

The Relationship Between Financial Reporting and Sustainability Report.

The Exposure Draft: IFRS S1 General Requirement for Disclosure of Sustainability-Related Financial Information (From International Sustainability Standard Board) Overcomes the Duality of External Corporate Disclosure



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ABSTRACT: On 29 March 2022, the International Sustainability Standard Board (ISSB), an emanation of the IASB, issued two Exposure Drafts: IFRS S1 General Requirement for Disclosure of Sustainability-related Financial Information and IFRS S2 Climate-related Disclosure. This article will only deal with Draft S1, which proposes a vision of corporate disclosure that goes beyond the Financial reporting of the year/Sustainability disclosure dualism. Draft S1 suggests a unitary corporate communication that, at the same time, disseminates a set of documents to be considered as a whole concerning the company's financial situation, assets and liabilities, income and the actions and strategies implemented concerning sustainability. This proposal proposes a model of global corporate reporting rather than a fragmented one, as is often the case in companies in many countries. However, even in the vision of Draft S1, the presence of the financial statements remains separate from the document providing information on sustainability, even if interpreted as a unitary means of communication. It should also be noted that the sustainability report requires the disclosure of financial data related to the implementation of sustainable policies.

KEYWORDS: financial reporting, sustainability, integrated reporting.

1. FINANCIAL REPORTING AND SUSTAINABILITY INFORMATION: CONSIDERATIONS FOR EXTERNAL CORPORATE COMMUNICATION.¹

Financial reporting is a document that focuses on a company's income and financial data. Financial reporting consists of several documents: balance sheet, profit and loss, notes to balance sheet and profit and loss, and cash flow statement. Financial reporting, until now, has always been characterised by a focus on financial and income data. In Italy, it is compulsory to draw up a report that is an essential information document, although not part of financial reporting. It should be noted that in the document that makes up the financial reporting of the year, which in Italy is called the notes to the financial statements, there is information that is not purely income and financial that must indicate in this document which is part of the financial statements. However, with a few minor exceptions, financial reporting consists of income, balance sheet, and financial values.

Sustainability and reporting are generally dealt with in a separate document. Increasingly, companies are drawing up an integrated report that focuses on environmental data, sustainability, employees, and the company's sustainability in general. This document generally represents a report that does not form part of financial reporting but completes it in the context of sustainability reporting. In Italy, it should be noted that there is a hybrid situation in that the management report, which is a document but not part of the financial statements, must include information on sustainability. The Italian Civil Code states:

¹ To facilitate reading, I have decided not to include in the text, except in exceptional cases, the names of the scholars who have dealt with the subject under analysis since the bibliography is endless, I have opted not to indicate all the terms of the scholars in the text because this would have meant a continuous interruption of the reading of the complete sentence in which I express my thought.

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"Article 2428 c.c. - Report on management/administration.

The financial statements shall be accompanied by a report by the directors containing a fair, balanced and comprehensive analysis of the company's position and the trend and result of operations as a whole and in the various sectors in which it has operated, including through subsidiaries, with particular regard to costs, revenues and investments, as well as a description of the principal risks and uncertainties to which the company is exposed.

The analysis referred to in the first subparagraph shall be consistent with the size and complexity of the company's business and shall contain, to the extent necessary for an understanding of the company's position and performance and the results of its operations, financial and, **where appropriate, non-financial performance indicators relevant to the particular business of the company, including information relating to environmental and employee matters.** The analysis shall, where applicable, include references to and additional explanations of amounts reported in the financial statements.

The report shall, in any case, show:

- 1) research and development activities;
- 2) the relationships with subsidiaries, associates, parent companies and companies controlled by them
- 3) the number and nominal value of both the company's shares and the shares or quotas of parent companies held by the company, even though a trust company or intermediary, with an indication of the corresponding portion of capital
- 4) the number and nominal value of both the company's shares and the shares or quotas of parent companies acquired or disposed of by the company during the financial year, including through trust companies or intermediaries, with an indication of the corresponding portion of capital, the consideration and the reasons for the purchases and disposals;
- 5) (.....)
- 6) the foreseeable development of operations;
- 6-bis) concerning the company's use of financial instruments and if relevant to the assessment of the financial position and results of operations for the year:
 - (a) the company's financial risk management objectives and policies, including its policy for hedging each primary type of forecasted transaction;
 - (b) the company's exposure to price, credit, liquidity, and cash flow risks.

The report shall also list the company's branch offices."

It is clear from reading Article 2428 of the Italian Civil Code that must also include non-financial information in the report on management/administration. However, it must emphasise the words used by the legislator in this respect. The cited article states, "where appropriate, non-financial information relevant to the specific activity of the company, including information relating to the environment and personnel". This specification significantly diminishes the importance of sustainability information in the annual report. Stating that non-financial, environmental, and personnel information must be included in the report on management/administration only if it is deemed appropriate to do so significantly reduces the relevance of sustainability information in the general sense. The use of the term "**where appropriate**" means that the editor of the report on management/administration is left with the subjectivity of deciding whether or not to include the above information. From these brief considerations, it can understand that the mandatory documentation that unlisted companies must communicate externally consists of a report in which, "where appropriate", i.e. if the company deems it necessary, it can also include information concerning the environment, employees and sustainability in general. This subjectivity implies a problem concerning the corporate communication of unlisted companies and, therefore, is subject to the Civil Code: sustainability disclosure is left to the free will of those who draw up the financial statements and the management report.

The previous identifies a list of information, the exact connotation of which is technically unidentifiable in an objective manner. The use of the phrases financial performance indicators (Which? Constructed in what way? Based on what reclassification? etc.) and, where appropriate (When, in pragmatic terms, is this necessary?), non-financial performance indicators (Which indicators? Determined according to what logic? based on which doctrinal hypothesis of analysis?) relevant to the specific activity of the company, including information concerning the environment and personnel (Specifically, what information concerning the environment? And through what form of communication should this information be disclosed? Subjective evaluations or quantitative determinations, or even economic-financial evaluations?), show that the content of the management report, as governed by Article 2428 of the Italian Civil Code, is far from being free of evaluation elements of a purely subjective nature. The presence of such personal information must never be forgotten when dealing with the issue of corporate data that is implemented through the management report.

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For this reason, it can be said that, since subjectivity is an element that cannot eliminate in any financial statement, the degree of "personal assessment" in the Drafting of the report on management/administration reaches its peak.

At this point, we must ask the question as to the actual relevance of such sustainability information. The answer can only be linked to the legal position on this issue, as when and in front of it the real significance of a standard becomes apparent. Theoretically, suppose a culture of financial statements and corporate communication culture were widespread. There should not be this problem as every company should perceive the need to communicate externally all the information that third parties are interested in coming into possession of to have a global view of the company's situation. In Italy, the widespread diffusion of such a culture has not yet occurred. Especially for unlisted companies, there is still a general tendency to communicate as little information to the outside world as possible, almost as if such communication could, by definition, harm the company. This applies to both financial reporting and sustainability information. This applies both to financial reporting information and to sustainability information.

To understand the actual scope of the relevance attributed to the non-financial information imposed, "if any", in the report on management/administration, one must, as already highlighted above, consider the jurisprudential position on this issue..

In Italy, the Court of Cassation, in a critical judgment (judgment no. 8048 issued by the Supreme Court on 3 September 1996), has affirmed a fundamental principle: "First of all, it should note that the financial reporting of the year of a limited liability company is unlawful not only when the violation of the rules as mentioned above determines a discrepancy between the actual result of the financial year (or the figure intended for the overall representation of the company's equity value) and that of which the financial statements instead give an account, but also in all cases in which it is not possible to deduce from the financial statements themselves and their annexes the entire range of information that the law requires to be provided concerning the individual items whose entry is required. It cannot be doubted that the function of the financial statements, especially as regards the aspect that interests third parties, is not only to measure the profits and losses of the company at the end of the financial year but also to provide shareholders and the market in general with all the information that the legislator has decided to prescribe in this regard. And since such information does not relate only to the final figures but also to the individual items (and how they are formed), the reader of the financial statements is placed in a position to retrace the logical process that guided the Drafters of the document in the choices and assessments that every financial statement necessarily entails, and is placed in a position to know in sufficient detail also the composition of the company's assets and the individual elements that determined a specific economic result for the period; it follows that the financial statements are unlawful whenever the violation of those as mentioned above mandatory legal precepts does not make it possible to perceive, with sufficient clarity, the specific information that a reading of the document and its annexes must offer concerning each of the items from which the financial statements are made. "

Even a superficial reading of the aforementioned judgment allows one to understand the scope of the statements concerning the role of the directors' report, which went from being a mere attachment to the financial statements to become a document whose lack of information could invalidate the entire financial statements, of which, it should be noted, it was not apart.

In jurisprudence, this affirmation introduced a principle on which the favourable opinions of many scholars converged, who interpreted the report as an additional element of the financial statements. However, to avoid misinterpreting the scope of the Court of Cassation's ruling, it is worth highlighting a fact that cannot be overlooked, namely that the legislation specifically concerned the informative role of the report on a balance sheet item. The subject of the dispute was, in fact, the absence in the report of specific communications concerning treasury shares purchased by the company.

