

**Enforcement of compliance with information requirements  
for securities issuers in 2020**

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## Purpose of the report

This report provides information on the enforcement of information requirements for securities issuers in connection with their participation in trading in the capital market.

The report is prepared for users of regulated information, issuers and auditors, to contribute to the correct and consistent application of relevant reporting requirements laid down in legislation. High-quality complete and accurate information is a crucial factor that drives the investors' decision-making process and builds investor confidence in the market and the listed securities. Improper performance of information disclosure obligations of issuers results, in turn, in a lack of universal and equal access to complete and accurate information, which is essential for proper operation of market mechanisms.

## 1 Introduction

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The tasks of the Public Companies Department (DSP) of the Polish Financial Supervision Authority (PL: Urząd Komisji Nadzoru Finansowego, UKNF) include supervising the fulfilment by the supervised entities referred to in Article 5 point 7 of the Act on capital market supervision<sup>1</sup> of the information requirements relating to their participation in trading in the capital market, to the extent specified in the legislation – in accordance with Article 7(1) point 2 of the said Act.

The supervision exercised by the UKNF in the area of information requirements covers financial statements (in particular compliance with IFRSs<sup>2</sup>), management or directors' reports, and non-financial information. The UKNF also exercises direct supervision of inside information of the issuers whose securities are admitted to trading on a regulated market and indirect supervision in relation to the issuers whose securities are admitted to trading on an alternative trading system – ATS<sup>3</sup>).

Parts two to five of this report provide information on enforcement actions undertaken by the UKNF in 2020 in relation to specific areas of supervision, i.e. financial reporting, timeliness and completeness of periodic reports, non-financial information, and inside information.

The year 2020 was a period of preparation for the reporting in the European Single Electronic Format (ESEF). That required the UKNF, in particular, to adapt the Electronic Information Transfer System (ESPI) for receiving reports prepared in the new reporting format. Additionally, representatives of the UKNF were actively engaged in the monitoring work for the implementation of the ESEF both on EU level (as part of ESMA working groups) and national level, e.g. by conducting tests involving issuers. The topic of the ESEF as well as other important issues related to financial and non-financial reporting have been discussed in Part six of this report.

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<sup>1</sup> Act of 29 July 2005 on capital market supervision (consolidated text: Journal of Laws 2020, item 1400).

<sup>2</sup> International Accounting Standards, International Financial Reporting Standards and related interpretations published as European Commission Regulations.

<sup>3</sup> The direct enforcement of information requirements of issuers operating in an ATS is exercised by companies operating a regulated market which organise the ATS (Warsaw Stock Exchange and BondSpot) – the scope of the UKNF supervision is indicated in Part 5 of this report.

## 2 Review of financial statements and enforcement actions

Enforcement of compliance of financial reporting of issuers whose securities are admitted to trading on a regulated market other than investment funds with appropriate reporting reg-

ulations is based on selection of issuers, which uses a combination of a risk-based approach, random sampling and/or rotation. Not all financial statements of each issuer are subject to review.

### Selecting financial statements for review and type of review

In 2020, the selection for the purpose of assessment of compliance with the applicable financial reporting regulations included, in particular, financial statements of issuers:

- to whom recommendations had been issued;
- for whom an auditor had drawn up an audit report containing a modified opinion or a review report containing a modified conclusion;
- for whom the assessment of selected indicators may suggest a worsening of their financial position,
- who carried out an initial public offering of shares,
- for whom the contract with an audit firm was terminated before the end of the term of the contract,
- selected randomly.

**Table 1.** Number of issuers whose financial statements were subject to a periodic review in 2018–2020

Year	Number of regulated-market issuers (Warsaw Stock Exchange <sup>4</sup> and BondSpot <sup>5</sup> ) <sup>*</sup> at the year-end	Number of issuers whose financial statements were subject to review <sup>**</sup>	Share in the total number of regulated-market issuers
2018	441	96	21.8%
2019	436	96	22.0%
2020	425	59	13.9%

<sup>\*</sup> Excluding closed-end investment funds and issuers for whom the Republic of Poland is a host state.

<sup>\*\*</sup>The number of issuers for 2018 also includes analysis of historical financial information of issuers making initial public offerings (10 issuers in 2018).

**Source:** Own elaboration

<sup>4</sup> Giełda Papierów Wartościowych w Warszawie S.A.

<sup>5</sup> BondSpot S.A.

When selecting issuers' financial statements for the periodic review in 2020, a high priority was maintained, as in previous years, for the criterion of: occurrence of qualifications in audit reports on financial statements, disclaimers of opinion or adverse opinions. Consideration was also given to the occurrence of qualifications in auditor's half-yearly review reports, disclaimers of report or negative conclusions.

Therefore, on many occasions the review also covered financial state-

ments of issuers whose ability to continue as a going concern was threatened or who have ceased to continue as a going concern. This applied mainly to the issuers who applied, or against whom another party applied, for the restructuring or bankruptcy, as well as the issuers for whom the audit reports on financial statements or the review reports on condensed financial statements included qualifications or disclaimer of opinion / report resulting from threats to the ability to continue as a going concern.

