is essential to provide the data corresponding to said intensity indicator that make it possible to assess progress towards the achievement of the objective.

Entities claiming to have met the net carbon footprint reduction or offset target must identify the type of emissions that have been taken into account and specify whether any type of removal was considered.

Entities indicating that their suppliers claim to have net zero emissions must detail whether the entity has any diligence or control procedure that makes it possible to verify this affirmation.

ESRS E1. DR E1-7. GHG emission reduction targets shall be disclosed in absolute value and, if deemed meaningful, in intensity value. Likewise, they will be gross and exclude GHG removals, carbon credits or green bonds, or avoided emissions, which shall be disclosed separately. Additionally, targets shall be provided differentiating by scope or combined, in which case the scopes covered by the target, the proportion related to each scope and what greenhouse gases are covered shall be specified.

It is important to specify whether the objectives refer to the whole group, in the case of Scopes 1 and 2, and to all or only some of the categories included in Scope 3. In the case of financial entities, it is important to know the decarbonisation objectives associated with their loan portfolio.

A third of the reviewed entities did not determine the scope associated with their objectives.

Entities must indicate whether the targets are science-based, the base year used to measure progress, the time frame established to achieve the objective, the methodologies and significant assumptions used in their definition, including the selected scenario, the data sources used and their alignment with the objectives of national, EU or international public policies.

The response of one of the issuers requested to provide this information includes a **future commitment** to expand the disclosures relative to their GHG emission objectives.

It was detected that there are still entities that do not disclose the base year from which progress is measured, nor describe the envisaged date or period for fulfilling the objective, and that they do not specify the methodologies and relevant assumptions used to define the objectives in a larger number of cases.

In addition, it is important that entities indicate the probability and uncertainties related to the achievement of the objectives. The main challenges faced by the entity to achieve said objectives must also be highlighted.

A large number of the reviewed entities do not describe the uncertainties and challenges associated with the entity's capacity to achieve its objectives, nor its probability of achieving them.

It is important to disclose performance against targets and, in the event that the expected progress is not achieved, state the reasons justifying it, detailing how the degree of compliance has been determined. Additionally, it is important to provide information on the target supervision and review process, including the parameters used to assess whether progress is in line with initial expectations.

The possible factors that could both positively and negatively influence the achievement of the established targets must also be analysed. In relation to this aspect, in the 2022 NFIS it was important to mention how the Russian invasion of Ukraine affected entities' capacity to achieve the GHG emission reduction targets and transition plans.

ESRS E1. DR E1-4. P34e) establishes that the undertaking shall state whether the GHG emission reduction targets are science-based and compatible with limiting global warming to 1.5°C.

In 2023 the CNMV carried out a special statistical analysis relative to the carbon footprint data provided by 102 issuers, the conclusions of which are set out in Chapter IV of this report.

Consistency between IFRS financial statements and non-financial information

This priority aims to ensure that the non-financial information provides a narrative consistent with the disclosures included in the notes to the financial statements. The *Report on the CNMV's supervision of non-financial information* for 2022 explains the enforcement carried out in 2023 on climate-related matters and consistency between reports, from the perspective of non-financial information.

As a result of the review of the 2022 NFIS, actions were carried out on a total of nine issuers, for reasons relating to the following aspects:

– Issuers were requested to structure the information on climate-related matters and other environmental, social and governance (ESG) aspects that appear in the notes to the financial statements so that users can easily understand the content of the NFIS, either including all this information in a single note or including an index that indicates the notes to the financial statements that address these issues.

– Issuers were requested to clearly and consistently reflect these issues in the financial information,[87] both the strategies related to transition plans or technological innovations and the risks and uncertainties described in the NFIS.

87 In aspects such as investments in real estate, commitments, provisions, impacts on useful life, recoverable securities, etc.

Issuers were recommended to ensure greater accuracy in the description of the identified risks and their impacts, when these descriptions were very general, and to consider the entity's specific circumstances. In the case of the identified environmental risks, actions were carried out to improve the relationship between these risks and the environmental provisions detailed in the note on financial information.

– It was deemed relevant for entities to detail the objectives and significant commitments assumed in relation to climate change, clearly indicating how they are reflected in the financial statements and in what time frames.

– Greater transparency was requested in the calculation of GHG emissions and in the limitations and assumptions used when differences were detected between the emissions quantified in different sections of the NFIS or those disclosed in the financial information.

– It was considered necessary to request entities to provide additional explanations that justified the fact that climate change was considered a relevant issue in their NFIS materiality matrix but, however, to indicate that there was no significant risk of an environmental nature in the notes to the financial statements relative to environmental information.

The ESRSs reflect the importance of ensuring the consistency and connection between the sustainability and financial information in many of their disclosure requirements. Some examples of climate-related matters are:

ESRS E1. DR IRO-1. AR15 indicates that the undertaking must briefly explain the way in which the **climate scenarios** used are compatible with the basic climate-related assumptions used in the financial statements.

ESRS E1. DR E1-5. AR38 requires the undertaking to disclose the **reconciliation of the net revenue amount** from activities in high climate impact sectors to the relevant line item or notes to the financial statements.

In addition to **climate change**, it is important to highlight the importance of consistency between the financial and non-financial information in **other aspects of the NFIS**, which are addressed in the section entitled "Consistency between the IFRS financial statements and other non-financial issues".

Other environmental issues

As a result of the revision of the 2022 NFIS, it was concluded that issuers must strive to expand the information on climate-related objectives (beyond those established for GHG reduction) and explain how their degree of achievement was determined. In the event that none of them are achieved, an explanation must be included relative to: i) the reasons for not having achieved them; ii) whether the objectives established for future years have been revised accordingly; and iii) whether additional measures have been adopted to achieve the planned objectives, detailing said measures.

Furthermore, issuers must strive to quantify and specify the probability of unfavourable resolution in environmental administrative proceedings.

Water footprint

Once again, the CNMV wishes to highlight the importance of disclosures related to the water footprint, as this is a particularly sensitive indicator in our country, due to the limited availability of water resources and the drought experienced in many Spanish regions.

Water stress occurs when the demand for water exceeds the amount available during a given period or when its use is restricted due to its low quality. In Spain, water stress is an issue of growing concern due to several combined factors, such as climate variability, droughts, water management and consumption patterns.

Under the current circumstances, the need for a responsible and sustainable approach to water use and the conservation of water and marine resources is evident. This approach is one of the most significant challenges which our society must face.

The review of the 2022 NFIS evidenced the need to improve the following disclosures related to this issue:

– Details of how or from where the water used by the entity is extracted, consumed and discharged, describing the impacts it generates on water and to which impacts it contributes or are related to its activities, products or services.

> Although a high percentage of the undertakings reviewed provided disclosures on their impacts on water and marine resources, it was determined that this information was clearly improvable in most cases.

> **ESRS E3. DR E3-2.** P19. The undertaking shall specify actions and resources in relation to **areas at water risk**, including areas of high-water stress.

– Facilitate indicators relative to the volume of water extracted, discharged[88] and consumed, specifying this information for areas of high-water stress and extending it, when relevant, to the value chain, identifying the water consumption intensive links.

88 The increase in discharged water does not necessarily imply a greater negative impact, as the severity of the impact depends on water discharge quality and on the sensitivity of the receiving body of water. Entities with a high volume of water discharges but with a high degree of treatment and stringent quality criteria may generate positive impacts on the receiving body of water.

A high percentage of the undertakings in the sample provided a water-related indicator; the most commonly disclosed is that corresponding to water consumed, followed by water extracted and, lastly, water discharged.

ESRS E3. DR E3-4. It requires providing information on **water consumption** patterns, specifying those in areas at water risk. Additionally, the standard indicates that undertakings may provide additional information on their water extractions and discharges.

When evaluating the relative importance of water and marine resources, the undertaking shall consider its own operations and the previous and subsequent phases of its value chain.

– Indicate whether the undertaking has adopted measures aimed at improving the impact derived from the water footprint, in addition to a measurable objective with the establishment of said measures. If so, they must describe the methodology and assumptions used to define the objectives, indicating whether they are based on conclusive science-based proof.

  In case of failure to meet its objectives, the undertaking shall indicate whether those corresponding to future financial years have been reviewed and the degree of probability of their achievement.

One-third of the reviewed undertakings describe the existence of this type of measures and an additional 20% indicates that, in addition to the measures, they also have objectives.

ESRS E3. DR E3-3. It requires the undertaking to disclose the targets established in relation to water and marine resources (which could cover its own operations and the previous and subsequent phases of the value chain), in addition to any progress made in relation to its targets. Specifically, the undertaking shall indicate whether its policies address water consumption reduction commitments, of relative importance, in areas at water risk, in its own operations and in the previous and subsequent phases of the value chain.

– Expand the information on the estimated impact on the entity of the risk arising from water scarcity.

ESRS E3. DR E3-5. The undertaking shall disclose the expected **financial effects** of the risks and opportunities of relative importance related to **water and marine resources**. This disclosure shall include the current financial effects of these resources on the undertaking's financial situation, its financial performance and cash flows within the reference period, pursuant to ESRS 2.

It is possible to omit information relative to the financial effects envisaged in the first year of preparation of the sustainability statement, and the undertaking has the possibility of disclosing only qualitative information during the first three years of preparing said statement.

– Indicate whether the entity contributes to SDG 6 "Clean water and sanitation" and 14 "Life below water".

One-third of the reviewed entities expressly indicate that they contribute to one or both Sustainable Development Objectives.

Social and employee matters

Despite not being one of the areas established as an enforcement priority for the 2022 NFIS, a relevant number of actions has been carried out in this area, which indicates that there is still room for improvement.

It should be taken into account that this issue is closely related to others established in Law 11/2018: "Information on respect for human rights", "Information on the fight against corruption and bribery", "Subcontacting and suppliers" (in relation to workers in the value chain) and "Commitments of the undertaking to sustainable development" (local communities), due to which some issuers include them in the same section entitled "Social" in their NFIS.

This is consistent with the future thematic ESRSs that include these aspects under the "social" umbrella (**ESRS S1, S2, S3 and S4**), except those related to corruption and bribery, which are addressed in **ESRS G1**.

This section relates, mainly, to the entity's own workforce.

In relation to equality, inclusion and diversity, the information requested or recommended on the **gender wage gap** KPI is highlighted (the "gap" or "wage gap") and average pay The main areas for improvement identified were as follows:

– The detail of the items considered in the **average pay** (fixed, variable, with or without complements) disclosed must be explained and in the calculation of the wage gap. In this regard, entities are recommended not only to provide information on the gap by fixed pay, but that also considers all the salary items (which must be detailed).

– In relation to the **methodology** used to calculate the wage gap, entities must explain whether it was weighted by different parameters in the calculation or if the figures had undergone a normalisation or adjustment process (which must be described). It is also desirable to provide sufficient explanations about the definition of other KPIs, such as the items included in absenteeism hours or methodology for calculating the accident frequency or severity rate.

As in previous years, heterogeneity continues to be observed in the gap calculation methods used, partly due to the lack of specific regulations: pay with and without complements, some undertakings use the median and average pay for their calculation, and occasionally it is weighted or adjusted by different parameters that are not always explained and quantified. The new ESRSs will contribute to achieving greater homogeneity and comparability between issuers.