Based on the statements explicitly contained in the Court of Cassation's 1996 judgment, it could therefore hypothesise that the nullity of the approval resolution was decreed only because the irregularity of the annexe concerned an item that the law required to appear in the balance sheet and/or the profit and loss account, i.e. within the financial statements to which the annexe referred. At first glance, it can therefore be said that, in the mid-1990s, the Supreme Court of Cassation seemed to have endorsed the view that the nullity of the financial statements could also be attributed to information deficiencies in the report, if such deficiencies were directly and/or indirectly connected with financial and balance sheet values that were subject to mandatory recognition in the balance sheet and/or profit and loss account. From the decision of the Supreme Court of Cassation no. 8048/96, it, therefore, seemed possible to take this theoretical position: the nullity of the financial statements could be due to irregularities in a document attached to the financial statements and not forming part of the latter, but only if the lack of information concerned an item whose natural location was within the financial statements.

On 10 November 1997, the Court of Naples dealt with the following problem: three months after the official closure of the accounts and before the approval of the financial statements, a company sold a branch of the business; instead of being illustrated in the "correct place" identified by the legislator, i.e. in the directors' report, in particular in part devoted to the analysis of the

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significant events occurring after the closure of the accounts, this transaction was instead the subject of a separate document attached to the minutes of the meeting.

First of all, the Court of Naples pointed out that "the precepts laid down by the legislature on the subject of joint-stock companies are established to safeguard interests that transcend the limits of the corporate structure and also concern third parties, who are also the recipients of the information on the company's equity, economic and financial situation that the financial statements must provide with clarity and precision or (as stated in the text of Article 2423, second paragraph, of the Italian Civil Code, as amended after the implementation of the EU directive) with clarity and truly and fairly. It follows that financial statements drawn up in breach of these principles are unlawful and, at the same time, constitute the unlawful object of the shareholders' resolution approving them. Several important corollaries follow from this approach. First of all, the financial reporting of the year of a joint-stock company is to be considered null and void not only when the violation of the provisions of the Italian Civil Code leads to the discrepancy between the actual result of the financial year and the result of the financial year of which the financial statements give an account, but also in all the cases in which it is not possible to deduce from the financial statements and their annexes the entire range of information that the law requires to be provided concerning the individual items to be recorded. It cannot be doubted that the function of the financial statements, especially regarding shareholders and third parties, is not only to measure profits or losses but also to provide them, clearly and truthfully, with all the information that the legislator has decided to prescribe. And since this information concerns not only the final figure for the financial year but above all the individual items recorded under assets and liabilities, to allow third parties to know the qualitative and quantitative composition of the company's assets satisfactorily, it follows that the financial statements are unlawful whenever the violation of the mandatory legal precepts does not allow the specific information that reading the document and its annexes must provide with sufficient clarity, to be perceived about each of the items from which the financial statements are made."

After outlining in general terms the role which, according to the court, was assigned to the management/administration report (in this judgment, the decision had to be taken on the basis of the legislation which had come into force after 1991), the court emphasised the following principle: "That the sale of a branch of business constitutes a significant event (subsequent to the end of the financial year) is self-evident. That, moreover, this event had to be reported in the management/administration report is also beyond doubt. [...] It remains to be established whether the disclosure of the event in a document other than the one intended to contain the news, but nevertheless annexed to the minutes of the meeting, was sufficient to satisfy the information requirement. [...] The autonomy recognised by fairness and its conceptual difference with the principle of truthfulness (the phrase "truthfully and correctly" shows that truthfulness and fairness are not similar concepts) cannot be explained otherwise than by considering that the legislator now requires not only that the real situation of the company should not be altered by means of artificial and false valuations of assets and liabilities [...] but also that the assets and liabilities in the financial statements and the information that must be included should be shown and represented in their proper place and documental collocation.

The approved financial statements [...] were therefore drawn up in contrast with the canon of correctness, in that the information relating to the business unit was not included in the appendix intended to present it, but in another document which, although attached to the minutes of the ordinary shareholders' meeting that approved the financial statements, was not intended to contain it and is therefore unsuitable to be considered by third parties and shareholders (the recipients of the information) as an effective instrument of information'.

On the basis of these considerations, the balance sheet was declared radically null and void.

From what has been said in the case law analysed so far, two conclusions can therefore be drawn, namely that in the 1990s, according to the judiciary

- 1) the concept of correctness referred to the correct placement of information established by the legislator;
- 2) the invalidity of an annex to the financial statements could lead to the radical nullity of the financial statements themselves.

Clearly, this suggested that particular attention should be paid to the time when the management report was drawn up. In practice, it was often the case that reports were very rough and lacked substantial information content. From the above, it is clear that such behaviour should be avoided, since, even leaving aside the question of "ethics of information intended for the outside world", it was evident how dangerous it was to draw up an annex that did not comply with the regulations in force.

As the years went by, the above-mentioned principle became increasingly important as a value shared by most doctrine and jurisprudence. Despite the lack of unanimity, which is difficult to achieve in such a debated field, the concept of the nullity of the financial statements connected with the illegality of the reports attached to the latter, but not forming part of the balance sheet + profit and loss account + notes on financial reporting system, became increasingly widespread.

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The Supreme Court of Cassation adhered to this doctrinal and jurisprudential current and repeatedly stressed that "the financial reporting of the year of a limited liability company, which violates the precepts of clarity and precision dictated by art. 2423 Civil Code, paragraph 2 (also in the text prior to the amendments made by Legislative Decree no. 127 of 9 April 1991), is unlawful. 127 of 9 April 1991), is unlawful, and the shareholders' meeting resolution approving it is therefore null and void, not only when the violation of the relevant regulations leads to a discrepancy between the actual result for the year (or the figure intended to represent the company's overall asset value) and that which the financial statements instead give an account of, but also in all cases in which it is not possible to deduce from the financial statements themselves and their annexes the full range of information that the law requires to be provided for each of the individual items recorded".

A similar position had also been affirmed in previous years by the same Supreme Court.

The Court of Cassation (the Court which in Italy represents the last level of judgement) therefore considered as correct the sentences issued by numerous judges on the merits, among which we can mention, for the clarity of the exposition of the above principle, the rulings respectively of the Court of Naples of 24 February 2000 and the Court of Lanciano of 23 November 1985. "The Court of Naples, on 24 February 2000, ruled that the report on operations, the report of the board of statutory auditors and the minutes of the ordinary shareholders' meeting called to approve the financial statements have the function of supplementing and completing the contents of the financial statements. An old but interesting judgement of the Court of Lanciano, issued on 23 November 1985, ruled that the directors' report has the task and the power to explain the valuation criteria adopted in the preparation of the financial statements and legitimately and integrates what is contained in the financial statements; [...] the integration between the two documents is so complete that the concealment of facts in the report determines a falsehood (with relative nullity) that can be extended to the entire financial statements".

Subsequent to these rulings, case law began to take a different position.

In particular, it is worth highlighting the position taken, on the one hand, by the Court of Milan in its judgment of 25 February 2013, which reiterates what was also asserted by the same Court in 2003 and 2010, and, on the other hand, by the Court of Rome in its decision of 29 July 2013.

The position taken by the two Courts is profoundly different, but, despite the differences, it rejects, at least partially, the Supreme Court's assertion regarding the potential invalidity of the resolution approving the financial statements arising from the invalidity of a report which, despite its legal obligation, is not a constituent part of the financial statements, but a mere appendix thereto. According to the Court of Rome, the report on management/administration plays a secondary role in corporate communication intended for the outside world.

The Court of Rome, in its judgment of 29 July 2013, firstly emphasised how the legislation sets out, in a manner not open to controversial interpretations, the fact that the report plays an autonomous and separate role from the financial statements, of which it does not represent, in any way, a constituent element.

The Court recalls that "according to the first paragraph of Article 2428 of the Italian Civil Code, the financial statements [...] must be accompanied by a report by the directors containing a faithful, balanced and comprehensive analysis of the company's situation and the performance and results of operations, as a whole and in the various sectors in which it has operated, including through subsidiaries, with particular regard to costs, revenues and investments, as well as a description of the main risks and uncertainties to which the company is exposed. The third and fourth paragraphs of the same provision prescribe the necessary content of the report.

[...] It is clear from the provision's wording as mentioned above that the report on management/administration is placed outside the financial statements, consisting of the balance sheet, the income statement and the notes on financial reporting. Therefore, the report on management/administration is an autonomous document concerning the financial statements and does not have the function of illustrating individual data or individual items but only of supplementing them with additional information on the company's management.

In this perspective, [...] the autonomy of the report on management/administration is manifested both in a formal sense, since the report itself is not subject to the approval of the shareholders' meeting (just as the report of the board of statutory auditors and the audit report are not subject to the approval of the shareholders' meeting), and in a substantial sense in the diversity of content and functions. The tasks performed by the directors' report, which are different from those performed by the annual financial statements, are, firstly, that of reporting on the management activity of the directors and, in part, that of providing additional information about the items in the financial statements and, in another respect, that of forecasting management activity".