**Table 2.** Number of issuers with a modified opinion in the audit report or a modified conclusion in the review report

Reporting period	Year 2018	First half of 2019	Year 2019	First half of 2020
Qualified opinions or conclusions	20	12	10	13
Disclaimers of opinion / report	9	5	5	7
Adverse opinions or conclusions	1	0	1	0
TOTAL	30	17	16	20
Number of issuers at year-end*	441	441	426	425
Share in the number of issuers at year-end	7%	4%	3%	5%

\* Excluding closed-end investment funds and issuers for whom the Republic of Poland is a host state.

**Source:** Own elaboration

Financial statements are subject to unlimited scope examination or focused examination. For issuers reviewed only for compliance with

recommendations, a follow-up examination is carried out.

**Unlimited scope examination** – examination of the entire financial statements with the goal of identifying any deficiencies or mistakes.

**Focused examination** – examination limited to a scope concerning specific issues, the application of certain IFRSs (e.g. examination of selected items or parts of financial statements).

**Follow-up examination** – review of subsequent financial statements exclusively for the necessary improvements and developments, particularly when recommendations were submitted to the issuer.

**Table 3.** Number of issuers whose financial statements were subject to the periodic review in 2020, by type of examination

Type of examination	Number of issuers
Unlimited scope examination	16
Focused examination	35
Follow-up examination	8
<b>Total</b>	<b>59</b>

**Source:** Own elaboration

In 2020, the focused examination covered mainly the topics highlighted in ESMA's European common enforcement priorities for 2019 annual financial reports<sup>6</sup>, in particular the issues related to disclosures on leases, income tax and revenue, as well as compliance with the requirements on disclosures about going concern and disclosures about liquidity risk.

The following figure shows selected areas of non-compliance resulting from the review of issuer's financial statements carried out in 2020.

As regards the practical application of IFRSs, it is also useful to take note of the <sup>7</sup>packages of decisions on the enforcement of financial information, made by the European national enforcers and published on the ESMA's website<sup>8</sup>.

<sup>6</sup>[https://www.knf.gov.pl/o\\_nas/wspolpraca\\_miedzynarodowa/unia/ESNF/aktualnosci?articleId=67515&p\\_id=18](https://www.knf.gov.pl/o_nas/wspolpraca_miedzynarodowa/unia/ESNF/aktualnosci?articleId=67515&p_id=18)

<sup>7</sup><https://www.esma.europa.eu/>

<sup>8</sup><https://www.esma.europa.eu/press-news/esma-news/esma-publishes-24th-extract-its-ecds-database>

**Figure 1.** Areas of non-compliance in relation to which recommendations were submitted to issuers in 2020.

<b>Going concern, liquidity risk</b> <ul style="list-style-type: none"> <li>• Lack of disclosures on material risks and uncertainty as to the ability to continue as a going concern;</li> <li>• Lack of disclosures on the judgements and assumptions underlying the assessment of going concern;</li> <li>• Failure to prepare forecasts on cash flows for the next 12 months from the last day of the reporting period, for the adoption of the going concern basis;</li> <li>• Insufficient disclosures on the maturity analysis for financial liabilities and on liquidity risk management;</li> <li>• Failure to carry out the maturity analysis for financial liabilities for all financial liabilities;</li> <li>• Failure to provide the maturity analysis for financial liabilities for comparative data.</li> </ul>
<b>Impairment of non-financial assets</b> <ul style="list-style-type: none"> <li>• Failure to carry out fair impairment tests for investments in subsidiaries;</li> <li>• Lack of / incomplete disclosures of entity-specific information on the measurement of non-financial assets.</li> </ul>
<b>Measurement of financial instruments</b> <ul style="list-style-type: none"> <li>• Failure to consider material circumstances affecting the quality of receivables when determining expected credit losses;</li> <li>• Failure to disclose material accounting policies on the measurement of expected credit losses;</li> <li>• Failure to review and update the models for estimating expected credit losses at the end of the reporting period.</li> </ul>
<b>Revenue</b> <ul style="list-style-type: none"> <li>• Failure to disclose a description of the individualised and specific accounting policies on IFRS 15.</li> </ul>
<b>Fair value</b> <ul style="list-style-type: none"> <li>• Failure to consider a potential additional scenario when determining the fair value of assets;</li> <li>• Failure to consider specific features of the property of a given company when estimating the fair value of the shares in that entity;</li> <li>• Failure to disclose a description of valuation techniques and input data.</li> </ul>
<b>Consolidation and business combination</b> <ul style="list-style-type: none"> <li>• Failure to identify reverse acquisitions;</li> <li>• Lack of consolidation of the entity controlled by the issuer.</li> </ul>
<b>Taxes and deferred income tax</b> <ul style="list-style-type: none"> <li>• Incorrect measurement of deferred tax assets.</li> </ul>

**Source:** Own elaboration based on the analysis.



## Enforcement actions

After a review of financial statements, if there are any concerns or doubts about their correctness, the issuer (management board / supervisory board) or audit firm is asked to provide further clarification, pursuant to Article 68(1) and (2) of the Act on public offering.<sup>9</sup>

Pursuant to Article 68(5) of the Act on public offering, the Polish Financial Supervision Authority (PL: Komisja Nadzoru Finansowego, KNF Board) issues

recommendations for an issuer to put an end to any breach of information requirements. The purpose of a recommendation is to allow the issuer to eliminate non-compliance as soon as possible by amending the relevant financial statements, and to ensure that the users of financial statements have access to fair and complete information. The implementation of recommendations is monitored.