! **ESRS S1. DR S1-16.** AR 98. It establishes the following methodology to determine the gender wage gap: i) the undertaking shall include the average gross hourly pay of all employees; and ii) it shall apply the following formula to calculate it:

[(Average gross hourly pay level of male employees - Average gross hourly pay level of female employees) / Average gross hourly pay level of male employees] x 100

In the glossary of terms of Annex II to the ESRSs, "**Pay**" is defined as: "The ordinary basic or minimum wage or salary and any other remuneration, whether in cash or in kind, which the worker receives directly or indirectly ("complementary or variable components") in respect of his/her employment from his/her employer. "Pay level" means the gross annual pay and the corresponding gross hourly pay".

– Although all issuers subject to substantive review provided some gap data, in some cases they were recommended to complete the information by providing either the global wage gap for the group or a proper segmentation. It is considered good practice that, taking the issuer's characteristics into account, the gap be broken down for each professional category, differentiating in turn by each location, at least with respect to significant operations, since presenting it only at company or group level could sometimes lead to misinterpretation and impede the objective pursued, i.e. showing the entity's actions aimed at promoting diversity and eliminating gender bias.

Pursuant to the section entitled "Reference frameworks used", many entities made reference to GRI 405-2, 2016 in their tables, which requires the wage gap to be broken down in these terms, but then they did not provide it in their NFIS nor explained that they had only partially applied this GRI. These issuers of the substantive sample were requested to provide it and include the definition used for "location with significant operations".

It is desirable for issuers to adequately describe the professional categories used (which are not always homogeneous among the different issuers) and explain the changes or reorganisations therein, along with their impact on personnel KPIs.

ESRS S1. DR S1-16. AR 99. It establishes that the undertaking shall provide any contextual information necessary to understand the gap data and how they have been compiled.

By way of voluntary disclosure, **DR S1-16** P98 indicates that undertakings may disclose a gender wage gap breakdown by employee category or country or segment. They may also disclose the gap by employee category, broken down by ordinary basic salary and by complementary or variable components.

– As mentioned in the section on KPIs, in some cases the lack of **comparative** data of some KPIs for this area was identified (e.g. with respect to the wage gap or accidents), which issuers were recommended to provide. Additionally, it should be noted that the wage gap is one of the areas in which issuers were requested or recommended to provide in-depth narrative explanations of the data provided for a single period and, also, in relation to their **evolution** with respect to the previous period, when necessary.

Thus, at times the wage gap or the explanations provided were not consistent with its breakdown by professional category or the figures were not comparable and the reasons why fixed and variable pay were considered in certain countries and only fixed pay in others were not adequately explained.

The explanations that must be provided shall include the context in which they took place, whether the figure was considered positive or not, whether it stemmed from the issuer's diversity parameters (under-representation of women in higher categories) and whether there were concrete expectations of improvement, in addition to a description of the specific plans or measures adopted, or expected to be adopted, to manage and, where appropriate, mitigate them.

These additional clarifications, including those on evolution, are recommended for the rest of the KPIs, such as work accidents or the number of non-work related leaves of absence including, for the latter, a metric indicative of their impact.

Providing sufficient information to understand the data is very important. On occasion, a tendency to put more emphasis on data that provide a more beneficial image and could impede the proper interpretation of the issuer's situation is observed.

Furthermore, some issuers provided other indicators that enable greater understanding of pay inequalities, provided that they are accompanied by the relevant explanations, such as the relationship between the annual fixed or total pay of the highest paid individual and the annual fixed or total pay of median-paid employees, except the highest paid individual, or the ratio of the standard entry level wage to the local minimum wage.

! **ESRS S1. DR S1-10.** P69 and **S1-16.** P97 indicates that the undertaking must disclose information on the two indicators mentioned in the previous paragraph and which is still only provided by a few issuers. However, it should be noted that the information on the first of the ratios is included in the annual directors' remuneration report (ADRR) of listed issuers.

– The CNMV highlights the importance of the aspects indicated in the "Key Performance Indicators (KPIs)" section of this chapter with respect to targets related to employees, and recommends disclosing the **objectives** for any of the aspects included in this issue that are of relative importance and explaining the degree of achievement attained in the period, and the measures adopted and challenges addressed to achieve them. Information related to non-financial objectives must be consistent with the KPIs used and it is important to describe the ratio of the targets set to the objectives of the policies and to the KPIs designed to monitor objectives and to what degree they are conducive to achieving the targets.

Many of the issuers subject to substantive review either had not set targets in this regard or only had qualitative targets. Consequently, the progress of the KPIs with respect to previously set targets is generally not explained.

! **ESRS 2. MDR-T. P81.** It indicates that if the undertaking has not set any **measurable** outcome-oriented **targets**:

a) It may disclose whether such targets will be set and the time frame for setting them, or the reasons why the undertaking does not plan to set such targets.

b) It shall disclose whether it tracks the effectiveness of its policies and actions in relation to the material sustainability-related impact, risk and opportunity, and if so: i) the processes through which it does so; and ii) the defined level of ambition to be achieved and any qualitative or quantitative indicators it uses to evaluate progress, including the base period from which progress is measured.

– Returning to the indications under ESMA's enforcement priority on **reporting scope**, clarification was requested about inconsistencies in the explanations about the scope considered in relation to average pay and the calculation of the wage gap (at times the total population was not considered, excluding the CEO, expatriates or some businesses or countries). In this regard, the importance of the aspects indicated in the "Reporting scope" section of this chapter in regard to personnel KPIs stands out.

Additionally, there is still room for improvement in the explanations about the **risks** related to this issue, as described in the section entitled "Business model. Participation in the value chain".

Lastly, the "Consistency between IFRS financial statements and non-financial information" section of this chapter details some aspects related to social and personnel issues.

Issues about respect for human rights

Although progress is observed, the CNMV has recommended that issuers be more specific and detailed in relation to the measures they employ to fight against corruption and bribery and in the area of human rights, two issues where information is not properly defined in the NFIS of some issuers.

> ! In the ESRSs, issues related to respect for human rights are addressed in the four social standards: **ESRS S1** "Own workforce", **ESRS S2** "Workers in the value chain", **ESRS S3** "Affected communities" and **ESRS S4** "Consumers and end-users". Issues related to corruption and bribery are addressed in **ESRS G1** "Business conduct".

It should be noted that the areas for improvement in this regard continue to be the same as in previous periods, due to which reading this section of the previous year's report is recommended, although the main aspects are summarised below:

– As regards the **risks** of human rights violations, the information on their assessment must be expanded, beyond stating entities' commitment to respect for human rights or that they are covered by compliance with the local legislation of the countries where they are present.

  Depending on the circumstances of each issuer, it was recommended that they be more specific, paying special attention to the sectors, activities and countries that present a particular risk of causing adverse impacts on human rights. This evaluation must consider not only the management of the issuer's employees but also those of third parties (suppliers, subcontractors, local communities, franchises, etc.) and the material impacts related to their activities and value chain, and also through their products or services and business relationships.

  In some cases, inconsistencies were observed between the description of the risks inherent to this issue and the results of the materiality analysis, or sufficient information was not provided to understand the reasons why the risks were considered low or very limited (see sections entitled "Business model. Participation in the value chain" and "Materiality").

– Expand the description of the **policies** and **due diligence procedures** applied to identify, assess, prevent and mitigate risks and remediate any impacts or incidents, in addition to the specific **measures** adopted (prevention, mitigation, verification, control, etc.). Among others, if the policies extend to suppliers, partners and distributors, expand the explanations about the mechanisms for controlling possible inadequate conduct in significant suppliers and partners and certain aspects of the whistleblowing channel, which are described in the "Whistleblowing channel" section of this chapter. In some cases, it was observed that they were in the process of implementing procedures, their scope was not clear or the descriptions were vague.

In many cases, undertakings refer to various recognised international and European human rights frameworks or conventions on which it is advisable for them to state the extent of their adherence or compliance, the objectives that have been set and provide data to evaluate their achievement. Additionally, undertakings are recommended to clarify whether they consider them in all the countries where they are present and whether their achievement extends to suppliers and subcontractors and to the rest of the value chain.

In particular, Law 11/2018 requires information on whether they promote and comply with the provisions and fundamental conventions of the International Labour Organization (ILO), although it is not always provided. Additionally, issuers subject to substantive review mentioned other frameworks, such as the OECD Guidelines on Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. It should be noted that these three frameworks are those to which other European regulations makes reference, such as the EU Sustainable Finance Disclosure Regulation (SFDR)[89] or the Taxonomy Regulation, to comply with the minimum necessary safeguards to classify an activity as aligned.

! **ESRS S1. DR S1-1.** P20 and **ESRS S2. DR S2-1.** P17 establishes that the undertaking shall describe its **human rights policy commitments** that are relevant to its own workforce and value chain workers, respectively, including the processes and mechanisms for monitoring compliance with the UN Guiding Principles on Business and Human Rights, the International Labour Organisation's Declaration on Fundamental Rights and Principles at Work and the OECD Guidelines for Multinational Enterprises. Additionally, **DR S3-1** and **S4-1** also request the same for the affected communities and end consumers and users.

– More information should be provided on the **results** of the policies adopted to measure the entity's performance, disclose, where appropriate, the targets set

89 Regulation (EU) 2019/2088 of the European Parliament and of the Council, of 27 November 2019, on sustainability-related disclosures in the financial services sector.

(e.g. number of training hours), their degree of achievement and how it expects to achieve them.

In this regard, it was recommended that the KPIs provided be consistent with the policies and measures adopted. Additionally, in some cases entities were recommended to include comparative figures in the KPIs provided (such as in the number of training hours or number of complaints of human rights violations) and, in other cases in which they did not include them or were not considered sufficient, provide additional KPIs (such as, for example, the result of the assessments or audits performed, number of breaches detected, number of pending or concluded legal actions, penalties imposed or the number of suppliers that provide compliance commitment certificates) and qualitative explanations about them and their evolution. One of the most frequently used KPIs in this area is the number of complaints, whose areas for improvement are detailed in the section entitled "Whistleblowing channel".

In addition, entities must specify whether any significant risks have materialised in this area during the period, in which case it is recommended that they provide a description of the measures adopted to address them, noting whether changes have been made to due diligence procedures or whether other measures have been considered to prevent them from occurring again.

As mentioned in the section entitled "Consistency between the IFRS financial statements and other non-financial information", if, due to these events, any liability could arise for the issuer, their inclusion in the corresponding notes to the consolidated report on contingent assets and liabilities and in the corresponding provisions should be considered.

ESRS S1. DR S1-17. It establishes that the undertaking shall disclose the number of incidents, claims and serious incidents related to human rights among its own employees, in addition to any related material fines, sanctions or compensations during the period.

Issues relating to the fight against corruption and bribery

As a result of the review of the 2022 NFIS, information was requested and recommendations made in relation to the issues already mentioned in the previous section and in the "Whistleblowing channel" section of this chapter, in particular:

– Improve the explanation of the risk assessment, differentiating by country (especially those most vulnerable) and considering the activity carried out, in addition to detailing the conclusions of the analyses performed, including, where appropriate, the significant risks in the undertaking's value chain. In addition, the assessment of their materiality and the reasons why there are considered to be no significant risks in all or part of this area must be clearly explained (see sections entitled "Business model. Participation in the value chain" and "Materiality").

ESRS G1. P6. It establishes that, "when describing the process to identify material impacts, risks and opportunities in relation to business conduct matters, the undertaking shall disclose all relevant criteria used in the process, including location, activity, sector and the structure of the transaction".

– Provide or expand the description of the policies and due diligence procedures applied to prevent and detect corruption, bribery and money laundering (such as those used to put the criminal risk prevention and compliance plans into practice) and those related to their verification and control, and include the adopted measures.

