

Lawyers, Accountants and Financial Analysts: The “Architects” of the New EU Regime of Corporate Accountability

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Abstract

International accounting rules are increasingly under pressure as they are considered inadequate to respond to major changes in the way business is conducted, how it creates value and the context in which operates. The paper identifies and juxtaposes two regulatory trends in this re-definition of traditional accounting: ‘accounting for intangible assets’ and ‘corporate social accountability’. They are partially overlapping and both demand to go beyond accounting for physical and financial assets. However, they are underpinned by different rationales and supported by competing professional claims. Deploying a reflexive socio-legal approach, the article outlines a preliminary symbolic ‘archaeology’ of these regulatory trends. Drawing on interviews and documents analysis, it highlights the role of three professional communities in shaping regulatory changes: international accountants, activist-lawyers and financial analysts. Competing for the definition of what counts and what has value, they are generating an intriguing debate about the boundaries between business and society.

Key words

Regulation; accounting; sustainability; non-financial reporting; professions

Resumen

Las normas internacionales de contabilidad están bajo una presión cada vez mayor, ya que se consideran inadecuadas para responder a los grandes cambios que se están produciendo en la forma en que se dirigen las empresas, cómo se crea valor y el contexto en el que se opera. El artículo identifica y yuxtapone dos tendencias reguladoras en esta redefinición de la contabilidad tradicional: "contabilidad de los activos intangibles" y "responsabilidad social empresarial". Se superponen parcialmente y ambas exigen ir más allá de la contabilidad de los activos físicos y financieros. Sin embargo, están respaldadas por distintas razones y cuentan con el apoyo de profesionales competentes. Implementando un enfoque socio-jurídico reflexivo, el artículo describe una "arqueología" preliminar simbólica de estas

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tendencias regulatorias. A partir de entrevistas y documentos de análisis, se destaca el papel de tres comunidades profesionales en la formación de los cambios regulatorios: contables internacionales, abogados-activistas y analistas financieros. Al intentar definir lo que cuenta y lo que tiene valor, están generando un debate interesante sobre los límites entre empresa y sociedad.

Palabras clave

Regulación; contabilidad; sostenibilidad; informes no financieros; profesiones

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1. Introduction: Explaining the global emergence of non-financial accounting

During the last three decades, we have witnessed major changes in the way business is conducted, how it creates value and the context in which operates. This may be attributed to a number of global developments, including: globalization processes and resulting interdependencies in economies and supply chains; advances in technology; rapid population growth and increasing global consumption; growing societal expectations and regulatory activities in response to financial crises and corporate scandals. Against this background, it has been argued that the current level of disclosure about the performance of corporate management is utterly inadequate: short-term oriented; disconnected; narrowly focused on financial and tangible assets (IIRC 2011). In particular, despite the growing need for monitoring critical non-financial risks and opportunities of their businesses (Deloitte Touche Tohmatsu 2004, Eccles and Krzus 2010), non-financial information is still largely excluded from corporate reporting requirements. In effect, it has been demonstrated that traditional financial statements only explain a small and decreasing percentage of large companies' market value (see Corrado and Hulten 2010, Ocean Tomo 2015). Indeed, many authors would agree with the authoritative position of Robert Howell who pointed out on *Fortune* that "the big three statements – income statement, balance sheet and statement of cash flow – are about as useful as an 80-year-old Los Angeles road map." (see Gazdar 2007, p. 13) Furthermore, traditional financial accounting standards do not respond to growing demands for information about the social and environmental impact of large corporations. As noted by Mitchell and Sikka (2005, p. 2): "Corporations dominate all aspects of our lives. Their power affects the quality of life, food, water, gas, electricity, seas, rivers, environment, schools, hospitals, medicine, news, entertainment, transports, communications and even the lives of unborn babies... Unaccountable corporate power is damaging the fabric of society, the structure of families, the quality of life and even the very future of the planet.". Even ACCA, the Association of Chartered Certified Accountants, pointed out that, "The advent of the global financial crisis has shone an unforgiving light on the purpose and effectiveness of companies' reports." Therefore, it provocatively questions: "Is there still a place for the traditional annual report?" (ACCA 2012)