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After underlining how the analysis of the legislation requires that the report must necessarily be considered a mere annexe to the financial statements, the Court of Rome identifies an additional reason, according to which, technically, the lack of information in the report can never constitute valid grounds for declaring the financial statements null and void. The Court states that "the correctness of such a conclusion is, finally, supported by the further consideration that there is information that Article 2428 of the Italian Civil Code imposes as a necessary content of the report, which appears structurally incompatible with a possible invalidity of the financial statements: this is the case, for example, of the omission of the indication of the foreseeable evolution of the management in future years, which does not result, even in the abstract, capable of affecting the validity of the final financial statements of the past year."

Based on these considerations, for the Court of Rome, the lack of information in the report can never be considered a reason for the nullity of the financial statements, but, at most, it may cause the nullity of the document drawn up in a manner that does not comply with the law. The Court, therefore, held that a possible declaration of invalidity of the report was possible but excluded that this could have repercussions on the correctness, clarity and truthfulness of the financial statements.

The Court's conclusion is of particular relevance. After highlighting the elements illustrated above, the judgment states that "[...] any violation of the criteria for Drafting the report on management/administration entails a liability on the part of the directors with the consequence that the protection of the shareholder could operate exclusively on the compensation side, but not on the demolition side of the financial statements". Therefore, according to the Court of Rome, the demonstration of the presence of deficiencies, flaws and/or shortcomings in the report on management/administration entails the recognition of the right to damages of the shareholder, which, however, cannot be accompanied by the right to challenge the financial statements, as the latter must be related, exclusively, to flaws found in at least one of the three documents constituting the financial reporting itself. Concerning the role played by the report on management/administration in the field of information, the Court of Milan has repeatedly expressed an opinion that partially disagrees with the Court of Rome. Also, according to the almost constant jurisprudence of the Court of Milan, recently reaffirmed with the judgement of 25 February 2013, the report on management/administration identifies a mere attachment to the financial statements as it is not an integral part of the latter, cannot be used as a reason for requesting the declaration of invalidity of the resolution approving the financial statements.

The nullity of the financial statements, also according to the opinion of the Court of Milan, can only derive from the lack of information on the documents that, legally, make up the financial statements, which everyone knows are the balance sheet, the income statement and the notes on financial reporting. According to the Court of Milan, this principle can be characterised by a single and particular exception, which will discuss in more detail in the following pages.

The above opinion perfectly follows (except for what is connected with the exception, which we will discuss in the remainder of this article) the position expressed by the Court of Rome.

According to the Court of Milan, however, the lack of information in the report caused different consequences from those identified by the Roman court. While the Court of Rome pointed out that the unlawful Drafting of the report on management/administration may lead, at most, to the declaration of nullity of the latter, creating, hypothetically, the legal basis for the claim for damages by the shareholder, the Court of Milan, on the other hand, considered that it could identify an interconnection between the report on management/administration and the resolution approving the financial statements. In its judgment of 25 February 2013, the Milan court denied, as it has always done, the possibility that the report on management/administration could be a cause for the nullity of the financial statements but suggested that the lack of correctness of this document could create the basis for the annulment of the resolution due to a defect of information procedure.

"The management report, unlike the notes on financial reporting, is not subject to approval by the shareholders' meeting, so that its deficiencies may not give rise to the nullity of the resolution approving the financial statements, but at most, if of such importance as to vitiate the procedure for approving the financial statements (from the point of view of the lack of information due to the shareholder), to the annulment of the same. The report on operations, according to Article 2428 of the Italian Civil Code, The report on operations, referred to in Article 2428 of the Italian Civil Code, "accompanies" the financial statements and must contain "a faithful, balanced and exhaustive analysis of the company's situation and the trend and results of its operations, as a whole and in the various sectors in which it has operated"; the provision mentioned above specifies the subject of the analysis and the information that must in any event result from the report; such information, however, has been expanded in the light of the regulations on the management and coordination of companies and the amendment introduced by Legislative Decree no. 32/2007 concerning information for the understanding of the company's financial situation even if the "communications" that must include in the report on management/administration must be complete and correct to provide the information due to shareholders (and not only to shareholders, given the fact that it is, in any case, a document subject to filing with the company

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register), it must always take into account that they relate to a document that, by express legislative choice (under Article 2423 of the Italian Civil Code, (art. 2423 of the Civil Code, "the financial statements consist of the balance sheet, the income statement and the notes on financial reporting"), "accompanies" the financial statements, but is not a constitutive part of them and therefore is not subject to approval by the shareholders' meeting. It follows that, even if those "communications" were deficient or incorrect, this could not be the basis for the ruling relied on, which concerns the nullity of the resolution approving the financial statements on the ground of unlawfulness of the subject matter, but rather the basis for a ruling of annulment on the ground of a defect in the information procedure."

For a decade, the Court of Milan has been pointing out that "the report on management/administration is an annex to the financial statements, [... for this reason] the shareholders' meeting cannot approve it and [... consequently] its possible deficiencies cannot give rise to the nullity of the resolution, but, at most, to its annulment, if of such importance as to vitiate the procedure for the approval of the financial statements".

The position was taken by the Court of Milan in the 1990s; in line with the Supreme Court's statement, therefore appears to be outdated.

Based on the most recent judgments of the Court as mentioned above, it is clear that, according to that Court, "the defects of the management report, if they are such as to affect the procedure for approving the financial statements, determine its annulment" since they cannot in any way affect the validity of the financial statements. Therefore, for this Court, the lack of correctness of the report on management/administration may, at most, cause the annulment of the resolution, but not its radical nullity.

However, as we shall see in the following pages, this position provides for a significant exception. It seems to contrast with the tendency expressed by the legislator in a somewhat outlined manner.

As highlighted in the previous pages, the Court of Milan, with particular reference to the judgement of 25 February 2013, on the one hand, decreed the annulment of the financial statements in the event of a report on management/administration not prepared following the regulations in force, on the other hand, established a significant exception to this principle.

The judgement states that if the communications included in the report were deficient or untrue, this could not constitute the prerequisite for the declaration of nullity of the resolution approving the financial statements due to the unlawfulness of the subject matter, but rather the precondition for a pronouncement of annulment due to a procedural defect of the "accompanying" information unless such untrue information "was not such as to make it not intelligible or even to distort the financial statements themselves, as might be the case for the information relating to the company's financial situation that the report on management/administration must necessarily provide, a financial situation that is, indeed, also the subject of the true and fair view that the financial statements must give according to Article 2423 of the Italian Civil Code; in such a case such a deficiency would translate into a defect in the financial statements and therefore in the object of the resolution."

Therefore, the Court of Milan, while on the one hand attributing the lack of information in the report as a defect that can only lead to the annulment of the resolution approving the financial statements, on the other hand, makes an exception when the above restrictive view is overturned, to assume the radical nullity of the financial statements themselves. This is the case if the deficiency concerns elements connected with the content of the financial statements, such as, for example, data relating to the financial situation. The Court of Milan explicitly mentions only the values relating to the financial situation, pointing out that such indication is only an example. Therefore, the principle expressed by the Court of Milan does not relate exclusively to financial data, but to information that could "render the financial statements unclear or even distort them on the ... "Therefore, according to the Court of Milan, the report on management/administration could cause the radical nullity of the resolution approving the financial statements if the deficiency relates to information directly and/or indirectly related to the content of the financial statements.

By way of example, the Milanese court mentions financial information but uses the following phrase: "as might be the case for information concerning the financial situation".

It is clear from the tenor of the words that the indication of information concerning the financial situation is merely illustrative.

The reference is to what is identified in the sentence preceding this specification. A direct connection is made to information deficiencies that make the financial statements unintelligible or distorted.

From what has been indicated above, it can understand that the Court of Milan also hypothesises the possibility of declaring the financial statements null and void as a consequence of information deficiencies in the management report, provided that the latter are, in turn, connected to data whose disclosure must be made through the financial statements.

The structure of the report on management/administration must therefore be divided into two parts

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A) "first-level" information that is, directly and indirectly, related to the financial statement disclosure (information on the company's financial position, assets and liabilities and earnings);

B) "second-level" information unrelated to financial statement data.

According to the provisions of the judgment of the Court of Milan, any shortcomings in the report on management/administration may lead to two different consequences.

1) nullity of the resolution approving the financial statements if the shortcomings of the report are inherent in "first-level" information;

2) the mere annulment of the resolution approving the financial statements (or even, according to another legal trend, the invalidity of the management report alone) if the deficiencies concern "second-level" information.

Therefore, despite the positions taken by essential scholars and authoritative study centres that interpret all the information mentioned in Article 2428 of the Italian Civil Code as "mandatory", it can be understood how the jurisprudential reality is decidedly aimed at separating such data into two categories of differentiated relevance. Information on the environment and personnel, for example, although essential in terms of external communication, is interpreted by the courts as elements of knowledge of lesser importance than that attributable to the data directly and/or indirectly related to the financial statements and, as such, does not fall within the causes of declaratory nullity of the financial statements. At most, the lack of such second-level information may, as illustrated above, only have consequences on the validity of the report and/or mere annulment of the financial statements. Of course, this is the case if the information mentioned above does not relate to accounting items, in which case the data would fall under what we have defined as Level 1.