Provide more information on the results of their policies, providing KPIs related to this issue, together with comparisons of previous years and explanations of progress of the reference policies on said metrics, including, to the extent possible, additional KPIs. Indicate whether specific targets on KPIs related to corruption and fraud have been established and analyse the progress made in the year with respect to the targets set (such as, for example, number of training hours and topics to be covered).

ESRS G1. DR G1-4. P24. The undertaking shall disclose the number of convictions and amount of fines for violations of anti-corruption and anti-bribery laws, and any action carried out to address the breaches of anti-corruption and anti-bribery procedures and rules.

ESRS G1. DR G1-3. P21b). The percentage of functions-at-risk covered by the training programmes shall be included.

– As indicated in the section entitled "Consistency between the IFRS financial statements and other non-financial information", explain the reasons why the cases of corruption and bribery disclosed in the notes to the financial statements, relative to provisions and contingencies, are not disclosed in the NFIS. The response of one of the issuers requested to provide this information includes a **future commitment** to disclose it in the next NFIS.

Some entities inform of complaints received, investigations carried out or risks that materialise, but it is important that they specify whether they are material or not and explain the actions carried out, particularly internal audit or external forensic activities, and the changes made to prevent them from recurring in the future. Among the possible consequences for the undertaking if a case of corruption or human rights violations materialises, issuers highlight sanctions and reputational damage.

The statement issued by the CNMV on 25 November 2019, resulting from cases of alleged irregular practices that affected some listed undertakings, should once again be noted.[90]

Whistleblowing channel and other communication channels

One of the main instruments used by issuers to learn about violations in the areas of personnel, human rights and corruption and bribery in the undertaking and its value chain are ethics or whistleblowing channels.

Although certain improvements are observed in the description of these channels, partly due to the influence of the new narrative that transposes the Whistleblowing Directive,[91] there is room for improvement, mainly in the following aspects:

– Improve the information on the **characteristics** of the whistleblowing channel such as, for example, identify the stakeholders that can use them, their scope, availability of access, confidentiality, the type of reports that can be made and whether they are outsourced. Also, provide or expand the information on the **management procedures** of these channels, providing, among other aspects, information on the persons in charge of the channel and the bodies involved, indicating how reports are processed depending on the type of practice that is reported, the criteria and procedures that are applied to analyse and assess the communications received and, where appropriate, dismiss them or not classify them as a reported breach, or how conflicts of interest are managed (when the persons in charge of the channel are involved in the report).

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90 https://www.cnmv.es/webservices/verdocumento/ver?t=%7bbdebaf17-7c30-4a5f-8b2f-ea14903c21f6%7d

91 On 21 February 2022, Law 2/2023, regulating the protection of persons who report regulatory and anti-corruption breaches, was published in the Official State Gazette with the aim of contributing to the fight against corruption, thus transposing Directive 2019/1937 or Whistleblowing Directive. (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1937).

ESRS S1. DR S1-3. P32. It establishes, among others, that undertakings shall disclose whether they have a work-related **grievance management mechanism** in place, the processes through which the undertaking supports the availability of such channels through the workplace of own workers and how it monitors issues raised and addressed, and how the undertaking ensures the effectiveness of the channels, particularly through the participation of stakeholders, which are the envisaged users. **DR S2-3, S3-3** and **S4-3** include similar requirements for the workers of the value chain, affected communities and consumers.

ESRS G1. DR G1-1. P10. It requests, among others, a description of the mechanisms for identifying, reporting and investigating concerns about unlawful behaviour or behaviour in contradiction of its code of conduct or similar documents; and whether it accommodates reporting from internal and/or external stakeholders; and how the undertaking protects the whistle-blowers or functions within the undertaking that are most at risk in respect of corruption/bribery.

– Facilitate or improve explanations about the results of this channel. With regard to the KPI for the number of **reports** received, in addition to including comparisons of previous years and explanations of progress, it is considered good practice to:

i) Classify reports according to their nature (corruption and bribery, human rights or other violations) and subject (working conditions, harassment, fraud and corruption, discrimination and equality, right to join a union, etc.), detailing the main concepts considered in each, or by other relevant segmentation criteria (for example, geographical).

ii) Distinguish the complaints to the entity itself (received from the employees themselves and from any third party) from those that are addressed to suppliers, subcontractors or other significant participants in the value chain, with respect to those for which it is good practice to also facilitate this KPI.

iii) Indicate their relevance, specifying whether they had significant impacts in the year (economic, criminal, reputational, etc.).

iv) It would be desirable to indicate the total number of reports received from the different stakeholders, distinguishing which of them are classified as reports of breaches and, of these, those that were admitted for processing, breaking down those resolved (and how, for example, through the adoption of disciplinary measures, without any action being necessary, etc.) and whether they entailed changes in the policies or procedures for preventing them from happening again in the future.

All issuers subject to substantive review disclosed the number of reports received. Of these, more than one-third indicated that they had not received any in 2022.

ESRS S1. DR S1-17. P103. "The undertaking shall disclose: a) the total number of incidents of discrimination, including harassment, reported in the reporting period; b) the number of complaints filed through channels for people in the undertaking's own workforce to raise concerns (including grievance mechanisms) and, where applicable, to the National Contact Points for OECD Multinational Enterprises related to the matters defined in paragraph 2 of this Standard (including issues relating to working conditions, equal treatment and opportunities and other inherent labour rights), excluding those already reported in: a) above; […] d) where applicable, contextual information necessary to understand the data".

In the glossary of terms of Annex II to the ESRSs, "case" is defined as: "A legal action or complaint registered with the undertaking or competent authorities through a formal process, or an instance of non-compliance identified by the undertaking through established procedures. Established procedures to identify instances of non-compliance can include management system audits, formal monitoring programs or grievance mechanisms".

ESRS G1. DR G1-4. P25. It indicates as voluntary disclosure that the undertaking "may disclose: a) the total number and nature of confirmed incidents[92] of corruption or bribery; b) the number of confirmed incidents in which own workers were dismissed or disciplined; c) the number of confirmed incidents relating to contracts with business partners that were terminated or not renewed due to violations; and d) details of public legal cases regarding corruption or bribery brought against the undertaking and its own workers during the reporting period and the outcomes of such cases".

– Issuers should not confine themselves to disclosing only the reports received through the whistleblowing channel. In many cases there are non-financial risks that have materialised (infringements or presumed infringements) that are communicated and resolved outside the whistleblowing channel, either internally in the entities, through the courts or other procedures, which should also be reported in the NFIS, especially if they had a significant impact in the year (also explaining the actions taken and the measures adopted or planned to prevent them from happening again in the future), which would contribute to the robustness of the data.

92 According to the glossary of terms of Annex II to the ESRSs, "confirmed case of corruption or bribery" is defined as: "An incident of corruption or bribery that has been found to be substantiated. […] do not include incidents of corruption that are still under investigation at the end of the reporting period. The determination of potential non-compliance cases as substantiated may be made either by the undertaking's compliance officer or similar function or an authority. A determination as substantiated by a court of law is not required".

Additionally, complaints or other communications received from international organisations or other external channels such as the National Contact Point (NCP) of the OECD Guidelines for Multinational Enterprises or allegations from the Business & Human Rights Resource Centre (BHRRC) should be disclosed).[93]

Examples of KPIs included in the EU Guidelines include the number of pending or concluded legal actions, including but not limited to those concerning anti-competitive behaviour. In many cases, issuers refer to legal proceedings, which are not always included in the NFIS, but only in the notes to the financial statements, due to which the importance of consistency between financial and non-financial information must be recalled.

ESRS S1. DR S1-3. AR28. Channels for raising concerns or needs include any grievance mechanism, hotlines, trade unions, dialogue processes or other means provided directly by the undertaking (managed on its own or jointly with stakeholders) or by third parties.

The glossary of terms of Annex II to the ESRSs defines "**Grievance mechanism**" as: "Any routinised, state-based or non-state-based, judicial or non-judicial processes through which stakeholders can raise grievances and seek remedy" and includes examples of state-based judicial and non-judicial grievance mechanisms for each, including labour tribunals or the aforementioned NCPs.

Company information

Law 11/2018 covers four major areas on this issue: commitments to sustainable development, subcontracting and suppliers, consumers and tax information.

The topics that were the subject of supervisory actions in the 2023 financial year are indicated below:

– As regards **company commitments to sustainable development**, which Law 11/2018 defines as the impact of the company's activity on local employment and development, no relevant supervisory actions were carried out in the year.

  In relation to the entity's commitment to sustainable development, entities are advised to avoid including general information and to specify their policies and how they contribute to local development, beyond including their occasional collaborations with different organisations.

93 The recommendations of the report on compliance with the minimum safeguards of the Taxonomy Regulation published by the European Platform on Sustainable Finance, include considering the lack of collaboration with NCPs as evidence of non-compliance, evaluating non-compliance with the OECD Guidelines for Multinational Enterprises or lack of response to allegations received from the BHRRC.

ESRS S3. DR S3-4. P32a. It indicates that the undertaking shall describe what actions are planned or under way to prevent or mitigate the adverse impacts of relative importance on the **affected communities**.

– In relation to **consumers**, the actions carried out in relation to the information on the complaints and claims received, in addition to the customer satisfaction surveys, stand out. Entities must provide consistent and comparable information from year to year and, if a change in the information presented is deemed appropriate, justify the reasons, especially if less detailed information is provided.

Furthermore, actions were carried out so that entities could expand the disclosures on the procedures followed to document and resolve the complaints and claims and to analyse the surveys completed by customers, particularly in the case of entities that indicated customer loyalty objectives.

In general, entities are reminded of the importance of including explanations on relative risks to the entity's consumers, beyond the risks materialised during the year.

Entities are reminded that the other disclosure required by Law 11/2018 in this area are the measures adopted by the entities in favour of consumers' health and safety, providing explanations and KPIs (product approvals, validity, mandatory or voluntary certifications, independent verifications, listing of additives in foods, etc.).

ESRS S4. DR S4-3. P25d. The undertaking shall describe how it monitors and controls the issues raised and addressed, and how it ensures the effectiveness of the channels, particularly through the participation of the envisaged users.

– As regards the **tax information** included in the 2022 NFIS, worth noting is the progressive improvement in the information provided in the sustainability reports in recent years, in relation to the aspects required by Law 11/2018, on profits obtained country by country, tax paid on profit and public grants received by the entities.

In the case of fiscal liability, entities are recommended to explain the significant tax risks to which they are exposed.

Along the same lines of improving transparency on tax accountability, in the case of entities that make reference to the existence of multiannual strategic plans in their NFIS, they were recommended to provide more detailed information on fiscal targets over the time horizon covered.

It is considered good practice to indicate whether or not there is a link with tax havens or other territories classified by the European Union as non-cooperative jurisdictions in tax matters, in addition to providing other information that may be relevant to understanding the group's tax strategy, how tax risks are managed, whether there are policies to evaluate transactions based on their tax risk, etc.

As regards **tax information and tax liability**, as opposed to Law 11/2018, the ESRSs do not directly establish requirements. However, they can be considered subsumed in some of the disclosure requirements established by the standards.

ESRS S3. AR 5 indicates that: "Impacts on affected communities can originate in the undertaking's strategy or business model(s) in a number of different ways. For example, impact may relate to the undertaking's value proposition, […] its value chain […] or its cost structure and the revenue model (such as **aggressive strategies to minimise taxation, particularly with respect to operations in developing countries**)".