As a response to this failure of traditional accounting regulation, during the last years, we are witnessing growing political, market and social pressures on standard-setters and law-makers to broaden accounting rules to include new forms of so-called 'non-financial reporting' (NFR).¹ In some jurisdictions, particularly in the EU, this movement has led to the introduction of mandatory requirements for business reporting regarding various non-financial aspects of corporate performance. Even more radically, there is an ongoing regulatory debate on the need for 'integrating' financial and non-financial reporting, bringing greater cohesion and efficiency to the reporting process.² This debate is particularly relevant because research has shown that different reporting models affect corporate behaviour, (Burchell *et al.* 1980, Hopwood 1983, Hines 1988, Miller 1994) therefore suggesting that changes in accounting regulation would have a significant social, economic and environmental impact. (Corrado and Hulten 2010, Ioannou and Serafeim 2011) However, despite a growing consensus for expanding the limits of financial reporting standards, there is still much disagreement on what this will eventually entail. What should be the content and purpose of non-financial

¹ This is a business practice which has been variously defined over time (extra-financial disclosure; ESG reporting; etc). The term 'Non-Financial Reporting' (NFR) is the one generally adopted by the EU Commission; this is the reason why the term is adopted in this paper. See, in particular, the European Parliament adoption, on 15 April 2014, of the directive on disclosure of non-financial and diversity information by certain large companies and groups (European Council 2014). See also the Single Market Act (European Commission 2011a); the 2011 CSR Communication (European Commission 2011a).

² See in particular the initiative taken by the International Integrated Reporting Council (IIRC) to develop a globally accepted framework for integrated financial and non-financial reporting.

disclosure? Whose information needs should the new requirements address (e.g. shareholders; suppliers; employees; regulators; civil society)? Which non-financial Key Performance Indicators (KPIs) should be included in business reports? How they could be integrated with existing financial accounting requirements?

The paper outlines the preliminary findings of broader ongoing research exploring the current transformations of corporate social accountability regulation and the role of financial analysts, international accountants and activist-lawyers. It aims to contribute to this topical debate in two original ways. First, most of the literature tends to focus on relatively isolated components of NFR (such as environmental reporting; carbon disclosure; human rights; Intellectual Capital (IC); human capital reporting; etc.), fragmenting the policy and academic debate and slowing the development towards effective business' integrated reporting. On the contrary, the paper suggests a 'holistic' approach to NFR regulation, seen as historically and socially constructed through struggles and conflicts. Therefore, it outlines a preliminary attempt to perform a symbolic 'archaeology' of NFR, clearly identifying two rather distinct underlying narratives that attempt to go beyond conventional financial accounting and construct our understanding of NFR: *corporate social accountability* and *accounting for intangible assets* (section 2). Second, deploying a Bourdieusian reflexive *sociology of the internationalization of law* (Bourdieu 1986, Madsen and Dezalay 2002, Madsen 2006, 2011) (section 3), the article further explores these narratives, focusing on the role of agency and symbolic struggles in the EU-European debate on NFR policy (section 4). This reflexive theoretical framework is originally applied to study the role of three professional élites: international accountants; activist-lawyers; financial analysts. Underpinned by different rationales, coming from Law, Accountancy and Finance, these élites express competing professional claims over the new field of accounting for non-financials. It is worth to stress that these categories should be understood as 'broad churches', transnational communities that are constantly being reconstructed and serve as public arenas for discussion and, sometimes, conflict (Djelic and Quack 2010).

The paper concludes underlying some opportunities for future research in this emerging field. In effect, this preliminary effort should lead towards more in depth empirical investigations at the actor-level, which might consider the following questions: who are the key agents? What is their position in the field? What kind of symbolic or institutional resources they can mobilise? How did they succeed in shaping the regulatory debate? Considering the central role of large corporations in our societies, it is urgent to problematize and re-radicalize our often taken-for-granted, materialistic and under-socialized definition of business' value-creating processes.