## Communication with the issuer and recommendations

In 2020, **recommendations** on financial reporting were issued to 24 issuers.

## 3 Review of non-financial information and enforcement actions

Under Article 49b of the Accounting Act<sup>10</sup>, entities, including issuers whose securities are admitted to trading on a regulated market, must include in their management or directors' report, as a separate part, a non-financial statement, or prepare a separate non-financial report.

In 2020, the enforcement of non-financial information involved analysis of completeness of non-financial reports of all issuers under Article 49b of the Accounting Act, which means that the reports were reviewed for the presence of the following information to the extent necessary to evaluate the issuers' business:

- a short description of the entity's business model;
- the non-financial key performance indicators relevant to the entity's business;
- a description of the policies applied by the entity in relation to environmental, social and employee matters, respect of human rights, anti-corruption and bribery matters, as well as a description of the results of those policies;
- a description of due diligence processes, if the entity applies them within the framework of the above-mentioned policies;

## Non-financial reporting: legal framework

<sup>9</sup> Act of 29 July 2005 on public offering, conditions governing the introduction of financial instruments to organised trading, and public companies (Journal of Laws 2020, item 2080, as amended).

<sup>10</sup> Accounting Act of 29 September 1994 (consolidated text: Journal of Laws 2021, item 217 as amended).

- a description of material risks in the entity’s business that may adversely affect non-financial matters, and a description of how those risks are managed.

Additionally, for a selected sample of non-financial information, the reviews carried out in 2020 covered the matters indicated in the ESMA Public Statement on European common enforcement priorities for 2019<sup>11</sup>. In particular, the non-financial information was reviewed in terms of inclusion of the following disclosures:

- the description of related due diligence processes in relation to non-financial matters;
- climate change-related matters, including: information on the impact of climate change on the issuer, and information on the consequences of the use of the issuer’s products and services by customers for climate change and the environment;
- an explanation of the methods applied by the issuer to carry out the assessment of materiality of non-financial information, including the selection of relevant time horizons when assessing materiality, and the analysis of the needs of different stakeholders;
- whether consideration was given to both the impact of non-financial matters on the issuer and the impact of the issuer on non-financial matters (‘double materiality perspective’);
- the impact of the covid-19 pandemic on non-financial matters.

### **Non-financial reporting**

The disclosure requirements for non-financial information for 2019 applied to **150 issuers**, including:

- 7 issuers in relation to entity-level reports only,
- 49 issuers in relation to group-level reports only,
- 94 issuers in relation to both entity-level and group-level reports.

A total of **154 non-financial disclosures** for 2019 were made public by issuers, including:

- 69 statements,
- 81 reports,
- 4 integrated reports.

Six issuers benefited from the exemption from the obligation to make non-financial statements/reports pursuant to Article 49b(11) of the Accounting

Act, as a non-financial statement/report containing information concerning the relevant issuer had been published by the higher level parent.

<sup>11</sup> [https://www.esma.europa.eu/sites/default/files/library/esma32-63-791\\_esma\\_european\\_common\\_enforcement\\_priorities\\_2019.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-63-791_esma_european_common_enforcement_priorities_2019.pdf)

The non-financial statements/reports for 2019 were prepared in accordance with the following standards:

- GRI (Global Reporting Initiative) – 66 issuers,
- SIN (Non-financial Information Standard) – 28 issuers,
- own standards – other issuers.

In 2020, as part of the enforcement of non-financial information, were issued **recommendations** to 4 issuers due to identification of non-compliance areas such as failure to include a description of the non-financial key performance indicators relevant to the entity's business.

#### Non-financial reporting: enforcement actions

## 4 Analysis of timeliness of publication and completeness of the issuers' periodic reports, and enforcement actions

As of 31 December 2020, the requirement to publish periodic reports pursuant to Article 56(1) point 2 of the Act on public offering applied to **425 issuers** whose securities are admitted to trading on a regulated market, other than investment funds.

In addition, as of 31 December 2020, **317 issuers** that were parent companies of groups were required to publish consolidated periodic reports.

In total, in 2020, more than **2 thousand periodic reports** were published by issuers.

**435 issuers** whose securities are admitted to trading on a regulated market other than investment funds were subject to the requirement to publish the reports periodic for 2019.

As part of the Supervisory Stimulus Package for Security and Development to support the capital market, the UKNF prepared legislative proposals to extend the time limit for issuers for publication of:

- annual financial statements and consolidated annual financial statements for 2019 – by two months;
- quarterly reports and consolidated quarterly reports for the first quarter of 2020 – by 60 days.

The above-mentioned changes came into effect by Regulation of the Minister of Finance of 7 April 2020 determining different time limits for the performance of certain reporting and information obligations (Journal of Laws 2020, item 622).

84 issuers used the extension of reporting deadlines for annual financial statements for 2019, and 91 issuers used the extension of reporting deadlines for the report for the first quarter of 2020.

In the case of 20 issuers there were problems with the timely fulfilment of periodic reporting requirements. Enforcement actions were undertaken in relation to those entities.