Therefore, the main focus is on information that, although it is part of the management report, has a connection with the financial statements.

The position of jurisprudence has not changed in recent years. Therefore, we can consider the observations in the above judgments to be valid and current.

From the above, it can be seen that, at present, non-financial information is less important than financial information, at least in Italy. However, this does not detract from the fact that many companies include data on sustainability in the management report or a separate document. Although, in this regard, it should note that two studies to be published shortly and conducted by the writer, show that companies experience the issue of sustainability in a bivalent way: on the one hand they agree on the relevance of the issue, but on the other hand they highlight how the income and financial situation of the company does not allow for the implementation of comprehensive sustainability policies due to the lack of company resources potentially earmarked for this objective.

As regards instead a) Italian companies issuing securities admitted to trading on Italian and EU regulated markets and those that have requested such admission to trading; b) banks; c) insurance companies pursuant to Article 1, paragraph 1, letter u), of the Private Insurance Code d) reinsurance undertakings referred to in article 1 (1, cc) of the code of private insurance, with head office in Italy, and the branches in Italy of non-EU reinsurance undertakings referred to in article 1 (1, cc-ter) of the code of private insurance; e) companies issuing financial instruments which, although not listed on regulated markets, are widely distributed among the public; f) companies managing regulated markets; g) companies that manage clearing and guarantee systems; h) companies that manage centralised management of financial instruments; i) stock brokerage companies; l) asset management companies; m) investment companies with variable capital; n) payment institutions referred to in Directive 2009/64/EC; o) electronic money institutions; p) financial intermediaries referred to in Article 107 of the Consolidated Banking Act, public interest entities that are parent companies of a large group, Decree 254/16 requires a document to provide third parties outside companies with non-financial information related to the issue of sustainability and, in particular, relating to environmental, social, human resources, respect for human rights and linked to the fight against corruption, both active and passive.

The content of the report envisaged by Decree 254/16 incorporates the provisions of Directive 2013/34/EU, which, with Article 19a, established that, within the scope of non-financial reporting, it must include at least the following :

- Environmental information.
- Social information.
- Personnel information.
- Information aimed at respecting human rights and

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- the information inherent in the fight against active and passive corruption.

Article 3, paragraph 1 of Legislative Decree 254/2016 transposes the same issues that must include "to the extent necessary to ensure an understanding of the business activity, its performance, its results and the impact produced by it ... describing at least: (a) the company's management and organisation model for its activities, including any organisation and management models adopted according to Article 6(1)(a) of Legislative Decree No. 231 of 8 June 2001, also concerning the management of the issues as mentioned above;

(b) the policies practised by the undertaking, including due diligence policies, the results achieved through them and the relevant non-financial key performance indicators;

(c) the principal risks, generated or incurred, relating to the above issues and arising from the enterprise's activities, its products, services or business relationships, including, where relevant, supply chains and subcontracting. As can be seen, all the Directive points have been fully taken up by Decree 254/16.

Concerning risks, Law 145/2018, in Article 1, paragraph 1073, has expanded the scope of Decree 254/16 by providing that "to strengthen the disclosure of non-financial and diversity information by certain undertakings and certain large groups referred to in Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014, in Article 3, paragraph 1, letter c), of Legislative Decree No. 254 of 30 December 2016. 254, after the words: 'main risks,' it shall insert the following: 'including how they are managed.'"

Paragraph 2 of Article 3 of Legislative Decree 254/2016 identifies the minimum information required for each scope. As regards the environmental aspect, it provides for the disclosure of information concerning:

- The use of energy resources and the use of water resources clearly distinguish renewable from non-renewable sources;
 - Greenhouse gas emissions and, in general, polluting emissions into the atmosphere;
- The impact on the environment, identified based on realistic assumptions or scenarios, of the risks identified in Article 3(1)(c).

Concerning the social aspect, it is requested that data be disclosed on:

- The social aspects in general and those related to personnel management;
- The actions put in place to promote gender equality, as well as the measures that make it possible to implement the relevant national and international provisions;
 - How discussion with the social partners is made possible.

Concerning human rights, The e) of paragraph 2 of Article 3 of Legislative Decree 254/2016 states that within the non-financial statement, there must also be information regarding "respect for human rights, the measures taken to prevent violations, as well as the actions put in place to prevent attitudes and actions that are in any case discriminatory" . It must provide This information regarding management, employees and business partners.

The last area addressed by art.3 paragraph 1 of Legislative Decree 254/2016 concerns the "fight against both active and passive corruption, with an indication of the instruments adopted for this purpose." Also, on this issue, Decree 254/16 requires companies to provide comprehensive information to be communicated to third parties outside the company.

From what has been illustrated in the previous pages, it can be seen how, both in unlisted companies and therefore subject to the civil code, they must draw up the management report. In listed or other companies that are obliged to disclose the non-financial information indicated in Decree 254/2016, the issue of sustainability, in all its aspects, is addressed by companies in a separate document from financial reporting.

Sustainability, therefore, not only in Italy but in most countries that regulate the preparation of financial statements, is addressed by the legislator as an explicit and analytical obligation only in some cases, while in others, such as, for example, in unlisted Italian companies that must prepare the management report, it is still regulated in a very superficial and, in part, subjective way, i.e. there is a general obligation to disclose information which, however, subjectively by those who prepare the report, is interpreted in a more or less extensive way.

This duplicity of documents (financial reporting and sustainability report), often issued on different dates, is destined, in the future, to be abandoned and overcome by a more evolved vision of corporate communication.

The evolution of the current duplicity of documents is represented by the obligation to draw up a set of documents constituting a global communication intended for the outside world. The document which, in the future, will communicate to the outside world information concerning the financial, patrimonial and income situation of the company will be circulated together with a report

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containing information relating to the environment, the social aspect of company management, human rights and the active and passive corruption with which the company has to contend. This set of documents will have interrelationships as, shortly, the sustainability report will also highlight the financial, cash flow and profitability impacts of the company's sustainability policies. The documents will probably remain separate but will constitute a single corporate communication to the outside world containing all the financial and non-financial helpful information to third parties who need data on the company's overall situation. This will also mean overcoming the problems linked to the incorrect Drafting of the part of the document relating to sustainability. Probably, but this is only a hope; from a unitary point of view, the Drafting of a single overall document will place all the information in the same position. The untruthfulness of any information, financial or non-financial, will lead to the radical nullity of the entire document. From this perspective, there will also be more certainty regarding the judgmental validity of the documents that will make up, as a whole, the financial-sustainability report. However, in light of the recent innovations discussed in the following pages, this is merely a hope since, even in the documents issued at the end of March 2022 by the International Sustainability Standard Board (ISSB), it seems that the financial and sustainability documents, although part of a single corporate communication, continue to have a life of their own and their own legal autonomy.

Only time will tell whether any serious shortcomings affecting the truthfulness of the overall document will result in the radical nullity of all the documents making up the sustainability report. Once this hypothesis occurs, there will be no more problems in identifying the information of first or second degree, which, in our jurisprudence, has caused so much discussion. But, as things stand, this can only be considered a hope since, even in the Exposure Drafts that we will discuss in the following pages, the financial statements appear to be legally distinct from the sustainability report. However, they are part of a vision of global corporate communication issued simultaneously and with the same means of communication. However, as things stand, the legal distinction between financial reporting and the sustainability report still seems to be in evidence.

On 29 March 2022, the International Sustainability Standard Board (ISSB), an emanation of the IASB, issued two Exposure Drafts concerning sustainability standards:

- 1)The first ISSB Exposure Draft (IFRS S1) sets out the general sustainability reporting requirements related to financial reporting;
- 2)The second one (IFRS S2) focuses on climate-related disclosures. This document focuses on environmental issues related to climate transition, which is also the focus of the Taxonomy of Regulation (EU) 2020/852.

In this paper, we will focus only on the first Exposure Draft of the ISSB (IFRS S1), which, in essence, highlights the desire to overcome the duality of financial and non-financial documentation by proposing the preparation of a single global document that contains, within it, financial information, until now present in financial reporting, and non-financial information, so far disclosed through a different report from the financial statements and legally detached from the latter.

The following pages analyse the main points addressed by this Draft.

2. EXPOSURE DRAFT IFRS S1 GENERAL REQUIREMENTS FOR DISCLOSURE OF SUSTAINABILITY- RELATED FINANCIAL INFORMATION

The Exposure Draft S 1 is based on the general requirements for disclosure of sustainability-related financial information prototype published on the IFRS Foundation website in November 2021, developed by the Technical Readiness Working Group (TRWGJ.' The prototype and the Exposure Draft include the recommendations by the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) and components of the frameworks and standards of international sustainability bodies, as published in a prototype of a sustainability-related financial disclosure presentation standard in December 2020."

The Exposure Draft IFRS S1 General Requirements for Disclosures of Sustainability-related Financial Information issued on 29 March 2022 by ISSB, an emanation of the IASB, highlights the need to recompose corporate information in a single document intended for external use. The Exposure Draft proposes an evolved vision concerning what happens today in most countries where, in general, financial reporting, contradistinguished by the presence of financial, equity and income values, is a legally diversified document from the report, if any, in which companies must provide non-financial information to the outside world and therefore concerning sustainability in the broadest sense.