2. Juxtaposing two regulatory strands: 'corporate social accountability' and 'accounting for intangible assets'

Historically, two different regulatory approaches have emerged, underpinning the recent trend towards NFR regulation. On the one hand, there is a rationale for mandatory extra-financial reporting related to questions of 'corporate social accountability' that have been discussed ever since the first emergence of the modern joint-stock corporation³ but are becoming ever more relevant today (see Utting and Marques 2010, Ireland and Pillay 2010, Soederberg 2010). The rationale for social and environmental accounting has always been the concern over the power and influence of corporations on many aspects of our lives. As Prof. Rob Gray has pointed out, "accountability is based on the principle of *rights to information* – rights which derive from a number of sources: legal, quasi-legal, moral and so on." The introduction of this obligation is therefore *not strictly due to economic or*

³ The need for controlling corporate misbehaviour and excessive power had been underlined even by the father of modern political economy, Adam Smith in *The Wealth of Nations* (1776).

technical reasons but to the fact that “power and responsibility need to be matched in a fair society. This matching is ensured by the demos who, in turn, require information on which to make the appropriate judgments. The *accounts* of organisations are one of these sources of information and without these accounts, democracy is hollow, the demos is powerless and, depending on the circumstances, the power of the (non) accountable organisations significantly outstrips their responsibility.” (Gray 2005, p. 7)⁴ Seen from this perspective, NFR might constitute a fundamental tool for empowering social stakeholders, just as mandatory financial disclosure empowered dispersed shareholders (Bebbington *et al.* 2014). According to this argument the law should require large corporations to provide relevant and independently verified information about their impact on the environment and society. During the 1990s, a slightly different point of view has emerged related to the urgency of subverting the current unsustainable path towards ecological collapse. As Bulkeley and Newell pointed out, given their size, capacity and power, multinational corporations often have a more significant role to play in the global governance of sustainability than many States, suggesting a “very different geography of responsibility” (Bulkeley and Newell 2010, p. 2).

However, historically there has been also a second approach towards the regulation of NFR, related to broadening the traditional boundaries of accounting to include extra-financial information relevant to explain corporate value-creating processes. The central argument here is that the current definition of what should be included in the annual report was developed for an ‘industrial age’, focusing on physical and financial assets. It has been argued that the knowledge-based economy in which we live requires more attention to ‘intangible assets’, such as the intellectual capital, brands, reputation, know-how, human resources and organizational capacity of a business. Rather than just a standardized account of loss and profits, these new forms of so-called IC (Intellectual Capital) reporting have been designed to communicate its business model; its ‘uniqueness’ as compared to its competitors; and its future risks and opportunities. In fact, evidence has been provided that, during the past 25 years, the capacity of traditional accounting (focused on tangible and financial assets) to explain the market value of large companies has constantly decreased, in favour of intangible assets. It has been claimed that this represents a structural shift that characterises contemporary capitalism, signalling that the process of capital accumulation has radically changed. Therefore, missing out relevant information about the wide range of ‘intangible’ assets, international accounting standards are leaving long-term, institutional investors ‘in the dark’, unaware of critical interdependencies between strategy, governance, operations and financial and non-financial performance (Deloitte Touche Tohmatsu 2004). For instance, considering the value of the S&P 500 Index listed companies, it has been calculated that, until the 1980s, the traditional financial reports used to account for about 80% of their market value; in 1990, this percentage had already decreased to 55% and currently it is around 16% (Ocean Tomo 2015).

The two arguments outlined above gave rise to rather distinct strands of regulatory initiatives that are partially overlapping and only recently converging. On the one hand, considering the EU regulatory arena, there has been a long-standing debate over corporate social accountability rules. During the last decade, we are witnessing a clear acceleration of the process of structuration and codification, which is still ongoing. In particular, the state has become more active in its regulatory role, to ensure adequate levels of societal *and environmental risk prevention* (see KPMG *et al.* 2010, 2013, 2016). While in the 1990s the debate focused on strictly voluntary business disclosure of information about corporate social and environmental performance, during the 2000s it has gradually shifted to stress the alternatives between mandatory and voluntary approaches. Finally, after the 2008 financial

⁴ Emphasis added.