#### Monitoring the timeliness and completeness of periodic reports

The enforcement actions undertaken in 2020 with regard to the timeliness of publication of the issuers' periodic reports included:

- 12 cases where a competent department of the UKNF was asked to request the Warsaw Stock Exchange **to suspend trading in securities** pursuant to Article 20 of the Act on trading in financial instruments<sup>12</sup>, in connection with a failure to publish periodic reports in a timely manner or a failure to include in the annual and half-yearly reports, as appropriate, the auditor's report on the audit or review of financial statements, including:
  - 3 – lack of the report for 2019,
  - 3 – lack of the auditor's report on the audit of financial statements for 2019,
  - 3 – lack of report for the first half of 2020,
  - 3 – lack of the auditor's report on the review of financial statements for the first half of 2020.
- **9 recommendations** issued to issuers due to their failure to publish periodic reports in a timely manner or failure to include in the annual and half-yearly reports, as appropriate, the auditor's report on the audit or review of financial statements.

As part of the monitoring of completeness of periodic reports, special attention was paid to the compliance by issuers with the provisions of the Regulation on current and periodic information<sup>13</sup> in relation to the inclusion of descriptions required for each type of periodic report, in accordance with Chapter 4 'Periodic reports' of that Regulation.

The supervision also covered an assessment of compliance by issuers with ESMA Guidelines on Alternative Performance Measures (APM) in their

periodic reports for 2019 and the first half of 2020. Since most irregularities were identified in that area, issuers should pay special attention to it when preparing their periodic reports for the next reporting periods. Issuers may find it helpful to refer to the Questions and Answers on ESMA Guidelines on APMs<sup>14</sup>, which ESMA updated on 17 April 2020 by including additional practice guidelines explaining how to apply ESMA Guidelines on APMs in the context of covid-19.

<sup>12</sup> Act of 29 July 2005 on trading in financial instruments (consolidated text: Journal of Laws 2020, item 89, as amended).

<sup>13</sup> Regulation of the Minister of Finance of 29 March 2018 on current and periodic information provided by issuers of securities and on conditions under which information required by legal regulations of a third country may be recognised as equivalent (Journal of Laws 2018, item 757).

<sup>14</sup> [https://www.esma.europa.eu/sites/default/files/library/esma32-51-370\\_qas\\_on\\_esma\\_guidelines\\_on\\_apms.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-51-370_qas_on_esma_guidelines_on_apms.pdf)

As part of the enforcement actions undertaken in 2020 in relation to the enforcement of completeness of issuers' periodic reports, 57 **recommendations** were issued to issuers pursuant to Article 68(5) of the Act on public offering, to submit, supplement or correct periodic reports. Those included recommendations:

- to ensure full application of ESMA Guidelines on APMs in connection with the identification of the following irregularities: failure to provide reasons for applying a specific APM, failure to define the measures used, failure to explain the changes in the presentation of financial indicators, lack of reconciliation for comparative data,
- to supplement the report with information on the appointment, composition and operation of the audit committee,
- to supplement the report with information about the remuneration paid and due to members of the management board and supervisory board,
- to supplement the report with an opinion of the supervisory board on the audit firm's disclaimer of report,
- to provide in periodic reports information about orders secured, with a commentary on the prospects for executing the orders;
- to provide a detailed description of risk factors in the management or directors' report,
- to exercise due care when presenting data, e.g. to indicate units for the economic values discussed and currencies for contracts and loans, and to ensure a correct presentation of the list of qualifying shareholders.

## 5 Review of issuers' inside information and enforcement actions

As of 31 December 2020, the requirement to publish inside information applied to **489 issuers**, whose securities are admitted to trading on a regulated market (national and foreign issuers of shares, issuers of covered bonds, local government units, issuers of investment certificates and issuers of bonds) and 460 issuers whose securities are admitted to trading on an alternative

trading system (issuers of shares and bonds).

As regards the issuers whose securities are admitted to trading on an alternative trading system, the supervision of inside information, in accordance with Article 68b(1) of the Act on public offering, is carried out by the organisers of an alternative trad-

### Monitoring of inside information

ing system (i.e. Warsaw Stock Exchange and BondSpot). To that end, the KNF Board cooperates with those organisers and intervenes when an ATS organiser has difficulty in obtaining explanations from issuers or identifies a material breach of obligations concerning inside information.

Due to the covid-19 pandemic, as part of the monitoring of inside information subject to publication, in 2020 special attention was paid to the immediate disclosure of all material information on the impact of the pandemic on the issuers' fundamental parameters, forecasts or financial position, as required by MAR<sup>15</sup>. In times of

uncertainty caused by covid-19 pandemic, it is essential that issuers assess whether any inside information is created when preparing periodic reports. For example, the need to identify and publish inside information may arise when issuers recognise impairment losses and/or provisions. If during the financial period an issuer notes significant changes in the revenue or costs in relation to previous reporting periods, the issuer should also assess such data for the existence of any new inside information.