The exposure Draft IFRS S1 highlights that the "the objective of Exposure Draft IFRS S1 General Requirements for Disclosure of Sustainability- related Financial information is to require and entity to disclose information about its significant sustainability-related risks and opportunities that is useful to the primary users of general purpose financial reporting when they assess enterprise value and decide whether to provide resources to the entity. An entity's General purpose Financial reporting shall

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include a complete, neutral and accurate depiction of its sustainability-related financial information. This Draft sets out how an entity is required to disclose sustainability-related financial information to provide the users of that information with a sufficient basis to assess the implications of sustainability-related risks and opportunities on the entity's enterprise value".

In summary, the Draft stresses that "proposals in the Exposure Draft would require an entity to disclose material information about all of the significant sustainability-related risks and opportunities to which it is exposed. The proposals include requirements and guidance to support the disclosure of material information about significant sustainability-related risks and opportunities not specifically addressed by an IFRS Sustainability Disclosure Standard. In such cases, to identify sustainability-related risks and opportunities and to disclose information about them, entities are directed to consider sources that include the disclosure topics in the industry-based Sustainability Accounting Standards Board (SASB) Standards, the International Sustainability Standards Board's (ISSB) non-mandatory guidance (such as the CDSB Framework application guidance for water- and biodiversity-related disclosures), the most recent pronouncements of other standard-setting bodies whose requirements are designed to meet the needs of users of general purpose financial reporting, and the sustainability-related risks and opportunities identified by entities that operate in the same industries or geographies. The proposals would require an entity to explain the connections between different pieces of information, including between various sustainability-related risks and opportunities and information in the entity's financial statements".

In order to fully understand the proposal of Draft S1 mentioned above, the comments contained in the Summary of the Draft itself must be quoted. It is only by analysing these comments that one can understand the scope of the innovation proposed by Draft S1. The Summary states "the proposals set out the overall requirements for disclosing sustainability-related financial information in order to provide primary users with a complete set of sustainability-related financial disclosures.The information requirements are designed to enable primary users to assess enterprise value. The information required reflects the way in which an entity operates, covering governance, strategy, risk management and metrics and targets.... The proposal would require an entity to explain the connections between different pieces of information, including between various sustainability-related risks and opportunities and information in the entity's financial statement. The sustainability-related financial information must be for the same reporting entity as the financial statements and published as part of its general purpose financial reporting. This means the information must be disclosed at the same time as the financial statements".

The above mentioned Draft points out that the overall document that will contain financial and non-financial information will have to illustrate, in detail, news concerning:

- 1) "an entity's governance of sustainability-related risks and opportunities and its strategy for addressing them;
- 2) decisions made by the entity that could result in future inflows and outflows that have not yet met the criteria for recognition in the related financial statements;
- 3) the entity's reputation, performance and prospects as a consequence of the actions it has undertaken such as its relationships with people, the planet and the economy, and its impact and dependencies on them
- 4) the entity's development of knowledge-based assets."

Draft S1 also emphasises the need to highlight both financial and non-financial information so that comparisons can be made with the previous year.

The core content of the comprehensive corporate disclosure report containing non-financial financial information intended for external use must, according to the Draft, contain data on:

- 1) Governance — the governance processes, controls and procedures the entity uses to monitor and manage sustainability-related risks and opportunities;
- 2) Strategy — the approach for addressing sustainability-related risks and opportunities that could affect the entity's business model and strategy over the short, medium and long term;
- 3) Risk management — the processes the entity used to identify, assess and manage sustainability-related risks; and
- 4) Metrics and targets—information used to assess, manage and monitor the entity's performance in relation to sustainability-related risks and opportunities over time.

Concerning governance, the Draft notes that: "The objective of sustainability-related financial disclosure" on management is to enable users to general purpose financial reporting understand the governance processes, controls and procedures used to monitor and manage sustainability-related risks and opportunities. To achieve this objective, an entity shall disclose information

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about the governance body or bodies (which include a board, committee or equivalent body charged with governance) with oversight of sustainability-related risks and opportunities and information about management role in those processes.

For this information to be disclosed, the Draft highlights the need to provide the following data: the identification of the body or entity that has responsibility for sustainability, the risks and opportunities related to sustainability; how the body's responsibilities related to sustainability are reflected on the company in terms of mandates, entity's terms of reference and other related policies; how the body ensures that it can carry out its tasks and the strategies established at global management level with competence and appropriate skills; how and how often the body and its committees are informed about sustainability-related risks and opportunities; how the body and its committees oversee the objectives related to sustainability-related risks and opportunities. Finally, the Draft requires a description of management's role in assessing and managing sustainability risks and opportunities.

Regarding number 2 above, i.e. the strategy, the Draft S 1 requires that the objective related to the communication of the actions connected to sustainability about the strategy followed by the company must be able to enable the users of the General-purpose Financial reporting to understand the global strategy of the company also implemented in the field of sustainability, highlighting in particular significant sustainability-related risks and opportunities.

The Draft highlights how to achieve these objectives. The disclosure document must give appropriate information about sustainability-related risks and opportunities that could affect the company's business model, strategy and cash flow, its access in the financial field and the cost of capital in both the short and long term. In addition, the Draft requires the communication of the effects that relevant sustainability risks and opportunities may have on the adopted business model and value chain and the corporate decision-making process. It is essential to highlight that the Draft also gives great importance to the financial and profitability effects of the policies implemented by the company in the field of sustainability. It states that it is necessary to highlight "the effects of significant sustainability-related risks and opportunities on its financial position, financial performance and cash flows for the reporting period, and the anticipated effects over the short, medium and long term—including how sustainability-related risks and opportunities are included in the entity's financial planning".

The Draft requires detailed information to be disclosed on the effects of significant sustainability risks and opportunities on the financial position, financial performance and cash flow generated by the company implementing sustainable strategies. This should be disclosed, highlighting the short-term and long-term effects. Finally, the Draft calls for the disclosure of information about the resilience of its strategy to significant sustainability-related risks.

With regard to . no. 3 above, i.e. sustainability-related risks and opportunities, the Draft requires that the entity "shall disclose information that enables user of general purpose financial reporting to understand the significant sustainability-related risks and opportunities that could reasonably be expected to affect the entity's business model, strategy and cash flows, its access to finance and its cost of capital, over the short, medium and long term".

The Draft highlights how opportunities and risks related to sustainability arise from the company's dependence on limited resources and the impact the company has on those resources. The Draft points out that the information to be provided in the global financial and non-financial communication report must also include information on the company's impact on these resources from every ... point of view, both qualitative and quantitative and, finally, of price.

The Draft dwells, in an analytical manner, on this. In this paper, it is sufficient to point out that concerning the issue analysed here, the company must provide an analytical description of the effects, future and present, connected to sustainability-related risks and opportunities. In addition to this, it must also provide a detailed description of the of where in tis value chain significant sustainabilities-related risks and opportunities are concentrated. Infine si specifica che debbano essere incluse nelle informazioni divulgate dalle imprese "information that enables users of general purpose financial reporting to understand its assessment of the current and anticipated effects of significant sustainability-related risks and opportunities on its business model. Specifically, an entity shall disclose:

- (a) a description of the current and anticipated effects of significant sustainability-related risks and opportunities on its value chain; and
- (b) a description of where in its value chain significant sustainability- related risks and opportunities are concentrated (for example. geographical areas, facilities or types of assets, inputs, outputs or distribution channels)."

As the implementation of sustainability-related strategies can affect decision-making, Draft S1 requires that "an entity shall disclose information that enables users of general purpose financial reporting to understand the effects of significant sustainability- related risks and opportunities on its strategy and decision-making. Specifically, an entity shall disclose:

- (a) how it is responding to significant sustainability-related risks and opportunities,

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- (b) quantitative and qualitative information about the progress of plans disclosed in prior reporting periods; and
- (c) what trade-offs between sustainability-related risks and opportunities were considered by the entity (for example, in a decision on the location of new operations, a trade-off between the environmental impacts of those operations and the employment opportunities they would create in a community, and the related effects on enterprise value”.

Particularly relevant is the part of Draft S1 that requires the disclosure of financial information related to the implementation of policies related to sustainability. This issue shows an inter-relationship with financial reporting as the necessary data are highlighted in the latter document. However, Draft S1 emphasises that it is not possible to separate the issues of sustainability and the financial and earnings impact that these may have on the company's overall financial, capital and earnings situation. For this reason, Draft S1 requires the dissemination of information purely related to sustainability and information that provides a complete picture of the financial and earnings impact that these sustainable policies create on the company. Draft S1 states “an entity shall disclose information that enables users of general purpose financial reporting to understand the effects of significant sustainability-related risks and opportunities on its financial position, financial performance and cash flows for the reporting period, and the anticipated effects over the short, medium and long term — including how sustainability-related risks and opportunities are included in the entity's financial planning. An entity shall disclose quantitative information unless it is unable to do so. If an entity is unable to provide quantitative information, it shall provide qualitative information. When providing quantitative information, an entity can disclose single amounts or a range. Specifically, an entity shall disclose:

- (a) how significant sustainability-related risks and opportunities have affected its most recently reported financial position, financial performance and cash flows;
- (b) information about the sustainability-related risks and opportunities identified in paragraph 22(a) for which there is a significant risk that there will be a material adjustment to the carrying amounts of assets and liabilities reported in the financial statements within the next financial year;
- (c) how it expects its financial position to change over time, given its strategy to address significant sustainability-related risks and opportunities, reflecting:
 - (i) its current and committed investment plans and their anticipated effects on its financial position (for example, capital expenditure, major acquisitions and divestments, joint ventures, business transformation, innovation, new business areas and asset retirements);
 - (ii) its planned sources of funding to implement its strategy; and
- (d) how it expects its financial performance to change over time, given its strategy to address significant sustainability-related risks and opportunities.”