crisis, we have seen the overcoming of this deadlock and the prevalence of a so-called 'smart mix' of voluntary *and* mandatory approaches (Monciardini 2013). Today, the choice is not anymore about whether corporate sustainability reporting should be regulated but how it will happen. For instance, since 2008, several EU countries (including the UK, Sweden, Spain, Denmark and France) moved towards the regulation of social and environmental reporting⁵. Furthermore, at the EU level there have been a series of initiatives, including a new Communication on CSR (European Commission 2011a) and a new directive on non-financial reporting (European Council 2014). While more pronounced in the EU, this regulatory trend is taking place worldwide. The governments of China, India and South Africa⁶, among others, have recently strengthened their regulation in this field and several regulatory initiatives have been developed transnationally by powerful (both private and public) standard-setters (such as the ISO 26000; GRI Framework; Carbon Disclosure Project; OECD Guidelines for Multinational Enterprises; Ruggie Framework on business and human rights, etc.). It is possible to affirm that there is a strong tendency towards the creation of a multi-layered regime of corporate social accountability structured over time as a combination of mandatory and voluntary; national and global; market-driven and legislative-driven approaches (see McBarnet *et al.* 2007, KPMG *et al.* 2013, 2016). This wealth of codes, guidelines, standards and laws raises new questions about their emergence, the relation among the different levels of regulation and the role of the actors involved.

Still in its infancy is the second, largely market-driven, regulatory approach to IC reporting, which aims to include information about 'intangible assets' in international accounting standards. The latter is closely related with the growing relevance of Intellectual Property Rights (IPR) and business organizational and technological innovation (European Commission 2013a). Within the EU regulatory arena, pioneering initiatives for the codification of Intellectual Capital (IC) statements started in the period 1997-2004 in Denmark and in the Nordic countries (e.g. 'PIP Project'; Nordika Project Guidelines; Danish Agency for Trade and Industry (DATI) Guidelines 2003). This preparatory work was at the origin of the 2002 decision of the Austrian Government to mandate IC reports for universities and of the 2004 "*Wissensbilanz – Made in Germany*", an IC reporting Framework and Guidelines for an intellectual capital report which was initiated by the Federal Ministry of Economy and Labour (2004) in Germany⁷. In 2007, the French Ministry of Economy and Finance, with the support of financial analysts and Big 4 firm Ernst & Young, created *l'Observatoire de l'Immateriel*, with the aim of measuring and communicating the value of intangible assets. Relevant initiatives have been taken also by EFFAS (European Federation of Financial Analyst Societies), creating the

⁵ In Denmark, the 2009 amendment to the Danish Financial Statement Act, Section 99, demands large business entities to disclose information on the social and environmental impact of their activities on a comply-or-explain basis. In France, the 2001 NER was enlarged a first time through the Grenelle I Act (Article 53, 9 August 2009), a law primarily aimed to respond to climate change and new ecologic challenges. Companies with more than 500 employees in high-emitting sectors have to publish their amount of carbon emissions. Article 83 of the Grenelle II Act (12 July 2010) further enlarged the New Economic Regulation (NER). Currently, all companies above 500 employees have to present a social and environmental report (around 2500 companies). Subsidiaries controlled by parent companies are also required to disclose information. In Spain, in 2011, after a long consultation process, the Sustainable Economic Law (LES) was approved. Article 36 encourages listed companies to disclose non-financials and specifies that they should always state whether information have been audited or not. In Sweden, since 2007, the law mandates state-owned companies to publish a sustainability report in accordance to the GRI Framework.

⁶ In China, since 2008, all Chinese State-owned enterprises should establish a CSR information reporting system, on the basis of the Guidelines on fulfilling Corporate Social Responsibilities issued by SASAC. In India, since 2012 the Security Exchange Board (SEBI) requires listed entities to submit a Business Responsibility Report as part of their Annual Report. In South Africa, since 2010, the Johannesburg Stock Exchange (JSE) requires that all listed companies produce an integrated report, on a "report or explain" basis. For a review of global regulatory and policy trends, see the *Carrots and Sticks* reports regularly published by KPMG *et al.* (2010, 2013, 2016).

⁷ The goal of this was to adjust intellectual capital reporting methodology to the German situation and to test it under real conditions as they are faced by small and medium-size enterprises (SMEs).

EFFAS Commission on Intellectual Capital) in 2006, and by the EU Commission.⁸ As for sustainability reporting, relevant IC reporting regulatory initiatives exist also outside the EU (e.g. 2005-08 Japanese Ministry of Economy (METI) 'Guidelines on IC reporting') and at the transnational level (e.g. World Intellectual Property Organization; World Intellectual Capital Initiative; OECD 2008; IASB, of the Practice Statement on Management Commentary). Overall, in the coming years this strand is likely to be strengthened also considering the increased interest of statistical agencies at national and international level (e.g. U.S. Federal Reserve, UK Statistical Office, Eurostat) in so-called "growth accounting", aimed at including some intangibles in GDP measurement.⁹