In 2020, as part of the supervision of issuers' inside information, 67 **recommendations** were issued to stop infringements of information disclosure obligations, due to:

- a failure to identify the parties to contracts concluded by issuers, the financial terms or the subject-matter of contracts, specific contractual stipulations, information on the links with the counterparty, conclusion of annexes to contracts, difficulties in contract performance,
- a failure to make public information on: the submission of an application for the opening of restructuring or insolvency proceedings, the court decisions made in the course of restructuring and insolvency proceedings, material assumptions in the restructuring plan,
- Processes protracted (including processes related to the purchase or sale of assets, acquisition of other entities), in particular due to the failure to properly identify subsequent inside information, update information on the results of subsequent stages,

<sup>15</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and

Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

- a failure to identify the opening of negotiations as inside information, a vague designation of the subject-matter of the negotiations and the counterparty,
- a failure to provide details concerning the receipt of funds as part of the ‘anti-crisis shield’,
- a failure to properly notify the KNF Board of the fulfilment of the requirements for delay disclosure to the public of inside information,
- a failure to include complete and accurate information to allow the assessment of an event by reasonable investors, a failure to identify the information on deterioration in the financial position as inside information, inaccurate indication of the circumstances and reasons of such deterioration,
- the need to identify inside information in connection with preparing periodic reports.

The purpose of the enforcement actions taken in that respect was to ensure that inside information was made public by issuers in a manner which allows investors to access such information quickly and make a full, proper

and timely assessment of such information.

## **6 Selected areas of financial reporting that require attention**

### **6.1 Financial reporting**

Following the 2020 review, this report presents issues that require attention while drawing up financial statements for the financial year 2020 and subsequent reporting periods. This will include requirements covered by ESMA’s most recent common enforcement priorities.

In addition to topics directly related to the application of the relevant accounting standards, a particular issue is the European Single Electronic Format (ESEF).

The economic effects of covid-19 may have a material impact on the situation of many entities and, in consequence, on the key items presented in their financial statements. Proper recognition and disclosure

**European common enforcement priorities**

of such impact in financial statements is a challenge, especially considering the uncertainty and volatility in the business environment. With this in mind, when setting the European common enforcement priorities for 2020,<sup>16</sup> ESMA focused on the further need to ensure an appropriate degree of transparency on the impact of covid-19 on the issuer's business, applying, *inter alia*, the following standards. In this respect, we would like to point to the following aspects of:

- IAS 1 – *Presentation of Financial Statements*
- IAS 36 – *Impairment of Assets*
- IFRS 16 – *Leases*

### 6.1.1 Application of IAS 1

ESMA points out that in the current circumstances, considering the uncertainty as to the short-term perspective for many entities, financial statements for 2020 should include expanded disclosures about going concern.

Special disclosures in that respect are needed if management, having analysed the facts and circumstances that may have occurred also after the reporting period (cf. **paragraph 26 of IAS 1**), has significant concerns about the entity's ability to continue as a going concern (cf. **paragraph 25 of IAS 1**). Examples of such uncertainties may include reduced market demand for products or services, losing the main market or key clients, disruptions to supply chains, cost reduction programmes, limited access to financial resources, material changes in the existing financing agreements.

Disclosures on going concern at an appropriate level of detail must be ensured if the assessment of an entity's ability to continue as a going concern requires a significant judgement (cf. **paragraph 122 of IAS 1**), e.g. success of a project, successful rescheduling of repayment of financial liabilities. Disclosures on significant judgements are also required when having considered all relevant information, management concluded that there are no material uncertainties related to ability to continue as a going concern – in such case, the financial statements should include judgements and assumptions based on which the management has

**Information  
on significant  
judgements  
and estimation  
uncertainty**

<sup>16</sup> [ESMA32-63-951](#) Public statement 'Accounting implications of the COVID-19 outbreak on the calculation of expected credit losses in accordance with IFRS 9' of 25 March 2020, and [ESMA32-63-972](#) Public statement 'Implications of the COVID-19 outbreak on the half-yearly financial report' of 20 May 2020.



come to such conclusion (cf. **IFRS Interpretations Committee's agenda decision of July 2014 r.**<sup>17</sup>).

During its review, the supervisory authority may request information supporting the issuer's assessment (as at the date of the financial statements) of the ability to continue as a going concern, and assess the consistency of such information with the information presented and disclosed in the financial statements, including disclosures required under IFRS 7 on the exposure to liquidity risk and other financial risks.

In the uncertain times caused by covid-19, when preparing financial statements, in addition to the assessment of the ability to continue as a going concern, it is particularly important that users of financial statements have a fair and complete view of the entity's situation in the face of uncertainties and that they understand the key assumptions and judgments made in preparing the financial statements.

### 6.1.2 Application of IAS 36

In the case of many issuers, the negative impact of the covid-19 pandemic may result in at least one indication that an asset may be impaired (cf. **paragraphs 9 and 12 of IAS 36**), which involves the need to conduct impairment tests, and then may results in

It is extremely important that in that respect issuers provide detailed disclosures on: (a) the judgements that have the most significant effect on the amounts recognised in the financial statements (cf. **paragraph 122 of IAS 1**); (b) sources of estimation uncertainty that have a significant risk of resulting in a material adjustment to the carrying amounts of assets and liabilities within the next financial year (cf. **paragraph 125 of IAS 1**); (c) the sensitivity of carrying amounts to the methods, assumptions and estimates underlying their calculation (cf. **paragraph 129 of IAS 1**), and (d) the explanations how the covid-19 pandemic has affected those significant judgements and the level of estimation uncertainty, and how that has affected, in turn, individual items of the financial statements.

Issuers should disclose qualitative and quantitative information on the significant impacts of covid-19 so as to provide a clear and objective view of the areas affected by the pandemic and of the methods used to determine such impacts.

the recognition of impairment loss. Examples of such indications may include, for example, economic conditions worse than expected, closure of production plants or points of sale, assets becoming idle, limited demand, decline in prices.

