

EFRAG's public consultation on the exposure drafts on sustainability reporting standards for SMEs

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In the midst of the so-called "constituent" phase regarding business information related to sustainability in which we find ourselves, social economy enterprises - first of all cooperatives - present themselves with a completely peculiar position, characterized at the same time by the relevance of the social function with respect to the principles of sustainability, but by the substantial lack of recognition of their specificity.

Yet, unlike other companies, cooperative companies are governed by a system that prevents the risks associated with so-called sustainability issues, being bound to the pursuit of the social function and the mutualistic purpose, the so-called "open door" and the pre-eminence of the person (especially in the regimes of admission and exclusion of members), as well as a mandatory principle of democratic functioning (which is associated with a series of legal clauses that prevent the control of speculative subjects and interests, such as for example the significant limits of power placed in the hands of the financing members). Furthermore, they present stringent constraints of non-profit and prevailing operations towards the shareholders (see for example articles 2514, 2512 and 2513 of the Civil Code).

In light of these principles and legal prescriptions, the board members and the audit committee, in their respective reports included in the annual report (Management's discussion and analysis and audit report) provided for by the articles. 2428 and 2429 of the Italian Civil Code, must specifically indicate the criteria followed in corporate management to concretely pursue the social function and the mutualistic purpose. Added to this is that, from the point of view of the collective protection of workers, the system contains completely peculiar rules - unknown to other normed sectors - aimed at ensuring the equality and dignity of workers' remuneration treatments (see art. 3, L. 142/2001, art. 7, c. 4, DL. 248/2007). Furthermore, all the aforementioned profiles, in addition to representing legal requirements of structure and functioning, constitute the object of an administrative supervision system (see Legislative Decree no. 220/2002) which provides for periodic audits for all cooperatives at least once every two years (for the majority, once a year) and which, in the event of illicit activity or insolvency of the company, results in the sanctions of the commissioner's management (art. 2545-sexiesdecies, Civil Code), in the dissolution by act of the authority (art. 2545-septiesdecies, Civil Code) or in judicial or compulsory administrative liquidation (art. 2545-terdecies, Civil Code).

Given the aforementioned peculiarities of structure, functioning and control enshrined directly in the law, cooperative societies and social enterprises do not have a socially "neutral" purpose and function, but one that is strongly characterized from a social and democratic governance perspective. Therefore, the rigid legal model of functioning of the social economic entity is able (without prejudice to the commission of illicit acts or abuses) to prevent the risks connected to all sustainability issues concerning the so-called social and governance factors (the social and government of 'acronym ESG). This authorizes the recognition of these companies with a completely peculiar status in the discipline of so-called sustainability reporting in the relevant sustainability standards.

Furthermore, within the framework of virtuous practices or behaviors implemented by businesses (even profitable ones) and investors, financial investments in cooperative societies and social enterprises (in corporate form), must necessarily be included and valorised (excluding donations and contributions).

Added to this we hold that, in any case, both the regulation and the development of the standards, must valorise the existence of any limits to the distribution of profits (connected to the mutualistic nature or to the nature of the activities consisting of SGEI – Servizi di interesse economico generale, i.e. services of general economic interest), as well as the possible existence of mechanisms for involving workers, users and communities directly interested in the governance of the company or forms of protection of the rights of stakeholders who are eligible to be admitted to the cooperative business.

Consequently, as a response to the public consultation on the EXPOSURE DRAFTS ON SUSTAINABILITY REPORTING STANDARDS FOR UNLISTED SMEs, we suggest the following changes:

1. point 15, where the principle of non-duplication of information is established ("To avoid publishing the same information twice, the company may refer in its sustainability report to information published in other documents accessible at the same time as the sustainability report sustainability") it is appropriate to make express reference "also to the documentation relating to the positive outcomes of the mandatory public controls on profiles of immediate implementation of the sustainability objectives (e.g. the verification by inspectors or public auditors of the democratic or worker/users-participated governance)";
2. point 22, regarding Disclosure B2 - Practices for the transition towards a more sustainable economy, the various exemplifications must include:
 - a. "the effective participation of workers, users or other interested parties or communities in governance";
 - b. "the financial investment in the capital or assets of social economy entities referred to in the Council Recommendation on the development of the framework conditions of the social economy of 29 September 2023 (excluding donations and contributions)";
 - c. "any limits to the distribution of profits connected to the mutualistic nature or to the nature of the activities consisting in services of general economic interest (SGEI)"

[they are all profiles that constitute immediate implementation of the sustainability objectives and which moreover have a material financial relevance that can be immediately quantified and translated into monetary indicators];
3. point 24, regarding Disclosure B3 - where it is said that "The company must indicate its total energy consumption in MWh, with a breakdown between..." it would be appropriate to propose a measurement in Joules, since the MWh is a second level conversion measure;
4. point 36, regarding Disclosure B 10 - Workforce - Remuneration, collective bargaining and training, it is necessary to add a letter that commits the company to inform on "the possible existence of mechanisms for involving workers, users and the communities directly interested in the democratic governance of the company, as well as mechanisms for protecting the rights of stakeholders who are eligible to be admitted to the cooperative business ";

5. point 37, on the subject of B 11 - Workers in the value chain, interested communities, consumers and end users, it is necessary to specify that the disclosure must also be provided with regard to the "positive impacts deriving from the existence of worker involvement mechanisms , users and communities directly interested in the democratic governance of the company, as well as mechanisms for protecting the interests of workers, users and communities interested who are eligible to be admitted to the cooperative business ";
6. point 58, on the subject of Disclosure N 1 - Strategy: business model and sustainability initiatives, among the key elements of the strategy and business model, the introduction of an additional letter which refers to any of the following points is necessary:
 - a. "existence of institutions or mechanisms for the democratic involvement of workers, users or other interested parties or communities in governance; existence of financial investments in the capital or assets of social economy entities referred to in the Council Recommendation on the development of the framework conditions of the social economy of 29 September 2023 (excluding donations and contributions); existence of limits to the distribution of profits connected to the mutualistic nature or to the nature of the activities consisting of services of general economic interest (SGEI)";
 - b. existence of ethical reference principles adopted by the company, which may include sustainability considerations" - reference is made to cooperative principles, among which intergenerationality, interest in the community, information, training and education of members, which inspire cooperative businesses globally (see Cooperative Principles @ International Cooperative Alliance website).
7. point 65, on the subject of Disclosure N 4 - Main stakeholders, it is necessary to "specify whether the involvement is merely consultative/informative or it is actually accompanied by democratic governance mechanisms of the company and whether there are mechanisms to protect the interests of workers, users and communities interested who are eligible to be admitted to the cooperative business ";
8. point 67, on the subject of the Commercial Partner Module, a topic emerges regarding the treatment of the consortium forms, typical of cooperative enterprises; Are the members of a consortium to be considered suppliers and therefore fall within Scope 3? Or is the consortium a commercial company like any other, and is not obliged to report the impacts, for example, of the various construction sites acquired through the consortium but then carried out, as work, by the individual member?
9. point 84, on the subject of Disclosure BP 10 - Balance between professional and private life, the company is asked to "...disclose the percentage of its employees: (a) who are entitled to take advantage of leave for family reasons, with a breakdown by gender"; it is necessary to remember that it is not possible for a company to have the data of the "entitled persons" because it is sensitive personal data, which is not communicated and which can only be indirectly deduced from women who go on maternity leave. Other proxies could be proposed



to detect the company's contribution to the balance between professional and private life, which go beyond hours of leave for family reasons.