As the pressure for integrating financial and non-financial disclosure is growing (e.g. IIRC 2013), the co-existence of two rather distant approaches to what NFR means should be openly acknowledged and discussed. In fact, these different approaches to NFR carry major political, social, ethical and economic implications. However, most of the current regulatory debate is grounded in managerial and law-and-economics literature that tend to take accounting rules for granted, as an "apolitical realm. An autonomous force that, as such, needs no further explanation." (van Apeldoorn *et al.* 2007, p. 8). The following two sections will outline a reflexive socio-legal analytical framework (section 3) that will be deployed to explore the current struggles for regulating NFR in Europe (section 4). The focus of this exploratory analysis will be on the agency of three types of professional élites: international accountants; lawyers-activists and financial analysts.

3. Linking 'conflicts' and 'structure'. Towards a reflexive socio-legal approach

The framework deployed by this research to explore the emergence of NFR regulation in Europe draws on a Bourdieusian reflexive socio-legal approach. More specifically, it builds on Prof. Mikael Rask Madsen's *reflexive sociology of the internationalization of law* (Bourdieu 1986, Madsen and Dezalay 2002, Madsen 2006, 2011). The aim of this approach is to cross the disciplinary lines that characterise the current literature on NFR regulation. In fact, any comprehensive exploration of NFR has to be adjusted to the indeterminacy of the research object, producing cross-pollination between the many components of NFR without being hampered by pre-defined distinctions between 'social' and 'economic'; 'private' and 'public'; 'law' and 'politics'; 'national' and 'international'. A Bourdieusian reflexive 'polycentric approach' is well equipped to explore regulatory transformations, not excluding any of the forces involved in producing these changes. It contributes, above all, to overcoming the main challenge that characterises the current literature on the regulation of sustainability reporting, namely, *the definition of the object of study*.

Drawing on Madsen (2006), the paper contends that the most significant contribution that a Bourdieusian approach can offer for this socio-legal study of NFR regulation does not consist in the selective translation of concepts such as field, habitus and capital but in their *use as a holistic set of 'thinking tools'* (tools which are already widely used in Sociology). However, their explanatory potential can only reveal itself by understanding such tools in conjunction with Bourdieu's underlying epistemological assumption: the notion – and the practice – of a *reflexive sociology*. This 'predisposition' is missing in many recent applications of Bourdieu's concepts to the areas closely related to NFR (e.g. management; accounting; regulation studies), running the risk of producing inflexible and

⁸ The latest example has been the 2013 Expert Group on IP Valuation, focused on assessing the prospective introduction of IC accounting for SMEs, whose final report has been published in 2013. (European Commission 2013a)

⁹ For instance, on July 2013 the US Bureau of Economic Analysis released, for the first time, GDP figures categorizing research and development as fixed investment, joining software in a new category called 'intellectual-property products' (see Bughin and Manyika 2013).

structuralist interpretations of institutional change and reproduction (see Monciardini 2013). Therefore, this section will introduce these epistemological assumptions together with some key analytical concepts (e.g. field, *illusio*, habitus, nomos, etc.) that will be used to explain the emergence of NFR regulation in Europe.

For Bourdieu, a reflexive approach “signifies a scientific process of uncovering the agents’ orientations, and the predispositions shaping their habits and practices.” (Madsen and Dezalay 2002, p. 190) The key aim of this strategy is to construct a scientifically more autonomous object of research which is not based on intuitive readings or readily available classifications.¹⁰