**Assessment of an entity's ability to continue as a going concern**

**Disclosure of information on significant impacts of covid-19**

**Disclosures on covid-19-related uncertainties in impairment tests**

<sup>17</sup> In July 2014, the IFRS Interpretations Committee stated that *the disclosure requirements of paragraph 122 of IAS 1 would apply to the judgements made in concluding that there remain no material uncertainties related to events or conditions that may cast significant*

*doubt upon the entity's ability to continue as a going concern.* (<https://cdn.ifrs.org/-/media/feature/supporting-implementation/agenda-decisions/ias-1-disclosure-requirements-relating-to-assessment-of-going-concern-jul-14.pdf>)

Where it is necessary to conduct an impairment test or where it is required as part of the annual test (cf. **paragraphs 10 and 96 of IAS 36**), the test must be conducted. Due to the uncertainties related to covid-19, the assumptions made for the tests in previous periods should be updated, to reflect the latest available information and evidence. In practice it means that for the purpose of measurement of non-financial assets when preparing annual financial statements for 2020, the tests conducted for the last interim or annual reporting period must not be used without their proper modification.

Considering the uncertainty caused by covid-19, issuers should take into account higher levels of uncertainty in their impairment tests. In such cases, issuers should consider the importance of high-quality disclosures in relation to such uncertainty. It is essential to provide clear information on how, in connection with covid-19, issuers considered the risks and uncertainties concerning forecasts on cash

flows, discount rates and the long-term growth rate. In terms of measurement, in order to reflect that higher degree of uncertainty, issuers should consider modelling multiple possible future scenarios (cf. **paragraph A7 of IAS 36**), if it provides more relevant information to depict the possible future economic developments. Alternatively, when calculating the recoverable amount based on value in use, the additional uncertainty may be taken into account by further adjusting the discount rate, provided that the cash flows have not been already adjusted for the same risk (**paragraphs 55–57 of IAS 36**). Issuers should also disclose significant judgements and assumptions (cf. **paragraph 134(d)(i), paragraph 134(e)(i) of IAS 36 and paragraph 122 of IAS 1**), as well as details on the sensitivity of measurements to changes in key operational and financial assumptions caused by covid-19 (cf. **paragraph 134(f) of IAS 36 and paragraph 129 of IAS 1**).

### 6.1.3 Application of IFRS 16

Lessors that have granted a rent concession, especially sectors most affected by the impact of the covid-19 pandemic, should provide adequate disclosures reflecting the risks that the current market conditions may result in significant changes in the assets subject to operating lease agreements. It should be stressed that IFRS 16 requires the application of the disclosure requirements of IAS 16, IAS 36, IAS 38, IAS 40 and IAS 41 for assets subject to operating leases.

Lessees should disclose entity-specific qualitative and quantitative information specified in paragraph 59 of IFRS 16 concerning the nature and main characteristics of lease, future cash outflows to which the lessee is potentially exposed that are not reflected in the measurement of lease liabilities, including exposures arising from variable lease payments, extension and termination options, residual value guarantees and leases not yet commenced to which the lessee

is committed, or restrictions or covenants imposed by lease contracts. Lessees should also consider providing additional information indicated in paragraph **B48 of IFRS 16**, which will help users of financial statements to understand: the flexibility provided or particular restrictions imposed by

lease contracts, the sensitivity of reported information to key variables, and the exposure to other risks arising from leases, for example liquidity risks, deviations from industry practice, unusual or unique terms and conditions that affect a lessee's lease portfolio.

#### 6.1.4 Consolidation and business combination

The issues of consolidation and business combination (acquisitions) under IFRS are regulated in IFRS 10 – *Consolidated Financial Statements* and IFRS 3 – *Business Combinations*. The provisions of both standards use terms and concepts such as 'control' and 'business', defined in a manner which often requires an in-depth multi-aspect analysis on the part of the preparer the financial statements.

The assessment of control requires a very careful analysis of the guidance provided in Appendix B to IFRS 10, concerning power over the investee. The ability to direct the activities of another company is often related to, most of all, corporate rights arising from commercial law and the company's articles of association. Under IFRS 10, power exists not only in situations where an entity preparing financial statements has an absolute majority of votes in the governing body of another entity (e.g. shareholders' meeting). An investor may power over entity if he has a significant voting interest that could be less than half of the voting rights (cf. **paragraphs B41–45 of IFRS 10**). In particular, such situation may take place if:

- other shareholdings are widely dispersed (cf. **paragraph B43 of IFRS 10**),
- other investors are passive in nature as demonstrated by voting

patterns (cf. **paragraph B45 of IFRS 10**)

An important indicator for assessing power could be the practice related to meetings of shareholders/holders of a given entity. If the number of voting rights exceeds the combined number of voting rights of other investors actually taking part in the meetings – it is a very important indication that the reporting entity has power over an investee. In fact, the entity may participate in the meeting, make unilateral decisions and resolutions according to its will and block resolutions which are contrary to its intentions.

Another important indication of power is the right to influence the key management personnel of the investee. The reference to the right to appoint members of the key personnel can be found in many provisions of IFRS 10 (cf. **paragraph B12(b), paragraph B15(b), paragraph B18(a) and (d) of IFRS 10**). The mutual relationships between entities should be carefully analysed if an employee of the reporting entity is appointed to a management position (member of management board, director) in another entity.