– Lastly, in relation to the information required by Law 11/2018, relative to **subcontracting and suppliers**, the supervision work carried out in the 2023 financial year has been included in the section entitled "Business model. Participation in the value chain" included in this same chapter.

Follow-up of other matters

Consistency between IFRS financial statements and non-financial information

In addition to climate change, the necessary consistency between financial and non-financial information, in **other aspects of the NFIS**, should also be stressed, highlighting the actions carried out in the following areas, in a total of eight entities:

– With regard to the **business model** described in the NFIS, additional information was requested from issuers whose segmented information in the notes to the financial statements was not consistent. Worth noting is the case of an entity that described various segments of activity in the NFIS according to their management structure, but considered fewer segments in the financial information.

  The entity was also requested to give additional explanations about the business model described in their NFIS and the disclosures in the notes to the financial statements corresponding to income, discounts and rebate programmes, or operating expenses, in addition to providing a qualitative explanation about the nature of the transactions included under these items connecting the financial and non-financial information.

– In relation to **scope**, the entity was requested to give explanations about the criteria applied to exclude certain entities from the scope of the NFIS when, on the one hand, the entity alleged that they were not relevant to the non-financial information but, on the other, disclosed the related information separately in the financial information relative to business segments.

– With regard to the description of the group's activities, explanations relative to consistency were requested in those cases where, in certain phases of the **value chain**, the participation of certain stakeholders was particularly relevant, but said relevance was not reflected in the disclosures of the financial information.

  One example were activities with a significant concentration of customers, with material agreements according to the NFIS, for which their main characteristics related to income was not explained in the financial information, nor was the nature of the related expenses in the profit and loss account understood.

  Another example were entities with significant subcontracted services, for which clarifications were requested on the relevance of the suppliers and the agreements and partnerships with third parties in their value chain, in addition to their relationship with Scope 3 emissions disclosed in the NFIS.

– As regards **social and personnel issues**, clarifications relative to consistency were requested in relation to the increases in work accident metrics, with respect to both frequency and severity, when the narrative explanations of the NFIS referred to a minimisation of social and personnel risks or that no impact on provisions for occupational risks in the financial information was observed.

  Likewise, entities with an apparent recurrence of work accidents or other employee-related problems that entailed a financial provision for occupational risks, were requested to explain the reasons for not including information in this regard in the personnel management sections of the NFIS.

– In those cases where significant **provisions or contingencies** were detected in the financial information arising from tax claims, litigation and arbitration, cases of corruption and compensation and other liabilities but not mentioned in the NFIS, entities were requested to state the reasons that had led them to consider that this information was not relevant to sustainability.

  In this regard, entities are reminded that it would not be necessary to include these issues in the non-financial information when, exceptionally, the subject matter of the conflict is purely financial and is not related to environmental, social or governance aspects, including impacts or incidents of a reputational nature, associated with their obligations to responsible taxation or to the communities in which they operate, and that, in any case, they must mention their nature in the notes to the financial statements in order to understand, where appropriate, their exclusion from the NFIS.

! **ESRS S1. DR S1-17.** P103c and P104b require reconciling the total amount of material fines, penalties and compensation for damages as a result of violations regarding social and human rights factors related to the undertaking's workforce to the most relevant amount presented in the financial statements.

Characteristics and presentation of NFIS information

The main areas for improvement are:

– It is considered highly advisable for issuers to include a **table** that relates the contents required under **Law 11/2018** and the EU Taxonomy Regulation to the pages or sections of the NFIS where each is located. Although it is common practice among issuers, some do not include said table and others present tables without sufficient detail or clarity. Most of the recommendations focused on improving the quality of this table, specifically:

  i) To prevent certain contents of Law 11/2018 from being left out of the table or of the NFIS itself, it is recommended that when transcribing the texts of the information required by law to the table, they be incorporated literally or, at least, not summarised excessively.

  ii) To facilitate the location of the content, entities should check to make sure references are to specific, correct pages.

  iii) The reference framework or indicator used to prepare each content of the law should be indicated. If other reference frameworks are used in addition to the GRI (which is usually indicated) for one or more of the issues required by Law 11/2018, they should, if relevant, also be indicated in the table. Additionally, when compliance with a framework is incomplete, issuers are recommended to add an indicative reference of its partial compliance in the table.

– More than half of the issuers include other **additional tables** to those required under Law 11/2018 and which, in general, make reference to the different frameworks followed. This is considered recommended practice, as it improves the clarity and usefulness of the information and makes it possible to locate the content related to compliance with the frameworks to which they make reference. The foregoing recommendations on the quality of the tables also apply to these tables.

  As mentioned earlier, the most frequently used reference framework is GRI. Issuers are reminded that, in any of the two application options allowed, GRI 1: "Foundation 2021" requires publishing a GRI content index and providing a statement of use in the established terms.

  It is important to avoid including information in these additional tables and omitting it in the law table, when it is useful for said information to appear in it, due to being the table that usually determines the scope of the verification. Furthermore, the different tables must be consistent with each other; for example, the GRIs indicated in the table of Law 11/2018 must appear in the GRI index with, where appropriate, the relevant cross-reference.

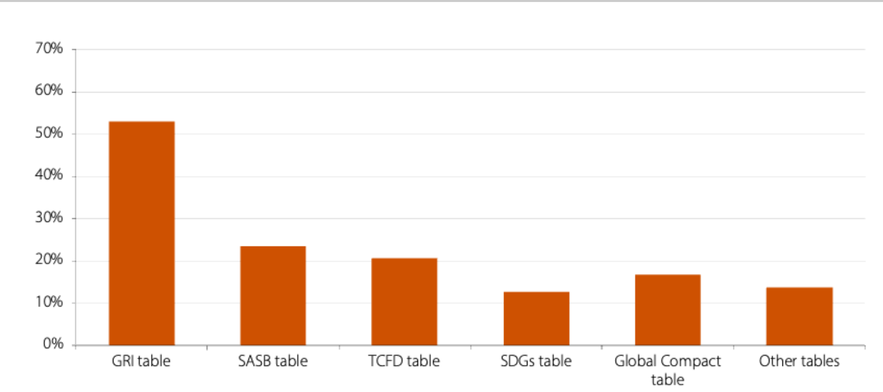
– Issuers must indicate all the **omissions and exceptions to the scope** in relation to the requirements of the law or of other information and justify them appropriately (see section entitled "Scope" with respect to exclusions).

Of the 102 NFIS received, all except one included a summary of contents in the form of a table or box in their 2022 NFIS (100% in 2021). In 97% of cases, this table corresponded to the contents of Law 11/2018 in which issuers generally identify the pages or sections of the document in which it is found, and the framework used for the report (usually GRI).

60% of issuers reflected some omissions of information in the table, in which 97% of cases they explicitly or apparently justified by saying that they considered this information to be non-material or not applicable to the entity in question, such as biodiversity or actions to combat food waste. In some cases, total or partial omissions of the information required by law were detected that were not indicated in the tables.

Lastly, 60% of issuers include other additional tables to those required under Law 11/2018 (57% in 2021) and which, in general, make reference to the different frameworks followed. Figure 6 shows the percentage of all issuers that submitted an NFIS and that include a table related to GRI, SASB, TCFD, the UN SDGs, the principles of the UN Global Compact or other tables (notably, in the finance sector, a table of contents of the UNEP FI Principles for Responsible Banking).

Issuers that included additional tables to those of Law 11/2018 in 2022 FIGURE 5



Source: CNMV.

– Issuers must clearly **present** the non-financial information in both the NFIS and in other documents and not give rise to confusion. In this regard, the following is recommended:

  i) It is recommended that the relevant information on non-financial matters included in the annual financial report or in other additional documents to the NFIS be properly referenced to the NFIS. To avoid duplication of content, it would be desirable to evaluate the use of cross references in the case of information that is repeated in the documents of the same AFI (notes to the financial statements, management report and NFIS).

ii) Some issuers include additional sustainability-related information different to that included in the NFIS on their corporate websites. Issuers were reminded of the need to ensure that the mandatory NFIS contains all the information necessary for a proper understanding of the business and the situation, performance and development of the issuer and its group, as well as the impact of its activity on non-financial matters, and that material omissions cannot be justified by saying that the corresponding information has been included in another, voluntary, report. In any case, consistency between the information included in the NFIS and other sustainability-related information published must be ensured to avoid causing confusion among investors and other users of the information. Additionally, in the case of using cross references, the website address must be specified, avoiding making general references to a website.

iii) If an issuer only presents a consolidated NFIS in their individual management report, they must indicate it to avoid confusion and misunderstanding as to the existence of an individual NFIS other than the consolidated NFIS.

> **ESRS 2. DR IRO-2.** AR19. The undertaking shall include a **list of the Disclosure Requirements** complied with in preparing the sustainability statement in the general information section or in other parts of the sustainability statement it deems appropriate. Also, the undertaking may present it as a **content index**, i.e. a list, in table format, of the disclosure requirements included in the sustainability statement, indicating where they are found (page/sections).

Reference framework

This section describes the main actions carried out in relation to the frameworks in the 2022 NFIS, and that must be considered to improve future sustainability information:

– Issuers must specify, for each of the provisions of Law 11/2018, what recognised frameworks they used and not make reference to internal frameworks.

> Issuers that used an internal framework for some of the provisions of Law 11/2018 were recommended to explain the reasons why they considered it appropriate to use an internal framework, explaining the preparation criteria followed, and they were advised that it was preferable to include the express commitment to use a recognised reference framework as soon as possible.

– In relation to compliance with the GRI framework:

i) As in the previous year, it was observed that there was room for improvement in the statements made by issuers of the GRI option followed ("in accordance" or "in reference"), in compliance with GRI 1. In this regard, as indicated in the previous section, the aforementioned

GRI 1 requires issuers to provide a statement of use in the GRI content index, which is not always included.

In addition, it should be noted that issuers should use updated GRI standards in preparing the NFIS. In some cases, entities made reference to previous essential or comprehensive GRI options, or to GRI 101, 102 and 103 from 2016, without considering the 2021 GRI update, already mentioned in the "Reference frameworks used" section of Chapter II of this report.

It is considered good practice to include a section with the basis of preparation of the NFIS, indicating the general framework or frameworks applied and the GRI option followed, avoiding inconsistencies in the statements made in different sections or, where appropriate, justifying them.

ii) In those cases where the GRIs are used as a reference and some GRI is used partially, issuers must indicate the specific content of the standard applied and the reason for applying it. In their responses, some issuers admitted that they had applied them partially.

iii) Issuers are recommended to mention the GRI indicators used in the NFIS, so that the specific GRI number is reflected next to the information for whose disclosure said indicator was used. This reduces the risk of including certain GRIs in the table that have not been used to prepare the content of the report.

– The following general recommendations are made in relation to reference frameworks:

i) In those cases where other frameworks are mentioned in the NFIS for some of the issues, it is recommended to show how these frameworks are addressed, for example by detailing the aspects in which they have been taken into account by incorporating them into the law table or into a specific table with the aforementioned quality criteria, and providing additional disclosures on the scope of their use.

ii) To better understand these frameworks, it is considered convenient for the text of the NFIS to indicate the reporting criteria of these frameworks, together with the information to which they have been applied.

iii) Additionally, the explanations of how their activities contribute to attaining sustainability objectives should be expanded, taking into account any objectives indicated by the frameworks to which they have adhered, for example, clearly detailing specific and quantifiable objectives relating to the SDGs to which they contribute, and providing data that allow their level of fulfilment and level of progress in the year to be assessed or referencing published annual progress reports.