This ‘reflexive’ understanding of sociological knowledge has great epistemological implications. According to Bourdieu, the social universe exists both as ‘social structures’ and ‘mental structures’ (Bourdieu 1984, 1996). The former are systems of distribution of resources (various forms of capitals e.g. material; symbolic; cultural; economic); while the latter are systems through which the actors classify practical activities into subjective categories e.g. feelings, thoughts, taste, judgements and decisions. According to the author, the social universe exists in this dual space. It is *in between* these two dimensions – objective systems of positions and subjective systems of dispositions – that social practices are to be found and scientifically studied. Accordingly, a reflexive approach calls for a double reading that allows the researcher to complete a systematic empirical analysis of the social and historical conditions governing the possibility for specific practices (such as non-financial reporting) to come about. In more practical terms, Bourdieu suggests that researcher should operate what he calls a ‘double rupture’. A search for objectivisation, rather than objectivity, which entails: on the one hand, a critical examination of the dominant academic and professional pre-constructions of the specific subject of study (a critical analysis of the way a certain subject area has been constructed); on the other hand, a break also with the researcher’s own assumptions (a critical examination of his application of certain distinctions and ideas often due to his own background and academic affinity). This process of double examination continues through the whole research and should lead to become self-critically aware of often well hidden interests and pre-understanding, including one’s own. Therefore one can question the parallel historical emergence of all thoughts and practices building the ‘tradition’ in a certain research subject. Crucially, the aim is not limited to relativising such tradition, putting it into a historical context; it also implies “giving back their necessity by tearing them out of the indeterminacy which stems from a false externalisation and relating them back to the social conditions of their genesis.” (Bourdieu 1996, p. 298) This self-critical process of carefully questioning both the research object and the academic construction of the object has never been more urgent as we struggle to make sense of current economic and social transformations using traditional accounts.

Outlining a theory of social practices based on his empirical observations, Bourdieu had the merit of providing researchers with an analytical apparatus constructed around a series of inter-related and fairly open-ended concepts, enabling a complex assessment of the different dimensions of modern societies (Madsen and Dezalay 2002, p. 190). This construction can be roughly categorised as belonging to the ‘differentiation theory’, developed in particular by central figures of the sociological tradition like Emile Durkheim and Talcott Parsons. The underlying idea is that social changes from ‘traditional’ to ‘modern’ society constitute a process of progressive differentiation from ‘less’ to ‘more’ structured societies, which Bourdieu identifies

¹⁰ Bourdieu has progressively elaborated this approach through his life. Already at the end of the 1960s, he started to look for a way to ‘objectivise the research object’, meaning to study a certain social practice in a way that incorporates objective structures and subjective phenomena in a dialectical relationship.

with the emergence of various semi-autonomous *fields* of social practice¹¹ (e.g. the legal field; the economic field; the journalistic field; etc.)¹². However, he goes beyond this classic functionalist tradition. He characterises 'fields' not as contained or closed entities, rather as fairly open relational spaces of more specific and specialised areas of practices. Thus, fields are essentially networks of objective relations between 'players', which exist apart from the consciousness of the individuals but, at the same time, they only exist because of the players' genuine belief in the necessity of the field and in their interest in participating in this 'playing field'. This belief of the actors implies what Bourdieu calls *illusio*, an immediate adherence to the structures of the field which leads individuals to stop questioning them and their habitual position in the game, or *habitus*.¹³ In very simple terms, each semi-autonomous field of modern life – from science to education; from arts to the economy – engenders a specific historically stratified complex of social relations in which the actors conduct their everyday practice. Because of this practice, they will develop a certain disposition for social action shaped by their position in this field (e.g. dominant/dominated or orthodox/heterodox). If this disposition is considered together with other dispositions the individual has developed through his life-long experience of various social fields, this habitus becomes a more settled understanding of the social order in general: a 'sense of the game'; a way of classifying the world. It becomes natural up to the point that it is taken completely for granted. It becomes a body movement and a tone of voice. Therefore, he soon stops questioning this set of dispositions and positions that characterise his experience of the different fields of practice. By doing so he will tend to acknowledge and reproduce the social forms and the common opinions that characterise the various fields as 'self-evident', even excluding the very possibility of existence of other means of material and symbolic production and alternative power relations.

However, it is critical to eliminate a paradoxical and superficial interpretation of Bourdieu's oeuvre as dominated by the fatality of social reproduction. Starting from the habitus, which is not merely the product of the social world, it also produces incessantly the social world in a dialectical process. In sum, it is both a *structured structure* and a *structuring structure*. This peculiar mix of dynamism and structuralism, what Bourdieu calls *structural constructivism*, is what makes his conceptualisations so attractive and analytically useful in a world marked by dramatic social changes and transformations. His approach is extremely flexible and can be adapted to explain "the most profoundly buried structures constituting the legal universe and the 'mechanisms' which tend to ensure its reproduction and transformation (Bourdieu 1996, p. 7, Madsen 2006, p. 114). This is a crucial difference not only with classical functionalist theories, but also with contemporary 'system theory' à la Luhmann. Fields are open fluid spaces of regulated struggles, of competition, of only partial yet permanent revolution, centred on the valuation of the 'capitals' possessed by the actors. Therefore, from an empirical point of view, it is critical to discover "which forces define the various fields, those trying to redefine them, and thereby also the boundaries of the field." (Madsen and Dezalay 2002, p. 193) Notably, this struggle above all concerns what Bourdieu calls the *nomos* of the