**Voting rights and relationships between parties as conditions for power (IFRS 10)**

In the accounting for business combinations under IFRS 3, the main issue is the correct identification of the acquirer. Simple acquisitions of equity instruments of another entity usually do not give rise to any difficulty in the assessment of which of the entities is the acquirer. However, for complex transactions, one should use the guidance provided in **paragraphs B14–B18 of IFRS 3**. There are also rare cases of so-called reverse acquisitions, where the legal acquirer is the acquiree for accounting purposes. Indications of reverse acquisition may include cases where:

- after the business combination the shareholders (owners) of the legal acquiree have a significant voting interest in the formal acquirer (cf. **paragraph B15(a) and (b) of IFRS 3**);
- the management of the legal acquirer is composed of individuals who were previously associated

with, or managed the legal acquiree (cf. **paragraph B15(d) of IFRS 3**);

- the size of the legal acquiree is greater than the acquirer (cf. **paragraph B16 of IFRS 3**).

For complex business combinations, the identification of the acquirer may be complicated and largely based on judgement. However, if a number of circumstances indicate that the acquirer as defined in IFRS 3 is the legal acquiree – then the transaction should be recognised as a reverse acquisition. The standard expressly states that such operations may occur when a public entity acquires another entity (cf. **paragraph B19 of IFRS 3**). It is necessary to consider the occurrence of reverse acquisition when a public company acquires shares in a much bigger business entity and such transaction involves significant changes in the shareholding structure of the public company and its statutory bodies.

## Conditions for identification of reverse acquisition

IFRSs, including IFRS 3 and IFRS 10, require judgement while accounting for a number of events and transactions. Discretion is allowed for the purpose of making judgements but it is limited by the purpose, principles and detailed guidelines of the respective standard, and the examples provided in the respective provisions. If the fulfilment of a series of conditions specified in the standard indicates the occurrence of reverse acquisition or control over another entity, then a different judgement may turn out to be unfounded.

## Judgements on consolidation and business combination

### 6.1.5 European Single Electronic Format – ESEF

In accordance with the provisions of the Transparency Directive<sup>18</sup> and regulatory technical standards (RTS)<sup>19</sup> on the specification of a single electronic reporting format (ESEF), issuers

whose securities are admitted to trading on a regulated market in the European Union are required to prepare their annual financial reports in ESEF for financial years beginning on or after 1 January 2020.

Due to covid-19 and the related difficulties, the European Union and Member States concerned are reviewing a proposal to postpone the obligation to prepare reports in accordance with the ESEF requirements by a year, leaving the option for reporting in that format already for 2020. Irrespective of the obligation waiver, reporting in ESEF already in 2021 may be a very valuable experience, which will facilitate the migration to the new reporting format. The UKNF encourages issuers to use ESEF already in relation to the annual reports for 2020 prepared in 2021.

**Extension  
of the deadline  
for reporting in  
ESEF**

According to the RTS, issuers will prepare their annual reports and consolidated annual reports in XHTML format. Reports prepared in that format can be opened and viewed using a standard web browser. In relation to consolidated annual reports, the RTS require that the primary financial statements<sup>20</sup> in IFRS consolidated financial statements be marked up (tagged) in accordance with the ESEF taxonomy, based on IFRS Taxonomy and using the XBRL markup language.

The XBRL tags are to be embedded in the XHTML document using Inline XBRL (iXBRL) specification. Furthermore, according to the RTS, starting from 1 January 2022, notes to consolidated financial statements will also be marked up using a standard of block tagging. This means that whole sections of notes will be marked up using single taxonomy elements.

The new RTS on ESEF require issuers to perform an in-depth analysis for the presence, in ESEF taxonomy, of the

<sup>18</sup> Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

<sup>19</sup> Commission Delegated Regulation (EU) 2018/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to

regulatory technical standards on the specification of a single electronic reporting format (hereinafter: RTS on ESEF)

<sup>20</sup> A statement of financial position (balance sheet), a statement of profit or loss and other comprehensive income (income statement, profit and loss account), a statement of cash flows, a statement of changes in equity.

tags needed to identify specified items in the primary financial statements<sup>20</sup>. Such analysis is intended to prevent unnecessary formation of taxonomy extensions, which may only be created if none of the taxonomy elements corresponds to the given item of the financial statements. It should also be noted that taxonomy extension elements must be created in accordance with the principles set out in the RTS and the ESEF Reporting Manual<sup>21</sup> available on the UKNF website.

A fundamental issue in reporting in ESEF is that according to Article 3 of RTS, issuers shall prepare their whole annual financial reports in XHTML format, so all the elements of the consolidated and individual annual report should be prepared in XHTML format. Issuers may include all the elements of the report in one XHTML file or prepare each element of the report as a separate XHTML file. Financial statements prepared in accordance with the new requirements replace the statements prepared so far in other formats (mostly PDF). This means that signed consolidated financial statements marked up in Inline XBRL format, (being an element of a consolidated annual report) should be published on the issuer's website (Article 63 of the Act on public offering). Certainly, the issuer may choose to publish on his website documents in PDF format reflecting the periodic report. At the same time, if an issuer publishes on the website documents related to annual reporting other than those which have been published via the ESPI system, the issuer should

publish a notice that they do not represent elements of the annual reports already published.