– While not binding, the EU Guidelines and the Climate Supplement provide useful guidance for adequately complying with the legislation.

Approximately 76% of the total undertakings that submitted an NFIS (102) did not make reference to the EU Directives and only 7% claimed to have taken the Climate Supplement into consideration, or will do so in the future (in both cases the same figure as in 2021).

! **ESRS 1.** P114 and **ESRS 2. DR BP-2.** P15. When the undertaking includes in its sustainability statement additional disclosures stemming from generally accepted presentation frameworks, in addition to the information requested by the ESRS, such disclosures shall be clearly identified with an appropriate reference to the related framework. In case of partial application of other reporting standards or frameworks, the undertaking shall provide a precise reference to the sections of the standard or framework applied.

Analysis of the impact of the guidelines on Alternative Performance Measures (APMs) on the NFIS

Since ESMA published its guidelines in 2015, the CNMV has closely monitored APMs. In 2023, actions were taken in relation to reviewed entities that did not comply with ESMA's guidelines for several financial performance indicators included in the NFIS, the most recurrent of which were economic value generated, distributed and retained.

In this regard, the CNMV reminds issuers that the application of the GRI standards is voluntary and do not constitute a financial reporting framework or other applicable standards within the meaning of paragraph 4 of the guidelines and, therefore, any financial magnitude calculated based on this or other, similar, framework is considered an APM and would fall within the scope of these guidelines.

As a result of the supervisory actions, in all cases the undertakings provided the information requested and, due to the relevance of the omitted information, two issuers undertook to ensure that their APMs comply with the guidelines in the future.

In addition, in April 2023 the CNMV published a notice[94] with a series of relevant observations and criteria that listed companies that use APMs in their financial and non-financial reports, prospectuses and presentation of results must take into account.

With respect to APMs that can directly affect the NFIS, the notice highlights that magnitudes with ESG reference or rating (e.g. green revenue, sustainable CapEx ...) must be considered APMs unless they have been calculated following mandatory standards, such as the EU Taxonomy Regulation or SFDR.

94 https://www.cnmv.es/webservices/verdocumento/ver?t=%7b1698b7b4-2bc0-4251-a334-ef94eed72bd9%7d

Issuers must be prudent when presenting APMs that use ESG[95] denominations, as users may erroneously perceive that they comply with the Taxonomy Regulation or SFDR. To this end, it is recommended that, when the magnitudes have not been calculated in accordance with the applicable regulation, entities use one or both of the following methods:

i) Indicate that the APM is "non-taxonomy" or "non-SFDR";

ii) Add a footnote explaining the APM has not been calculated in accordance with the Taxonomy Regulation nor with SFDR adverse impact indicators, in accordance with question 20 of ESMA's Q&A document.[96]

Likewise, issuers are reminded that they must include detailed explanations about the calculation methodology used and the purpose of the use of each APM with ESG denomination, so that the explanations allow users to understand their use, relevance and reliability.

Lastly, issuers are invited to take into account the considerations on voluntary information in relation to taxonomy reporting of the Platform for Sustainable Finance.

With regard to the financial performance metrics broken down outside the NFIS, issuers are recommended to take the points set out in the *Report on the CNMV's supervision of non-financial information for 2022*[97] into consideration.

95 Related to environmental, social or governance issues.

96 https://www.esma.europa.eu/sites/default/files/library/esma32-51-370_qas_on_esma_guidelines_on_apms.pdf

97 https://www.cnmv.es/portal/publicaciones/publicacionesgn.aspx?id=20

IV Special analyses carried out in 2023

Disclosures relating to Article 8 of the Taxonomy Regulation

ESMA established as a review priority of the 2022 NFIS the disclosures required by Article 8 of the Taxonomy Regulation, due to being the first year in which non-financial entities were required to detail not only the degree of eligibility, but also of alignment, of their economic activities with the climate change mitigation and adaptation objectives. ESMA maintains the review of these disclosures as an enforcement priority in the 2023 NFIS.

In addition, due to their novelty and relevance, the CNMV highlighted that it would specifically monitor taxonomy-related disclosures. Based on the enforcement carried out, in October 2023, the CNMV published its *Report on EU Taxonomy-related disclosures [Informes sobre los desgloses relativos a la Taxonomía Europea]*,[98] which analyses both the quantitative and qualitative presentation of the information published by issuers of the 2022 NFIS.

Furthermore, ESMA also collected, in collaboration with national enforcers, information of limited scope[99] to draw conclusions from this first disclosure phase.

As can be observed in Table 2 of the previous chapter, relative to enforcement actions related to priority areas, EU taxonomy disclosures constitute the priority enforcement area of the 2022 NFIS, which gave rise to most actions by the CNMV.

As a result of the review, it was observed that this area has considerable room for improvement. The main aspects to be considered to improve the quality of the disclosures relative to this issue are detailed below:

Templates required by the regulation

– Use of the **templates established in Annex II of the DDA** is mandatory, irrespective of the level of eligibility and alignment of the activities. In addition, these templates must be filled out in accordance with the requirements established by the regulation, without adapting or modifying them.

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98 https://www.cnmv.es/DocPortal/Publicaciones/OTROS/Informe_Taxonomia_2022.pdf

99 ESMA32-992851010-1098_-_Summary_of_findings_Results_of_a_fact-finding_exercise_on_corporate_reporting_practices_under_the_Taxonomy_Regulation.pdf (europa.eu).

Issuers obliged to report taxonomy information must include the templates even if they do not have eligible activities, their eligibility ratios are low or they avail themselves of the materiality exemption for the OpEx KPI.

As regards their completion, it was observed that entities do not always respect the formats or do not complete all the information. Some issuers omitted columns, either because the data to be included in them was voluntary or because the data had a value of zero. In other cases, the data corresponding to totals or subtotals (e.g. A+B or A1+A2) were not filled in, the breakdown by activity does not match the subtotals or errors were committed when reporting activities as facilitating or transitional, among others.

– Undertakings that carry out activities related to nuclear energy and fossil gas, envisaged in the CDA, must present the corresponding information using the additional **templates required in Annex XII**.

Of all the non-financial entities that claimed to carry out activities related to nuclear energy or fossil gas, only half filled in the additional templates required by the aforementioned CDA.

In December 2023, the EC published a **draft FAQ** with the aim of assisting the financial industry in its efforts to disclose the degree of alignment of its activities with the taxonomy. Question 28 indicates, in relation to the completion of the **CDA templates**, that:

– All entities, whether financial or non-financial, and not only those that carry out activities related to nuclear energy and fossil gas, must fill in template 1 of Annex XII.

– Only those entities that do not carry out, finance or are exposed to the activities mentioned in template 1, and answered "No" to all the related questions, can omit the disclosure of templates 2 to 5 of the aforementioned annex.

Materiality

– The Taxonomy Regulation does not consider the possibility of omitting information on any indicator, except in the specific and duly justified cases of immateriality relative to the OpEx indicator.

Question 13 included in European Commission Notice C/2023/305,[100] published in the *OJEU* on 20 October 2023, addresses the question as to whether there is any minimum turnover, CapEx and OpEx threshold below which undertakings are not

100 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202300305

obliged to report the eligibility or alignment of their economic activities with the taxonomy.

The answer states that if, due to lack of data or evidence, entities cannot ensure compliance with the technical selection criteria for eligible activities that are not relevant to their activity, they will consider these activities as non-aligned, without making any further assessment.

In addition, the answer makes reference to Annex 1, section 1.1.3.2. of the DDA, which envisages a certain degree of flexibility in the presentation of the **OpEx** indicator such that, when this item is considered immaterial for the entity's business model, it is exempt from calculating the OpEx numerator. In this case, the entity must:

i) Provide the template, including the disclosures relative to the total value of the denominator and assigning a value of zero to the numerator.

ii) Give an explanation about the lack of materiality in relation to the entity's business model.

Undertakings with little or no eligible OpEx (numerator) but with a total significant OpEx (denominator) must not avail themselves of the exemption.

Most of the entities that indicated that they had availed themselves of the exemption of materiality of the OpEx KPI in the 2022 NFIS did not include the template associated with this indicator.

A small group of entities indicate that they were unable to analyse the alignment of their activities, for lack of the necessary information, due to the complexity of their activities or to considering the percentage of eligibility immaterial.

Nature of the activities

– In order to better understand the eligible and aligned activities carried out by the entity, it is convenient to include a brief description of, at least, the most relevant activities according to the taxonomy. This description should detail aspects such as projects, lines of activity or the segments to which they belong, thereby making it possible to relate this information to other contents of the annual financial report, such as the note corresponding to financial information by segment.

It is also convenient to detail (and justify where appropriate) the significant activities carried out by the entity that are not eligible for taxonomy purposes.

During the supervision of the 2022 NFIS, it was observed that entities with eligible/aligned activities merely enumerated them, using the terminology of the CDA. This practice does not provide useful and specific additional information on the entity's activities.

Compliance with the criteria

– For a more complete understanding of the analysis carried out by the entities regarding their activities, it is important to provide clear, specific and sufficiently detailed explanations about how their compliance with the technical selection criteria (TSC), the Do No Significant Harm principle (DNSH) and the minimum safeguards has been evaluated.

> The taxonomy-related issue gave rise to most supervisory actions in the 2022 NFIS of non-financial entities due to the fact that, in many cases, the disclosures were limited to a simple transcription of the literal content of the Delegated Act.

In particular, it is important to:

- Provide information on the evaluation of the TSC and DNSH, at least, for the most relevant activities, identifying the criteria that are met, not met and the reasons why they are not met.

- Provide explanations about the main differences between the eligibility and alignment indicators, indicating whether it is realistic for these to decrease in the short term.

> The disclosures relative to the CapEx aligned with the taxonomy provide a forward-looking sign for undertakings in transition, particularly those belonging to sectors that must carry out a more urgent decarbonisation.

- Include references to other information contained in the NFIS that supports and complements these issues, such as the transition plan, emission reduction objectives, anti-corruption measures or respect for human rights.

- Consider that the minimum safeguards require that undertakings establish procedures that fulfil the OECD Guidelines on Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

– In relation to financial entities, they must include for the first time, in their 2023 NFIS, data relative to the alignment of their activities with the mitigation and adaptation objectives. Therefore, it is especially relevant that these entities strive to ensure transparency in the disclosure of the judgements and assumptions adopted in the calculation of their 2023 NFIS indicators.

As stated in the section entitled "Priority areas for review of the 2023 NFIS", the CNMV specifically monitored the disclosures of taxonomy-related information of financial entities.

Key performance indicators

Concepts included in the denominator

- It is relevant to detail and explain the items included in the denominator of the CapEx and OpEx indicators. These items must be in line with the DDA and the reasons justifying any discrepancy must be indicated.

- Cross references to corresponding items of the financial statements must be included in the case of turnover and CapEx indicators.

- In addition, it would be useful to include a sufficiently detailed reconciliation of the denominator considered in the three indicators to the data included in the financial statements.

> In the supervision of the 2022 NFIS, certain heterogeneity was observed in the expenses and investment items included in the CapEx and OpEx indicators. This meant that it was one of the areas of taxonomy that required most actions.
>
> As regards CapEx, it was observed that some entities do not include the amounts corresponding to some items mentioned by the DDA in their denominator, such as additions of intangible assets, rights of use or those arising from business combinations. In most cases, the reasons justifying these exclusions were not explained.
>
> In relation to OpEx, the inclusion of expense items in the denominator not considered in Section 1.1.3.1. of Annex I to the DDA was detected, without explaining the reasons justifying the policy adopted to calculate them.
>
> Some undertakings used the CapEx and OpEx items considered APMs as the denominator of the indicators.[101] in their financial statements, without verifying whether said items meet the requirements of the DDA.