Particular attention is, of course, paid to the issue of risks and opportunities related to the implementation of sustainability-related policies. Draft S1 requires the dissemination of exceptionally detailed information on this issue as it is of essential importance in sustainability. To avoid disclosing too brief or incomplete information, Draft S1 sets out in great detail what must be contained in the report that the company must prepare on this issue. In particular, Draft S1 states that “the objective of sustainability-related financial disclosures on risk management is to enable users of general purpose financial reporting to understand the process, or processes, by which sustainability-related risks and opportunities are identified, assessed and managed. These disclosures shall enable users to assess whether those processes are integrated into the entity's overall risk management processes and to evaluate the entity's overall risk profile and risk management processes.

To achieve this objective, an entity shall disclose:

- (a) the process, or processes, it uses to identify sustainability-related:
 - (i) risks; and
 - (ii) opportunities,
- (b) the process, or processes, it uses to identify sustainability-related risks for risk management purposes, including when applicable:
 - (i) how it assesses the likelihood and effects associated with such risks (such as the qualitative factors, quantitative thresholds and other criteria used);
 - (ii) how it prioritises sustainability-related risks relative to other types of risks, including its use of risk-assessment tools;
 - (iii) the input parameters it uses (for example, data sources, the scope of operations covered and the detail used in assumptions); and
 - (iv) whether it has changed the processes used compared to the prior reporting period;
- (c) the process, or processes, it uses to identify, assess and prioritise sustainability-related opportunities;

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- (d) the process, or processes, it uses to monitor and manage the sustainability-related:
 - (i) risks, including related policies; and
 - (ii) opportunities, including related policies;
- (e) the extent to which and how the sustainability-related risk identification, assessment and management process, or processes, are integrated into the entity's overall risk management process; and
 - the extent to which and how the sustainability-related opportunity identification, assessment and management process, or processes, are integrated into the entity's overall management process".

With reference to . n. 4 mentioned above, the Draft points out that "the objective of sustainability-related financial disclosure on metrics and targets is to enable users of general purpose financial reporting to understand how an entity measures, monitors and manages its significant sustainability-related risks and opportunities. These disclosures shall enable users to understand how the entity assesses its performance, including progress towards the targets it has set".

Naturally, the Draft, while giving references for these metrics and targets, leaves companies free to determine which instruments and indicators to use to determine objectives and final values, imposing the obligation to communicate to third parties any changes in indicators with an explanation of the reasons that led to these changes. It is hoped that, where possible, it will make comparisons between modified data to enable the external user to understand the information thoroughly and to be able to make well-founded comparisons with values from previous years. As the Draft itself points out, this depends, in part, on the sector to which the company belongs, and the business model adopted. The circumstance that the Draft considers extremely important is that, in the overall financial-non-financial report of the company, the methods that led to the determination of the indicators used are described; it is highlighted whether an external body validates the measurement of the metric and, if so, the explanation of the methods used for the calculation of the objectives that the company has set itself and that will also have to be applied ex-post to determine the final values.

To provide complete information, the Draft requires the company to disclose it in the overall report "the targets it has set to assess progress towards achieving its strategic goals, specifying: 1) the metric used, 2) the period over which the target applies; 3) the base period from which progress is measured and 4) any milestones or interim targets." Il Draft S1, come sopra indicato sinteticamente, impone che "34 The definition and calculation of metrics, including metrics used to set and monitor targets, shall be consistent over time. If a metric or target is redefined or replaced, an entity shall:

- (a) explain the changes;
- (b) explain the reasons for those changes, including why any replacement metric provides more useful information; and
- (c) provide restated comparative figures, unless it is impracticable to do

An entity shall label metrics and targets using meaningful, clear and precise names and descriptions."

After explaining in detail what has been summarised above, the Draft highlights some general observations on sustainability-related financial information.

In the first place, the Draft highlights how the information provided to third parties, to be useful, must be characterised by necessary features which recall, in substance and terminology, the operating principles established by IAS 1 and the Conceptual Framework for Financial Reporting issued by the IASB to regulate the preparation of financial reporting. Before listing the operating principles that Draft S1 requires to be observed in the document containing sustainability-related financial disclosures, the document issued by ISSB highlights some observations on the reporting entity. In particular, it states that "an entity's sustainability-related financial disclosures shall be for the same reporting entity as the related general purpose financial statements. For example, if the reporting entity is a group, the consolidated financial statements will be for a parent and its subsidiaries; consequently, that entity's sustainability-related financial disclosures shall enable users of general purpose financial reporting to assess the enterprise value of the parent and its subsidiaries.

An entity shall disclose the financial statements to which the sustainability-related financial disclosures relate.

When currency is specified as the unit of measure, the entity shall use the presentation currency of its financial statements. Above paragraph ...requires an entity to disclose material information about all significant sustainability-related risks and opportunities to which it is exposed. These risks and opportunities relate to activities, interactions and relationships and to the use of resources along its value chain, such as:

- (a) its employment practices and those of its suppliers, wastage related to the packaging of the products it sells, or events that could disrupt its supply chain;
- (b) the assets it controls (such as a production facility that relies on scarce

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water resources);

- (c) investments it controls, including investments in associates and joint ventures (such as financing a greenhouse gas-emitting activity through a joint venture); and
- (d) sources of finance.

Other IFRS Sustainability Disclosure Standards will specify how an entity is required to disclose or measure its significant sustainability-related risks and opportunities, including those related to its associates, joint ventures and other financed investments, and those related to its value chain.”

In order to ensure comprehensive disclosure, Draft S1 addresses the issue of disclosures related to the disclosures in the Draft. With regard to this disclosure issue, the Draft requires that “an entity shall provide information that enables users of general purpose financial reporting to assess the connections between various sustainability-related risks and opportunities, and to assess how information about these risks and opportunities is linked to information in the general purpose financial statements.

An entity shall describe the relationships between different pieces of information. Doing so could require connecting narrative information on governance, strategy and risk management to related metrics and targets. For example, to allow users of general purpose financial reporting to assess connections in information, an entity might need to explain the effect or likely effect of its strategy on its financial statements or financial plans, or on metrics and targets used to measure progress against performance. Furthermore, the entity might need to explain how its use of natural resources and changes within its supply chain could amplify, change or reduce its significant sustainability-related risks and opportunities. The entity may need to link this information to the potential or actual effect on its production costs, its strategic response to mitigate such risks and its related investment in new assets. This information may also need to be linked to information in the financial statements and to specific metrics and targets. Information that describes connections shall be clear and concise.

Examples of connected information include:

- (a) an explanation of the combined effects of sustainability-related risks and opportunities and the entity’s strategy and related metrics and targets on its financial position, financial performance and cash flows over the short, medium and long term. For example, an entity may face decreasing demand for its products because of consumer preferences for low-carbon alternatives. It may need to explain how its strategic response, such as closing a major factory, affects its workforce and communities, as well as the effect of the closure on the useful lives of assets and impairment assessments.
- (b) an explanation of the potential options that were evaluated when an entity assessed its sustainability-related risks and opportunities, and the consequences of its decisions to address those risks and opportunities, including the trade-offs that were considered, as detailed in paragraph 21(c). For example, an entity might need to explain how a decision to restructure its operations in response to a sustainability-related risk could have consequential effects on the future size and composition of the entity’s workforce.”

Against the above information, Draft S1 recalls the operating principles and postulates that must be observed by those Drafting the document covered by Exposure Draft S 1.

These principles can be summarised as follows :

- 1) **Relevance** : “ relevant sustainability-related financial information is capable of making a difference in the decision made by the primary users. Sustainability-related financial information is capable of making a difference in decisions made by users if it has predictive value, confirmatory value or both” ...” Sustainability-related financial information has predictive value if it can be used as an input to processes employed by primary users to predict future outcomes. Sustainability-related financial information need not be a prediction or forecast to have predictive value. Sustainability-related financial information with predictive value is employed by primary users in making their own predictions. For example, information about water quality, which can include information about its pollution, could inform the expectations of investors, lenders and other creditors about the ability of an entity to meet local water-quality requirements.

Sustainability-related financial information has confirmatory value if it provides feedback about (confirms or changes) previous evaluations.