According to the current regulations, auditors will audit financial statements prepared in XHTML format. The scope of auditor's review of each report in ESEF, including reports marked up using the Inline XBRL standard, covers the verification of correctness of the format applied as well as the completeness and correctness of assignment of tags to each item of consolidated financial statements.

It is also important to ensure that appropriate elements of annual reports are signed by persons obliged to sign them. Elements of the published annual report and consolidated annual report, respectively, which under relevant regulations must be signed with an electronic signature include: financial statements, management or directors' report, and audit report.

The obligation to prepare reports in XHTML format in accordance with ESEF applies to all issuers of securities listed on regulated markets. Yet, an issuer that submits financial statements in ESEF to ESPI will not have to fill out the forms for the reports prepared in the previous formats (R, RS and SAR).

In 2020, the UKNF worked to adapt the existing ESPI system to the adoption, validation and publicity of ESEF reports. New forms were made available for the purpose of reporting in ESEF: the SRR form for consolidated annual reports containing marked up financial statements prepared accord-

<sup>21</sup>[https://www.knf.gov.pl/knf/pl/komponenty/img/Esef\\_reporting\\_manual\\_68573.pdf](https://www.knf.gov.pl/knf/pl/komponenty/img/Esef_reporting_manual_68573.pdf)

ing to IFRS, the RR for non-consolidated (separate/individual) annual reports, and the SRR-I form for consolidated annual reports containing financial statements prepared according to standards other than IFRS. Issuers should make sure they choose the right form to submit their annual report.

The adaptation of ESPI to the ESEF requirements marks the beginning of a new reporting platform for the exchange, between issuers and the supervisory authority, of user-friendly information based on modern information technologies.

Additionally, in 2020, representatives of the UKNF were engaged in EU working groups monitoring the preparation for the implementation of ESEF. The outcomes of that work included e.g.

determination of the scope and procedures for validation and verification of financial statements in ESEF, and analysis of specific cases on application of ESEF. On national level, in October 2020 the UKNF conducted tests of reporting in ESEF for the first, limited group of issuers. In November the UKNF organised a webinar to present the rules of reporting in ESEF and the conclusions on the tests. Due to a very strong interest, the tests of reporting in ESEF were also conducted in January/February 2021. Additionally, the UKNF communicates statements and explanations on detailed issues regarding reporting in ESEF, both on an individual basis (by giving answers to questions from individual issuers) and as part of public communication (Q&As, statements and communications from supervisory authorities) on the KNF website.



## 6.2 Non-financial reporting

As part of its enforcement priorities related to non-financial statements for 2020<sup>22</sup> ESMA notes that the covid-19 pandemic has also had impact on issuers' activities in relation to non-financial matters. It is therefore important to provide transparency, in non-financial statements, on the consequences of, and the mitigating actions taken by issuers in relation to, the pandemic.

Another area which requires appropriate disclosures of non-financial information for 2020 are the social and employee matters, in particular:

- social inclusion and diversity in the light of various calls from different parts of the civil society to ensure equality and to fight racism,
- observance of the occupational health and safety rules during the covid-19 pandemic, the issuer's policy on health and safety, and the methods for measuring progress in its implementation,
- the resilience of IT infrastructures and the issuer's ability to prevent and manage cyberattacks in connection with the increased use of home-working arrangements.

ESMA also emphasises the importance of disclosures on the business model and value creation. In that area, issuers are expected to:

- provide information about their strategy and methods of its implementation,

- provide clear, understandable and factual explanation of the functioning of the issuer's business model, its expected future development, its impact on non-financial matters and the effects of those matters for the issuer's business model, the degree of resilience of the business model to the consequences of exceptional events such as the covid-19 pandemic,
- disclose their definition of value creation and to explain the link between their process of value creation and their objectives relating to non-financial matters,
- highlight and explain when material changes to their business model and their value creation ability have taken place in the reporting period,
- disclose the impact of the pandemic on the business model and value creation over the short, medium and long term and on the policies put in place to address the non-financial matters.

Additionally, ESMA reminds issuers of the need to disclose risks related to climate change. Issuers should disclose, where material, both physical and transition risks related to climate change with reference to different time horizons as well as any measures put in place to prevent such risks from materialising and to mitigate their effects.

<sup>22</sup> [https://www.esma.europa.eu/sites/default/files/library/esma32-63-1041\\_public\\_statement\\_on\\_the\\_european\\_common\\_enforcement\\_priorities\\_2020.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-63-1041_public_statement_on_the_european_common_enforcement_priorities_2020.pdf)



## 7 Summary

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The purpose of publication of issuers' information is to provide stakeholders with information that is useful in making investment decisions. Regulated information should provide an appropriate level of detail, which will help to fully understand the impact of a given topic on the issuer's activities. It is particularly useful to take into account information that is entity-specific. In the current situation, it is particularly important to consider any judgements, estimates and disclosures in the areas where the impacts of pandemic are expected.

It should be remembered that:

- including many pieces of irrelevant information reduces the ability to understand the report,
- the fair and comprehensible reporting may require disclosure of additional information which is not explicitly required by specific provisions,
- boilerplate language should be avoided,
- facts and circumstances that require a particular analysis and evaluation by the management may constitute material information expected by users of regulated information.