Assignment of amounts to the numerator

- Detailed and specific information on how the amounts assigned to the numerator of the eligibility and alignment indicators relative to turnover, CapEx and OpEx are calculated must be provided.

> During the supervision of the 2022 NFIS, it was observed that, on many occasions, the information relative to this issue merely indicated that the amounts corresponding to the numerator were obtained from the denominator, exclusively considering the proportion of turnover, CapEx and OpEx corresponding to the eligible/aligned activities.

101 Alternative performance measure.

Comparability of the information

– In the event that the information on eligibility or alignment is not directly comparable to that of the previous year, or has been restated, entities must report on this circumstance in the NFIS, together with a detailed explanation of the reasons.

> Numerous changes in the criteria for calculating the eligibility indicators for the 2022 financial year were identified with respect to those reported in the 2021 NFIS. However, only some of the entities made restatements. 60% of the reports corresponding to the 2022 NFIS, in which the verifier included an emphasis of matter paragraph relative to taxonomy, state that the disclosed information on eligibility was not strictly comparable to that of 2021 or that had even been restated.

Contribution to the objectives

Reporting on each environmental objective

– It is mandatory to evaluate and report on eligibility and alignment for each of the objectives, and the analysis cannot be limited to a single objective.

> In the review of the 2022 NFIS it was detected that, in some cases, non-financial entities stated that, although they carried out activities that could contribute to the adaptation objective, in the analysis carried out in this first year of application only the mitigation objective had been considered.

– After the 2023 financial year (published in 2024), the other environmental objectives must also be considered.[102]

> In the 2023 NFIS, only eligibility data must be provided relative to: i) the new activities added in 2023 and associated with the climate change mitigation and adaptation objectives; and ii) the activities related to the four non-climate environmental objectives.

– A detailed explanation must be provided about how double recording has been avoided in the assignment, in the numerator, of the key performance indicators, relative to turnover, CapEx and OpEx, among all the economic activities, as indicated in Section 1.2.2.1. of Annex I of the DDA.

102 Sustainable use and protection of water and marine resources, transition towards a circular economy, prevention and control of pollution, and protection and recovery of biodiversity and ecosystems.

Adaptation objective: non-facilitating activities

– In relation to activities that contribute to the adaptation objective, it should be noted that the CDA establishes that, when an economic activity is adapted and becomes resilient to climate change, the turnover generated by said activity must not be considered, unless it is a facilitating activity. Only investments made in fixed assets (CapEx) and expenses incurred (OpEx) must be recognised, provided that an assessment of vulnerabilities and climate risks has been carried out and an investment or expenses plan has been established to apply adaptation solutions that reduce the most significant physical climate risks of the activity. Annex II of the CDA considers only a small number of activities to be facilitating.

> During the supervision of the information contained in the 2022 NFIS, it was verified whether the activities that contributed to the adaptation objective, which showed positive alignment in terms of turnover, were facilitating.
>
> As a result of this work, actions were carried out in relation to eight issuers that included non-facilitating activities in the turnover indicator corresponding to the climate change adaptation objective.
>
> All the undertakings contacted deemed it convenient to adapt the criterion used to the legislation in force in the next financial year, and did not include the non-facilitating activities, in accordance with the adaptation objective, in the turnover indicator.

Voluntary information

– When an issuer decides to provide additional voluntary disclosures, with the aim of helping investors to better understand the entity's taxonomy, it is important to take into account that this information must not form part of the mandatory disclosures. Furthermore, it must not contradict or inadequately represent the mandatory information, nor stand out more than the latter. Likewise, it is essential to justify the reasons for including said additional disclosures.

In these cases, details of the basis of this disclosure, the methods used to prepare it and a clear explanation of how it differs from the mandatory disclosure must be provided. Additionally, entities must take the provisions of the ESMA's Guidelines on APMs into account.[103]

In the course of the review, it was detected that some issuers state the existence of possible different interpretations of the regulation affecting the consideration of some activities as eligible, as they provide the data of the indicators calculated under the most restrictive criterion in the template of Annex II of the DDA, and show a second possible interpretation in the text that would correspond to additional information. One of such cases corresponds to the road construction, operation, maintenance or management activity (6.15), of the mitigation objective, which has entailed some differences in criteria between the undertakings that carry it out, which have considered the possibility of considering roads eligible in their entirety,

103 https://www.esma.europa.eu/sites/default/files/library/2015/10/2015-esma-1415en.pdf

to the extent that it allows zero-emission vehicle transport, or only those specific road elements that expressly allow zero-emission transport (such as, for example, electric recharging points or hydrogen refuelling stations). In view of the disparity of positions, it was decided to transfer the issue to the European working groups for consideration.

During these first years of application of the regulation, doubts about its implementation may understandably arise. Therefore, it is particularly relevant that issuers strive to ensure transparency in the disclosures provided, especially in activities subject to interpretation.

In all cases, for an adequate interpretation of the taxonomy regulation, it is essential to give priority to the consideration of the documents published by the relevant public bodies. These documents provide guidance and clarity on the scope and requirements of the regulation, thereby contributing to its consistent and effective application.

Results of the supervisory actions carried out

The main results of the CNMV's supervisory actions in relation to this area in the 2022 NFIS are summarised below:

– In the case of 10 issuers, the supervisory actions resulted in a **commitment to future correction** of the non-financial information. The main reasons for said commitments were as follows:

  i) Failure to use the templates required by the rules of Annex II or their incorrect completion.

  ii) Failure to carry out the alignment analysis due to insufficient information.

  iii) Adaptation of the items included in the denominators of the CapEx and OpEx indicators to the provisions of the DDA and assignment to the numerator.

  iv) Expansion of the explanations about significant differences between the eligibility and alignment indicators.

  v) Adaptation of the eligibility criterion to the contents of the CDA.

  vi) Failure to include non-facilitating activities in the turnover indicator corresponding to the climate change adaptation objective.

– Two of the issuers, whose supervision entailed a commitment to future correction, also undertook to carry out a **restatement** in their next NFIS due to: i) the inclusion of undue items in the numerator of the CapEx and OpEx indicators; and ii) the inclusion of non-facilitating activities in the turnover indicator corresponding to the climate change adaptation objective.

– One issuer included in their response to the request, published on the CNMV's website, a **corrective note** in relation to the items included in the denominator of the CapEx and OpEx indicators.

Lastly, it should be noted that ESRS 1, section 8.2 "Content and structure of the sustainability statement", indicates the following in relation to the location of the disclosures relative the EU taxonomy:

ESRS 1. P-113 indicates that the information envisaged in Article 8 of the Taxonomy Regulation in the corresponding Delegated Regulations shall be included in a clearly identifiable part of the **environmental section** of the **sustainability statement**.

Carbon footprint

In addition to the analysis carried out on the substantive sample, described in the section relative to the supervision of non-financial information, the CNMV verified the inclusion of the data corresponding to the absolute Scope 1, 2 and 3 greenhouse gas emissions of the 102 issuers obliged to prepare the 2022 NFIS.

During the review of the data reported by the issuers it was observed that, although very few entities do not report on Scopes 1 and 2, almost one-third of the issuers that prepare the NFIS do not provide information on Scope 3.

Despite this and in accordance with the information reported, Scope 3 emissions account for more than 80% of total emissions, compared to just under 18% of Scope 1 emissions and barely 2% of Scope 2.

As regards Scope 1, the data indicate that the energy sector accounts for half of the total emissions, the trade and services sector accounts for a quarter of all the emissions reported, and industry accounts for just under 15%.

In relation to Scope 2, although some undertakings provide information on their emissions using both the market-based[104] and location-based approach,[105] some entities report their data exclusively using the market-based method, while others only use the location-based approach. Most of the issuers that prepare NFIS do not specify the method used to calculate their Scope 2 emissions.

In accordance with the reported data, energy sector companies significantly stand out in the Scope 3 emission category and account for 85%[106] of the total of these emissions. The industrial sector follows at a considerable distance, accounting for 8% of total Scope 3 emissions.

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104 Market-based: the calculation of market-based emissions focuses on the individual undertaking and its contractual agreements in the market. Market-based emissions are associated with the energy that a company purchases, which is different to the energy generated by the local grid.

105 Location-based: location-based emissions refer to what is physically consumed at the site of operations or commercial premises. It is calculated using only the average emission intensity of the local grid from which energy is obtained.

106 Not considering emissions financed by credit institutions.

It is observed that a considerable number of entities have not yet fully implemented the disclosure of their Scope 3 emissions following the 15 categories stipulated by the GHG Protocol.

The CNMV maintains its line of recommendations, emphasising the importance for issuers to deepen their assessment and calculation of Scope 3 emissions, and encouraging undertakings to explain, where appropriate, the specific reasons for not providing the disclosure of said emissions. In addition, in those cases where the quantitative disclosure is not available, they may provide qualitative information that clarifies the categories of value chain activities that account for a significant part of their Scope 3 emissions.

Additionally, the CNMV highlights the importance of being rigorous in the calculation of emissions and stresses that it is essential to adapt and improve the internal systems for ensuring the proper collection of the necessary information. Lastly, special emphasis is placed on the transparent disclosure of emission reduction objectives, in addition to the remuneration policies that are aligned with the achievement of these objectives, since they show the entity's degree of commitment to decarbonisation.

Financed emissions

In the financial sector, almost all the entities that prepared the 2022 NFIS provided some type of information on financed emissions. Most entities claim to be in the process of perfecting their measurement methods for generating more accurate and comprehensive data. Additionally, they admit that data collection can be challenging and admit that the quality of the information on financed emissions will progressively improve as their customers around the world increase their disclosure of non-financial information.

The standard for measuring the carbon footprint of the financed portfolio, used by financial institutions, was PCAF[107] (Partnership for Carbon Accounting Financials), which establishes a classification of the quality of the data used in the calculation of financed emissions, considering their availability and reliability.

> **ESRS E1.** Establishes that financial entities must take into account the GHG Accounting and Reporting Standard or the financial industry, of the Partnership for Carbon Accounting Financials (PCAF), specifically part A "Financed Emissions" (December 2022 version).

The CNMV urges financial entities to continue advancing in the quantification of financed emissions, encouraging them to provide transparent information on the methodology used in their calculation and to offer details about the portfolios and assets evaluated.

Additionally, it is convenient to indicate the percentage of the financed portfolio subject to the calculation of their carbon footprint, in addition to the coverage of the data or their scope (e.g. geographical regions, subsidiaries, etc.).

107 PCAF is a global alliance of financial institutions that collaborate to develop and implement a global and harmonised approach that measures and discloses the emissions associated with their loans and investments.

Financial entities are expected to detail the reference date of these calculations, the data sources used and the sectors that contribute most to the financed emissions.

The CNMV points out the importance of disclosing whether these measurements have been reviewed by an independent third party and how these data are reported, specifying the internal bodies in charge of their supervision (Audit Committee, Sustainability Committee, Board of Directors, etc.) and with what frequency they are reported.

Lastly, it should be noted that it is important to indicate whether these metrics are being monitored as part of the entity's risk assessment and whether decarbonisation targets have been set for the financed emissions, whether of the general portfolio or specific sectors and, if so, the scenarios considered as a reference for establishing said objectives.