The predictive value and confirmatory value of sustainability-related financial information are interrelated. Information that has predictive value often also has confirmatory value. For example, information for the current year about carbon emissions, which can be used as the basis for predicting such emissions in future years, can also be compared with predictions about carbon

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emissions for the current year that were made in past years. The results of those comparisons can help a user to correct and improve the processes that were used to make those previous predictions.

2) **Materiality:** "Sustainability-related financial reporting is material if omitting, misstating or obscuring that information could reasonably be expected to influence decisions that the primary users of general purpose financial reporting make on the basis of that reporting, which provides information about a specific reporting entity. Material sustainability-related financial information provides insights into factors that could reasonably be expected to influence primary users' assessments of an entity's enterprise value. The information relates to activities, interactions and relationships and to the use of resources along the entity's value chain if it could influence the assessment primary users make of its enterprise value. It can include information about sustainability-related risks and opportunities with low-probability and high-impact outcomes.

Materiality is an entity-specific aspect of relevance based on the nature or magnitude, or both, of the items to which the information relates, in the context of the entity's general purpose financial reporting. This Draft does not specify any thresholds for materiality or predetermine what would be material in a particular situation.

An entity shall apply judgement to identify material sustainability-related financial information. Materiality judgements shall be reassessed at each reporting date to take account of changed circumstances and assumptions.

An entity need not provide a specific disclosure that would otherwise be required by an IFRS Sustainability Disclosure Standard if the information resulting from that disclosure is not material. This is the case even if the IFRS Sustainability Disclosure Standard contains a list of specific requirements or describes them as minimum requirements.

An entity shall also consider whether to disclose additional information when compliance with the specific requirements in an IFRS Sustainability Disclosure Standard is insufficient to enable users of general purpose financial reporting to assess the effect on enterprise value of the sustainability-related risks and opportunities to which the entity is exposed.

An entity need not disclose information otherwise required by an IFRS Sustainability Disclosure Standard if local laws or regulations prohibit the entity from disclosing that information. If an entity omits material information for that reason, it shall identify the type of information not disclosed and explain the source of the restriction.

3) **Faithful representation.** "a complete set of sustainability-related financial disclosures shall present fairly the sustainability-related risks and opportunities to which an entity is exposed. Fair presentation requires the faithful representation of sustainability-related risks and opportunities in accordance with the principles set out in the Draft". A fair presentation also requires "to disclose information that is relevant, representationally faithful, comparable, verifiable, timely and understandable and to provide additional disclosures when compliance with the specific requirement in IFRS Sustainability Disclosure Standards is insufficient to enable users of general purpose financial reporting to assess the implications of sustainability-related risks and opportunities on the entity's enterprise value"..." A fair presentation also requires an entity:

to disclose information that is relevant, representationally faithful, comparable, verifiable, timely and understandable; and to provide additional disclosures when compliance with the specific requirements in IFRS Sustainability Disclosure Standards is insufficient to enable users of general purpose financial reporting to assess the implications of sustainability-related risks and opportunities on the entity's enterprise value.

When applying this [Draft] Standard and other IFRS Sustainability Disclosure Standards, an entity, after it has considered all relevant facts and circumstances, shall decide how to aggregate the information in its sustainability-related financial disclosures.

An entity shall not reduce the understandability of its sustainability-related financial disclosures by obscuring material information with immaterial information or by aggregating material items that are dissimilar.

Information shall not be aggregated if doing so would obscure information that is material. Rather, aggregation and disaggregation shall be based on the characteristics of the sustainability-related risks and opportunities. Information shall be aggregated when it shares those characteristics and disaggregated when it does not share them. Information about sustainability-related risks and opportunities might need to be disaggregated, such as by geographical location or in consideration of the geopolitical environment. For example, to ensure that material information is not obscured, an entity might need to disaggregate disclosures about its use of water to distinguish between water drawn from abundant sources and water drawn from high-stress sources.... Sustainability-related financial disclosures shall be accurate. Information can be accurate without being perfectly precise in all respects. The amount of precision needed and attainable, and the factors that make information accurate, depend on the nature of the information and the nature of the matters it addresses. For example, accuracy requires that:

(a) factual information is free from material error;

(b) descriptions are precise:

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- (c) estimates, approximations and forecasts are clearly identified as such,
- (d) no material errors have been made in selecting and applying an appropriate process for developing an estimate, approximation or forecast, and the inputs to that process are reasonable and supportable;
- (e) assertions are reasonable and based on information of sufficient quality and quantity; and
- (f) information about judgements about the future faithfully reflects both those judgements and the information on which they are based."

4) **Comparability:** "an entity shall disclose comparative information in respect of the previous period for all metrics disclosed in the current period. When such information would be relevant to an understanding of the current period's sustainability-related financial disclosures, the entity shall also disclose comparative information for narrative and descriptive sustainability-related financial disclosures. When providing sustainability-related financial disclosures an entity shall disclose comparative information that reflects updated estimates. When the entity reports comparative information that differs from the information reported in the previous period it shall disclose:

the difference between the amount reported in the previous period and the revised comparative amount; and the reasons the amounts have been revised.

Sometimes, it is impracticable to adjust comparative information for one or more prior periods to achieve comparability with the current period. For example, data might not have been collected in the prior period(s) in a way that allows either retrospective application of a new definition of a metric or target or retrospective restatement to correct a prior period error, and it may be impracticable to recreate the information. When it is impracticable to adjust comparative information for one or more prior periods, an entity shall disclose that fact".

5) **Verifiability:** La circostanza che l'informazione sia verificabile è essenziale affinché il documento destinato a terzi abbia un valore informativo reale. La verificabilità aiuta gli investitori e i debitori ad accettare la circostanza che i dati siano completi, neutrali e accurati. La verificabilità richiede che auditor esterni all'azienda possano garantire che i valori e le informazioni destinate ai terzi sono veritiere, complete e neutrali. Il Draft S1 evidenzia, in maniera particolarmente dettagliata che "verifiability means that various knowledgeable and independent observers could reach consensus, although not necessarily complete agreement, that a particular depiction is a faithful representation. Quantified information need not be a single point estimate to be verifiable. A range of possible amounts and the related probabilities can also be verified.

Sustainability-related financial disclosures shall be provided in a way that enhances their verifiability. Verifiability can be enhanced by, for example:

- a) including information that can be corroborated by comparing it with other information available to primary users about the entity's business, about other businesses or about the external environment*
- b) providing information about inputs and methods of calculation used to produce estimates or approximations; and
- c) providing information reviewed and agreed by the entity's board, board committees or equivalent bodies.

Some sustainability-related financial disclosures will be in the form of explanations or forward-looking information. Those disclosures can be supportable by faithfully representing fact-based strategies, plans and risk analyses, for example. To help investors and creditors decide whether to use such information, an entity shall describe the underlying assumptions and methods of producing the information, as well as other factors that provide evidence that verify that it reflects the actual plans or decisions made by the entity."

6) **Timeliness:** " an entity shall report its sustainability-related financial disclosures at the same time as its related financial statements and the sustainability-related financial reporting disclosures shall be for the same reporting period as the financial statement".

7) **Understandability:** The understandability requires that the information contained in the comprehensive financial-non-financial report be concise and intelligible to those with an average cultural base capable of understanding a complex document. Duplication of data, using the same terms to refer to different objects, or using additional terms to refer to the same things render the data unintelligible. The Draft addresses this assumption in detail since no one outside the company can use unclear and unintelligible information. Therefore, Draft S1 states that : "the clearest form of disclosure depends on the nature of the information and might sometimes include tables, graphs or diagrams in addition to narrative text. If graphs or diagrams are used, additional text or tables may be necessary to avoid obscuring material detail.

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Clarity might be enhanced by distinguishing information about developments in the reporting period from 'standing' information that remains unchanged, or changes little, from one period to the next — for example, by separately describing features of an entity's sustainability-related governance and risk management processes that have changed since the previous reporting period. Disclosures are concise if they include only material information. Any material information included shall be provided in a way that avoids obscuring material information.

Some sustainability-related risks and opportunities are inherently complex and may be challenging to present in a manner that is easy to understand. An entity shall present such information as clearly as possible. However, complex information about these risks and opportunities shall not be excluded from general purpose financial reporting to make those reports easier to understand. The exclusion of such information would render those reports incomplete and, therefore, possibly misleading.

The completeness, clarity and comparability of sustainability-related financial disclosures all rely on information being presented as a coherent whole. For sustainability-related financial disclosures to be coherent, they shall be presented in a way that explains the context and the relationships between the related information.

If sustainability-related risks and opportunities located in one part of an entity's general purpose financial reporting have implications for information disclosed in other parts, the entity shall include the information necessary for users to assess those implications.

Coherence also requires an entity to provide information in a way that allows users to relate information about its sustainability-related risks and opportunities to information in the entity's financial statements."

8) **Risks and opportunities to disclose:** This Draft requires an entity to disclose material information about all of the significant sustainability-related risks and opportunities to which it is exposed above. To identify sustainability-related risks and opportunities about which information could reasonably be expected to influence decisions that the users of general purpose financial reporting make on the basis of that information, an entity shall refer to IFRS Sustainability Disclosure Standards, including identified disclosure topics. In addition to IFRS Sustainability Disclosure Standards, an entity shall consider :

a) the disclosure topics in the industry-based SASB Standards:

b) the ISSB's non-mandatory guidance (such as the CDSB Framework application guidance for water- and biodiversity-related disclosures);

c) the most recent pronouncements of other standard-setting bodies whose requirements are designed to meet the needs of users of general purpose financial reporting; and

d) the sustainability-related risks and opportunities identified by entities that operate in the same industries or geographies.

9) **Location of information:** the Draft S1 shows that "an entity is required to disclose information required by IFRS Sustainability Disclosure Standards as part of its general purpose financial reporting.

Subject to any regulation or other requirements that apply to an entity, there are various possible locations in its general purpose financial reporting in which to disclose sustainability-related financial information. Sustainability-related financial disclosures could be included in an entity's management commentary when management commentary forms part of an entity's general purpose financial reporting. Management commentary complements an entity's financial statements. It provides insights into the factors that have affected the entity's financial performance and financial position and the factors that could affect the entity's ability to create value and generate cash flows. Management commentary can be known by or incorporated in reports with various names, including management's discussion and analysis, operating and financial review, integrated report and strategic report.

An entity might disclose information required by an IFRS Sustainability Disclosure Standard in the same location as information disclosed to meet other requirements, such as information required by regulators. The entity shall ensure that the sustainability-related financial disclosures are clearly identifiable and not obscured by that additional information.

Information required by an IFRS Sustainability Disclosure Standard can be included by cross-reference, provided that the information is available to users of general purpose financial reporting on the same terms and at the same time as the information to which it is cross-referenced. For example, information required by an IFRS Sustainability Disclosure Standard could be disclosed in the related financial statements. Including information by cross-referencing rather than providing information directly shall not make the complete set of sustainability-related financial disclosures less understandable.

Material information included by cross-reference becomes part of the complete set of sustainability-related financial disclosures. Information included by cross-reference shall comply with the requirements of IFRS Sustainability Disclosure Standards. For example, it needs to be relevant, representationally faithful, comparable, verifiable, timely and understandable. The bodies or

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individuals that authorise the general purpose financial reporting have the same responsibility for the information included by cross-reference as they do for the information included directly.

If information required by an IFRS Sustainability Disclosure Standard is included by reference to information in another location:

- (a) the general purpose financial reporting shall identify the location of that information and explain how to access it; and
- (b) the cross-reference shall be to a precisely specified part of that location.

When IFRS Sustainability Disclosure Standards require the disclosure of common items of information, an entity shall avoid unnecessary duplication. For example, when an entity integrates its oversight of sustainability-related risks and opportunities, the disclosures on governance shall also be integrated rather than provided in the form of separate governance disclosures for each significant sustainability-related risk and opportunity.

To identify disclosures, including metrics, about a significant sustainability-related risk or opportunity, an entity shall refer to the relevant IFRS Sustainability Disclosure Standards.

In the absence of an IFRS Sustainability Disclosure Standard that applies specifically to a sustainability-related risk or opportunity, management shall use its judgement in identifying disclosures that:

- a) are relevant to the decision-making needs of users of general purpose financial reporting;
- b) faithfully represent the entity's risks and opportunities in relation to the specific sustainability-related risk or opportunity; and
- c) are neutral.

In making the judgement....., management shall consider, to the extent that these do not conflict with an IFRS Sustainability Disclosure Standard, the metrics associated with the disclosure topics included in the industry-based SASB Standards, the ISSB's non-mandatory guidance (such as the CDSB Framework application guidance for water- and biodiversity-related disclosures), the most recent pronouncements of other standard-setting bodies whose requirements are designed to meet the needs of users of general purpose financial reporting, and the metrics used by entities in the same industries or geographies.

An entity shall disclose the industry or industries specified in the relevant IFRS Sustainability Disclosure Standard or industry-based SASB Standards that it has used when identifying disclosures about a significant sustainability-related risk or opportunity."

10) Errors: il Draft S1 affronta la problematica del riscontro di errori nei dati precedentemente diffusi. A fronte di ciò individua il comportamento che l'entity deve tenere per affrontare questa problematica. In particolare il Draft S1 propone che "An entity shall correct material prior period errors by restating the comparative amounts for the prior period(s) disclosed unless it is impracticable to do so.

Prior period errors are omissions from and misstatements in the entity's sustainability-related financial disclosures for one or more prior periods. Such errors arise from a failure to use, or the misuse of, reliable information that:

- a) was available when the general purpose financial reporting for those periods was authorised for issue; and
- b) could reasonably be expected to have been obtained and considered in the preparation of those sustainability-related financial disclosures.

Such errors include: the effects of mathematical mistakes, mistakes in applying the definitions for metrics and targets, oversights or misinterpretations of facts, and fraud.

Potential current period errors discovered in that period are corrected before the general purpose financial reporting is authorised for issue. However, material errors are sometimes not discovered until a subsequent period.

When it is impracticable to determine the effect of an error on all prior periods presented, the entity shall restate the comparative information to correct the error from the earliest date practicable.

Corrections of errors are distinguished from changes in estimates. Estimates are approximations that an entity may need to revise as additional information becomes known.

If an entity identifies a material error in its prior period sustainability-related financial disclosures, it shall disclose:

- a) the nature of the prior period error;
- b) the correction, to the extent practicable, for each prior period disclosed; and
- c) if correction of the error is not practicable, the circumstances that led to the existence of that condition and a description of how and from when the error has been corrected".

The substantial reference to the operating principles set out in IAS 1 and the Conceptual Framework for Financial Reporting is not surprising. The ISSB is an emanation, in fact, of the IASB, and Draft S1 itself states that an entity shall apply Draft S1 in the preparation and disclosure of sustainability-related financial information following IFRS Disclosure Standards when the entity's

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related financial statements are prepared following IFRS Accounting Standards or other GAAP. In addition to these explicit references, Draft S1 states that it includes operating principles consistent with IAS 8 Accounting policies, changes in accounting estimates and errors.

From these remarks, it can be deduced that the financial reporting governed by IAS/IFRS and the composite report proposed by Draft S1 represent elements of a single information complex intended for external use by companies. For the various documents that make up this overall financial and non-financial communication to work together, the operating principles must be consistent or, rather, they must coincide. This is why Draft S1 explicitly refers, and therefore also implicitly refers, to IAS 1, IAS 8 and the Conceptual Framework for Financial Reporting issued over time by the IASB.

3. CONCLUSIONS

From the summary presented in the previous pages of Exposure Draft S1, it is clear that the proposal is to overcome a fragmented vision of financial reporting at the level of international accounting standards. In all countries, financial reporting is prepared and communicated in a different document from the sustainability report. Often the two documents are released on different dates and through various media.

The Draft vision overcomes this duality of documents. It proposes the publication of a single set of documents that includes the financial reporting of the year consisting of balance sheet, profit and loss, notes on financial reporting and cash flow statement and a document containing information related to sustainability in the broadest sense. The summary states that the document containing information on sustainability should be included in the comprehensive information document for external use, which would become a financial and sustainability report. The summary, in fact, states, ". The sustainability-related financial information must be for the same reporting entity as the financial statements and published as part of its general purpose financial reporting". From this, it could be inferred that the sustainability document should become an integral part of the overall corporate communication consisting of the financial statements and the sustainability document as a whole. It is not clear whether the Draft proposal is intended to include sustainability reporting in financial reporting or whether, as it would appear from a careful reading of certain parts of the Draft, this document, which should contain not only sustainability information but also financial data relating to the company's sustainability management and strategy, would form an integral part of the company's overall communication to the outside world. While representing a unitary whole, this communication would consist of financial reporting and sustainability reporting as described in Draft S1.

It will better explain that these points will probably be in the final version of the Standard. However, what is important to note is the concept of the unity of the disclosure. It is no longer a question of financial and income communication almost in opposition to sustainability communication, but rather a concept of global communication, to be implemented at the same time and using the same media, which includes both the financial statements and the report on sustainability and the actions, strategies and tactics implemented in this field by the company.

This global and unitary vision of external reporting is already present in Italy. As pointed out in the previous pages, the management report, which also contains data on sustainability, is considered an essential element of corporate communication even if it is not part of the financial statements. So much so that by some judges, the invalidity of the report has been considered, in particular cases, cause for the nullity of the financial statements. It does not form part as a decided element of the global information system intended for third parties.

The single information tool containing financial, income, equity and sustainability data is an evolution in corporate communication. I believe that most scholars will agree with these statements on a doctrinal level. The only major problem lies with the companies that will have to put these standards into practice. As long as companies perceive communication as a mere obligation and not as an opportunity, it will be difficult for another standard to improve corporate communication. Only the diffusion of communication culture and the dissemination of a sustainability culture within companies will help achieve this goal. As long as communication is considered a detriment to the company, no standard will improve corporate reporting. Therefore, everything is in the hands of companies: they will decide the success or failure of the proposed Draft S1.

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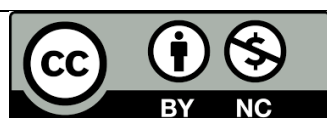
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