V Main enforcement areas for non-financial information in the 2023 NFIS

In October 2023, ESMA published its common enforcement priorities for the annual financial reports for 2023,[108] differentiating between financial information, non-financial information and other considerations relative to Alternative Performance Measures (APMs) and the European Single Electronic Format (ESEF).

ESMA, together with the national enforcers of the European Economic Area (EEA), will pay particular attention to these matters when monitoring and assessing the application of the relevant requirements, as well as reviewing such matters as may be important for the various issuers examined.

ESMA enforcement priorities for 2023 TABLE 3

	Priorities related to IFRS financial statements	Priorities related to non-financial statements	Other considerations on APMs and ESEF
Climate and other environmental matters			
• Impact on the financial statements	√		
• Article 8 of the Taxonomy Regulation		√	
• Targets, actions and progress		√	
• Scope 3 emissions		√	
Macroeconomic environment	√		
Identification and consistency of APMs			√
ESEF block tagging			√

Source: ESMA.

ESMA's recommendations must be considered by issuers in accordance with their materiality, relevance to their operations and their annual financial report.

It should be noted that, among the financial priorities, ESMA once again stresses the importance of consistency between the information contained in the IFRS financial statements and the NFIS in relation to climate-related matters.

Likewise, the CNMV will include, as an additional enforcement priority for non-financial information, a more detailed analysis of taxonomy-related disclosures by credit institutions and insurance companies.

108 https://www.esma.europa.eu/sites/default/files/2023-10/ESMA32-193237008-1793_2023_ECEP_Statement.pdf

As indicated above, ESMA's statement also establishes the enforcement priorities for financial information, APM and the European Single Electronic Format (ESEF) (see the Report on the CNMV's review of the annual financial reports for financial year 2022).[109]

Additionally, in the same document, but not forming part of the enforcement priorities, ESMA makes some **preliminary considerations** on sustainability reports:

– ESMA expects issuer to undertake the ad hoc transition projects for **implementing the new requirements, under the CSRD Directive** and **ESRSs**, as soon as possible, which will apply to annual financial reports published after 2025.

  Key organisational decisions in terms of data collection and preparation of flows, internal controls and procedures that endorse the mandatory assurance requirement must be carefully considered. These decisions must take into account the need to establish a closer connection to the financial statements, of which the new sustainability reports must be a separate but related part.

  ESMA highlights that all issuers that prepare consolidated sustainability reports must ensure the existence of a robust, consistent and effective process for preparing, compiling and consolidating data related to the sustainability of all the group's entities, which includes the relevant data of the significant participants of their value chains. ESMA also recommends issuers to establish and, if necessary, acquire, as soon as possible, the necessary resources and competencies to effectively apply the new requirements.

– ESMA makes reference to the publication of Recommendation (EU) 2023/1425, of the Commission, of 27 June 2023,[110] aimed at offering guidance and practical examples of the voluntary use of various tools of the EU's sustainable finance framework, to channel investments towards transition and manage their risks arising from climate change and environmental degradation. Among other aspects, this recommendation highlights:

  i) The application of a double materiality analysis to define specific transition pathways for entities.

  ii) The use of the EU taxonomy as a transition tool beyond a disclosure tool.

  iii) The importance of transition plans, in addition to the related metrics and objectives, for investors that are willing to finance the transition efforts of the affected issuers.

In accordance with the guidelines issued by ESMA on the supervision of financial information, the national authorities will inform ESMA about the actions carried out in 2024 and the measures implemented if any breaches are detected, including those related to non-financial information. ESMA will publish a summary of the supervisory actions carried out in its *Activities Report*.

109 https://www.cnmv.es/portal/Publicaciones/PublicacionesGN.aspx?id=61

110 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023H1425

The aspects of ESMA's document related to non-financial information considered most relevant are highlighted below. Other additional issues that will be addressed by the CNMV are also detailed. However, it is recommended that the ESMA statement be read in full.

Main enforcement areas for non-financial information in the 2023 NFIS

Disclosures relating to Article 8 of the Taxonomy Regulation

ESMA indicates that it has collected, together with national enforcers, taxonomy-related information from issuers with limited scope,[111] with the aim of drawing conclusions the first year in which non-financial entities have disclosed not only the eligibility, but also the degree of alignment of their economic activities with the climate change mitigation and adaptation objectives.

ESMA reminds issuers of the following in relation to the 2023 NFIS:

– It is mandatory to use the **templates** of Annex II of RD 2021/2178, modified in June 2023, without adaptations or changes in format, irrespective of the level of eligibility and alignment of the economic activities.

– When an economic activity contributes substantially to **various environmental objectives**, issuers must **avoid double counting** when calculating the indicators and provide information that offers transparency on:

  i) How compliance with the technical selection criteria (TSC) has been evaluated with respect to each of the environmental objectives.

  ii) Turnover, CapEx and OpEx corresponding to activities that contribute to various environmental objectives.

  iii) How double counting has been addressed, justifying the choice of a specific objective among the available objectives.

  In those cases where an activity is subject to TSC for various objectives, issuers must evaluate it for each.

– The **explanations** accompanying the indicators must be **improved**, particularly those relating to the evaluation of compliance with substantial contribution criteria, the "do no significant harm" principle and the minimum safeguards. These explanations must be clear, comprehensive and specific to the entity and avoid generalities. The information, which must not be limited to qualitative aspects, must include:

  i) The main assumptions used in the preparation of the information.

  ii) The areas where significant judgements were made.

  iii) The key elements that have changed with respect to previously reported figures, in addition to an explanation about the reasons for the change.

111 https://www.esma.europa.eu/sites/default/files/2023-10/ESMA32-992851010-1098_-_Summary_of_findings_Results_of_a_fact-finding_exercise_on_corporate_reporting_practices_under_the_Taxonomy_Regulation.pdf

– Although some issuers indicate that their intention is to increase their taxonomy-aligned activities, few prepare them and disclose their **CapEx plans**. ESMA encourages issuers to develop and disclose these plans, indicating the necessary investments for their transition.

  When entities develop CapEx plans that meet the requirements of the Taxonomy Regulation, they must describe them and include the investments in the numerator of the CapEx indicator.

– With the exception of specific and duly justified cases of immateriality, relative to the OpEx indicator, the Taxonomy Regulation does not consider the possibility of omitting information on any other indicator.

  In relation to this issue, the section entitled "Disclosures relative to Article 8 of the Taxonomy Regulation" highlights the content of the answer to question 13, included in Commission Notice C/2023/305,[112] published in the *OJEU* on 20 October 2023. Said answer states that if, due to lack of data or evidence, entities cannot ensure compliance with the technical selection criteria for eligible activities that are not relevant to their activity, they will consider these activities as non-aligned, without making any further assessment.

New EU taxonomy criteria and disclosures

On 27 June 2023, the EC issued two delegated regulations that implement new TSCs for determining that an activity is aligned with the Taxonomy Regulation. The new obligations apply to the taxonomy disclosures published on or after 1 January 2024, corresponding to the annual information for 2023. These developments entail:

– Updating the compulsory templates.

– Establishing technical selection criteria for additional activities, in the case of climate objectives.

– Introducing technical selection criteria and the corresponding disclosure obligations for activities corresponding to the four remaining environmental objectives.

Educational and support materials for taxonomy disclosures

ESMA reminds issuers of the existence of educational and support materials for reporting the disclosures required by the Taxonomy Regulation. Additionally, the EC has issued FAQ documents, which serve as a guide and aid to achieve a consistent application of the taxonomy requirements.

ESMA highlights the availability of the EU Taxonomy Compass, which can help issuers to navigate through the different technical criteria that endorse the eligibility and alignment evaluations.

112 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202300305

Main enforcement areas for non-financial information in the 2023 NFIS

Financial companies

In 2024, with respect to the 2023 financial year, these entities have new disclosure obligations, not only relative to eligibility, but also to alignment.

The CNMV will specifically monitor the disclosures relative to the taxonomy-related information of these companies, in relation to both eligible and aligned activities.

Consistency between IFRS financial and non-financial information (NFIS)

For the third consecutive year, this issue is included among ESMA's enforcement priorities in climate-related matters.

In this regard, the CNMV wishes to highlight that the consistency between the financial information and that included in the NFIS should not be limited to climate-related matters, but should extend to all issues of the NFIS. This includes, for example, the description of the business model in the NFIS and the information by segment or the breakdown of turnover in the financial information, and the provisions and contingencies broken down in the notes to the financial statements and the information provided in aspects such as personnel, human rights or corruption and bribery. To facilitate understanding, it is recommended that they be adequately referenced.

Disclosure of climate-related objectives, metrics and progress

ESMA continues emphasising the importance of transparency when disclosing climate-related matters, an aspect that is especially relevant in view of the imminent implementation of the CSRD.

In this context, ESMA indicates that issuers must pay close attention to information relative to climate-related objectives and that they are most useful when they are measurable, have a defined time frame and clarify:

i) The expected results, in terms of mitigation or adaptation to climate-related risks.

ii) Any profit arising from climate-related opportunities.

iii) Any impact on persons or the environment.

It should be noted how the climate-related objectives are connected to predefined targets, whether specific to the entity or derived from public policies, indicating whether or not they are science-based.

To evaluate the reliability of climate commitments, issuers must report on the progress attained, in the achievement of their objectives, in comparison with the predetermined levels, considering a specific base year.

ESMA reminds issuers that they must provide information on the methodologies and assumptions underlying said objectives, in addition to the scope of the activities and the entities they encompass, and indicate, among other things, whether they refer to the issuer's own transactions, their value chain or both.

In order for objectives to be credible and effective they must form part of the strategy, the policies and specific actions. The actions will help to evaluate their effectiveness and to consider possible reviews of the objectives. ESMA considers it necessary to explain the reasons why those specific climate objectives have been selected and their relationship with other strategic objectives.

In addition, ESMA emphasises the importance of describing how climate-related objectives are monitored and reviewed, which includes reporting the progress achieved and periodically evaluating their consistency with the predefined strategies and policies. An effective way of linking strategies, policies, actions and objectives, and demonstrating progress in their achievement, is to establish climate transition plans.

GHG emission reduction targets

A particularly relevant area of disclosure, in relation to climate change, and related to the purpose of mitigation, is the disclosure of GHG emission reduction objectives and the actions carried out to attain them.

Although all the considerations mentioned in the previous section apply to this type of objectives, ESMA highlights some specific aspects.

To evaluate the credibility of these objectives, it is essential to explain their alignment with commonly accepted European and international objectives, especially those aimed at limiting global warming to 1.5ºC with respect to pre-industrial levels.

It is also essential to clarify the emission scopes and categories considered by the objective and indicate, among other things, whether it considers Scope 3 emissions.

Issuers must explain the decarbonisation levers identified, indicating their quantitative contribution to the objective and specifying whether they are internal strategies (such as the use of cleaner technologies) or external strategies (such as collaborations with key players in the value chain).

If the emission reduction objectives are presented in the context of broader climate neutrality strategies, it is important to explain the role of gross emission reductions in the achievement of these objectives, compared to other measures, such as the use of carbon credits and GHG removal or storage.

Likewise, it is essential that issuers provide information on the financial resources and investment required to achieve these objectives. Where relevant, these figures must be reconciled to those recognised in the financial statements and those included in the taxonomy disclosures.

Lastly, ESMA reminds issuers that they must disclose the potential risks of transition and blocked GHG emissions arising from the undertaking's key assets and products.

Objectives that endorse transition pathways

ESMA highlights the importance of objectives for showing how an entity moves towards more sustainable business models. In this regard, it highlights that the EU taxonomy may be a useful tool for establishing objectives that specify the time frames in which an issuer intends to comply with the technical selection criteria related to one or more environmental objectives, together with the investment required to achieve them.

Scope 3 emissions

Issuers must determine whether the information on GHG emissions can be considered complete if disclosures related to Scope 3 emissions are not included. In making this assessment, financial entities must take financed emissions into account.

If it is concluded that the Scope 3 emissions are not material, ESMA recommends issuers to clearly indicate it, describing the most relevant judgements to reach this conclusion. Otherwise, the limits of the calculation of Scope 3 emissions must be described, including the reasons for excluding certain categories and the quantitative impact of said exclusions. When Scope 3 emissions are partially provided, ESMA recommends issuers to denominate the metrics so that they clearly indicate the partial nature of the calculation.

ESMA requires transparency in relation to Scope 3 emission categories, in accordance with the methodology that the issuers claim to follow. Issuers must indicate whether the emissions were determined based on estimates, the amounts covered by these estimates, the methodology used and the most significant inputs and assumptions.

ESMA recommends issuers to differentiate the gross amounts of Scope 3 GHG emissions from the effect derived from the possible use of carbon credits, removals and storage. In addition, it emphasises the importance of including comparative information together with the narrative that explains the evolution with respect to previous years.

Lastly, ESMA recommends issuers to include Scope 3 emission disclosures by category, main line of business or geographical area.

VI Annexes

Annex 1 List of verifiers issuing reports on the 2022 NFIS of issuers of securities or companies with securities admitted to trading on official secondary markets

VERIFIER	COMPANY
AENOR INTERNACIONAL, S.A.U.	FOMENTO DE CONSTRUCCIONES Y CONTRATAS, S.A.
	GRUPO EMPRESARIAL SAN JOSÉ, S.A.
	NATURHOUSE HEALTH, S.A.
AUREN AUDITORES SP, S.L.P.	CLINICA BAVIERA, S.A.
BAKER TILLY AUDITORES, S.L.P.	URBAS GRUPO FINANCIERO, S.A.
BDO AUDITORES, S.L.P.	LABORATORIO REIG JOFRE, S.A.
	GRUPO EZENTIS, S.A.
BUREAU VERITAS CERTIFICATION	BORGES AGRICULTURAL & INDUSTRIAL NUTS, S.A. (close 31/5)
	ERCROS, S.A.
	EROSKI SOCIEDAD COOPERATIVA
CAVALA GABINETE DE ASESORÍA EMPRESARIAL, S.L.	INSTITUTO DE CRÉDITO OFICIAL
CROWE ACCELERA MANAGEMENT, S.L.	MINERALES Y PRODUCTOS DERIVADOS, S.A.
DELOITTE, S.L.	AENA, S. M. E., S.A.
	ALANTRA PARTNERS, S.A.
	APPLUS SERVICES, S.A.
	AUDAX RENOVABLES, S.A.
	CELLNEX TELECOM, S.A.
	CORPORACIÓN FINANCIERA ALBA, S.A.
	DEOLEO, S.A.
	DURO FELGUERA, S.A.
	INDRA SISTEMAS, S.A.
	LINGOTES ESPECIALES, S.A.
	MEDIASET ESPAÑA COMUNICACIÓN, S.A.
	MELIÁ HOTELS INTERNATIONAL, S.A.
	MERLIN PROPERTIES, SOCIMI, S.A.
	NEINOR HOMES, S.A.
	TALGO, S.A.
	VISCOFAN, S.A.

List of verifiers issuing reports on the 2022 NFIS of issuers of securities or companies with securities admitted to trading on official secondary markets *(continuation)*

VERIFIER	COMPANY
ERNST & YOUNG, S.L.	AEDAS HOMES, S.A.
	AMADEUS IT GROUP, S.A.
	AMPER, S.A.
	AZKOYEN, S.A.
	BANCO BILBAO VIZCAYA ARGENTARIA, S.A.
	COMPAÑÍA DE DISTRIBUCIÓN INTEGRAL LOGISTA HOLDINGS, S.A.
	CONSTRUCCIONES Y AUXILIAR DE FERROCARRILES, S.A.
	DEUTSCHE BANK, SOCIEDAD ANÓNIMA ESPAÑOLA
	DISTRIBUIDORA INTERNACIONAL DE ALIMENTACION, S.A.
	EBRO FOODS, S.A.
	EDREAMS ODIGEO, S.A.
	ENAGÁS, S.A.
	FERROVIAL, S.A.
	FLUIDRA, S.A.
	GESTAMP AUTOMOCIÓN, S.A.
	INDUSTRIA DE DISEÑO TEXTIL, S.A.
	NICOLÁS CORREA, S.A.
	OBRASCÓN HUARTE LAIN, S.A.
	PRIM, S.A.
	PROSEGUR CASH, S.A.
	PROSEGUR, COMPAÑÍA DE SEGURIDAD, S.A.
	RED ELÉCTRICA CORPORACIÓN, S.A.
	SIEMENS GAMESA RENEWABLE ENERGY, S.A.
	SOLTEC POWER HOLDINGS, S.A.
	TUBACEX, S.A.
	TUBOS REUNIDOS, S.A.
	VIDRALA, S.A.
ETL GLOBAL AUDITORES DE CUENTAS, S.L.	LIWE ESPAÑOLA, S.A.
	COMPAÑÍA LEVANTINA DE EDIFICACIÓN Y OBRAS PÚBLICAS, S.A.
GABINETE AUDIWORK, S.L.	NUEVA EXPRESIÓN TEXTIL, S.A.
KPMG ASESORES, S.L.	ACCIONA, S.A.
	ACERINOX, S.A.
	ACS, ACTIVIDADES DE CONSTRUCCIÓN Y SERVICIOS, S.A.
	ALMIRALL, S.A.
	ATRYS HEALTH, S.A.
	BANCO DE SABADELL, S.A.
	CORPORACIÓN ACCIONA ENERGÍAS RENOVABLES, S.A.
	ELECNOR, S.A.

List of verifiers issuing reports on the 2022 NFIS of issuers of securities or companies with securities admitted to trading on official secondary markets *(continuation)*

VERIFIER	COMPANY
	ENCE ENERGIA Y CELULOSA, S.A.
	ENDESA, S.A.
	GENERAL DE ALQUILER DE MAQUINARIA, S.A.
	GRENERGY RENOVABLES, S.A.
	GRIFOLS, S.A.
	IBERDROLA, S.A.
	INTERNATIONAL CONSOLIDATED AIRLINES GROUP, S.A.
	LABORATORIOS FARMACÉUTICOS ROVI, S.A.
	MAPFRE, S.A.
	NATURGY ENERGY GROUP, S.A.
	RENTA 4 BANCO, S.A.
MAZARS AUDITORES, S.L.P.	ADOLFO DOMÍNGUEZ, S.A.
	AIRTIFICIAL INTELLIGENCE STRUCTURES, S.A.
	MIQUEL Y COSTAS & MIQUEL, S.A.
PWC AUDITORES, S.L.	AMREST HOLDINGS, SE
	ATRESMEDIA CORPORACIÓN DE MEDIOS DE COMUNICACIÓN, S.A.
	BANCO SANTANDER, S.A.
	BANKINTER, S.A.
	CAIXABANK, S.A.
	CEMENTOS MOLINS, S.A.
	CIE AUTOMOTIVE, S.A.
	EDP RENOVAVEIS, S.A.
	FAES FARMA, S.A.
	GLOBAL DOMINION ACCESS, S.A.
	GRUPO CATALANA OCCIDENTE, S.A.
	IBERPAPEL GESTIÓN, S.A.
	LÍNEA DIRECTA ASEGURADORA, S.A., COMPAÑÍA DE SEGUROS Y REASEGUROS
	NH HOTEL GROUP, S.A.
	PHARMA MAR, S.A.
	REPSOL, S.A.
	SACYR, S.A.
	TÉNICAS REUNIDAS, S.A.
	TELEFÓNICA, S.A.
	UNICAJA BANCO, S.A.
	VOCENTO, S.A.
SGS INTERNATIONAL CERTIFICATION SERVICES IBÉRICA, S.A.U.	PROMOTORA DE INFORMACIONES, S.A.

Source: CNMV.

Annex 2 Glossary of initials

AFR: Annual financial report

APM: Alternative Performance Measures

BHRRC: Business and Human Rights Resource Center

CapEx: Capital Expenditure

CCDA: Complementary Climate Delegated Act or Commission Delegated Regulation (EU) 2022/1214

CDA: Climate Delegated Act or Commission Delegated Regulation (EU) 2021/2139

CDP: Carbon Disclosure Project

COP: Conference of the Parties (United Nations Framework Convention on Climate Change [UNFCCC])

CSDDD or CS3D: Corporate Sustainability Due Diligence Directive

CSRD: Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464)

DDA: Disclosures Delegated Act or Commission Delegated Regulation (EU) 2021/2178

DNSH: Do no significant harm

DR: Disclosure requirements

EC: European Commission

ED: Exposure Draft

EEA: European Economic Area

EFRAG: European Financial Reporting Advisory Group

ESAP: European Single Access Point

ESEF: European Single Electronic Format

ESG: Environmental, Social and Governance

ESMA: European Securities and Markets Authority

ESRS LSME ED: ESRS for listed small and medium-sized enterprises (Exposure Draft)

ESRS VSMEV: Voluntary ESRS for small and medium-sized enterprises (Exposure Draft)

ESRS: European Sustainability Reporting Standards

EU: European Union

FS: Financial statements

FSB: Financial Stability Board

GHG: Greenhouse gases

GRI: Global Reporting Initiative

IAASB: International Auditing and Assurance Standards Board

ICAS: Institute of Chartered Accountants of Spain

IEC: International Electrotechnical Commission

IESBA: International Ethics Standards Board for Accountants

IFAC: International Federation of Accountants

IFRS/IAS: International Financial Reporting Standards / International Accounting Standards

IFRS: International Financial Reporting Standards (see also IAS)

IIRC: International Integrated Reporting Framework

ILO: International Labour Organization

IOSCO: International Organization of Securities Commissions

ISA: International Standard on Auditing

ISAE: International Standard on Assurance Engagement

ISO: International Organization for Standardization

ISSA: International Standard on Sustainability Assurance

ISSB: International Sustainability Standards Board

KPI: Key Performance Indicator

LMVSI: Law 6/2023, of 17 March, on Securities Markets and Investment Services

LAC: Spanish Accounts Auditing Law

LSC: Spanish Corporate Enterprises Act

NCP: National Contact Points for the OECD Guidelines for Multinational Enterprises

NFIS: Non-financial information statement

NFRD: Non-Financial Reporting Directive (Directive 2014/95/EU)

NZIA: Net-Zero Industry Act

OECD: Organisation for Economic Cooperation and Development

OJEU: Official Journal of the European Union

OpEx: Operating Expenses

PCAF: Partnership for Carbon Accounting Financials

PIE: Public-interest entity

REA: Register of Auditing Economists

SASB: Sustainability Accounting Standards Board

SDG: Sustainable Development Objectives

SFDR: Sustainable Finance Disclosures Regulation

SMEs: Small and medium-sized enterprises

TCFD: Task Force on Climate-Related Financial Disclosures

TNFD: Taskforce on Nature-related Financial Disclosures

TPT: Transition Plan Taskforce

TSC: Technical Selection Criteria

UNEP FI: United Nations Environment Programme Finance Initiative

UNO: United Nations Organization

XBRL: eXtensible Business Reporting Language

XHTML: eXtensible HyperText Markup Language