¹¹ Bourdieu defines a field as: "A network, or a configuration, of objective relations between positions. These positions are objectively defined, in their existence and in the determinations they impose upon their occupants, agents or institutions, by their present and potential situation (*situs*) in the structure of the distribution of species of power (or capital) whose possession commands access to the specific profits that are at stake in the field, as well as by their objective relation to other positions (domination, subordination, homology, etc)." (Bourdieu and Wacquant 1992, p. 97)

¹² Fields are transitory configurations that Bourdieu uses as analytical tools and that could be compared to magnets. Terdiman (1987, p. 806) notes, "Like a magnet, a social field exerts a force upon all those who come within its range. But those who experience these 'pulls' are generally not aware of their source. As is true with magnetism, the power of a social field is inherently mysterious.

¹³ This can be broadly defined as the internalised scheme guiding the agents' behaviour, a 'practical sense' which is constructed by the actor's particular and individual trajectory (Bourdieu 1977).

field.¹⁴ This is the principle of division that emerges when “the ‘sense of the game’ is structured over time reflecting different social configurations and, thereby, historically different sets of “rules of the game” or *nomos* which form a common *illusio* of the agents of the field.” (Madsen 2011, p. 265) The *nomos* is usually taken-for-granted and works as a mechanism that enables the translation of the external world into the specific code and issues of the field. On the other hand, the *nomos* is itself the result of the particular ‘symbolic economy’ that the actors have contributed to shape over time in terms of valorisation of a specific capital or a combination of capitals (economic, political, legal, social, etc.). As we shall see, the next section maintains that the *nomos* of the accounting field has been shaped, through different historical stages, on the division financial/non-financial, valorising materialistic and financial assets over other forms of social and intangible assets.

This leads us to another of Bourdieu’s key analytical tool, the notion of *capital*,¹⁵ which allows an empirical study of the dynamic relation between fields and *habitus*. Bourdieu pioneered a more complex and extended idea of capital as ‘social relation’, which presents some important differences and similarities with its use in Marx, centred on economic capital.¹⁶ In particular, Bourdieu claimed that three forms of capital can be accumulated in our societies: economic capital; cultural capital and social/symbolic capital. The first has its origin in economic studies, although Bourdieu made a more sociological use of it. The concept of cultural capital was not completely new either, but it has been greatly elaborated from managerial notions of ‘human capital’ elaborated by authors such as Kenneth J. Arrow and, in particular, Gary S. Becker. Finally, symbolic capital, known also as *symbolic power*, is possibly the most Bourdieusian of the three.¹⁷ Since the individual is socialised and can make sense of the world only through symbolic (mental) structures, ‘symbolic power’ should be seen as a very special form of capital. Conceptually, this is the power of transforming the world: “[B]y transforming the words for naming it, by producing new categories of perceptions and judgement, and by dictating a new vision of social divisions and distributions.” (Terdiman 1987, p. 839) This concept adds to the idea of a social space in which

¹⁴ This Greek word means ‘operate a division’ and in Bourdieu’s oeuvre it signifies the ‘law’ of the field, the principle of vision and of division which is fitting a certain field of practice and that is always potentially at stake but rarely actually challenged. This is a crucial *di-vision* that marks both the internal logic of the field (the relative internal coherence) and its nature as a semi-*autonomous* space of practice. For instance, the *nomos* of the field of art is the principle of vision and division of this field, by which it has been established the difference between ‘art’ and ‘non-art’; between ‘real artists’, worth of been published or publicly exposed, and the others, which see negate access to publications and recognition of their ‘art’.

¹⁵ Bourdieu defines capital as awarding power in the field “over the materialized or embodied instruments of production and reproduction whose distribution constitutes the very structure of the field, and over the regularities and the rules which define the ordinary functioning of the field, and thereby over the profits engendered in it.” Bourdieu and Wacquant (1992, p. 101)

¹⁶ The main difference is that in Bourdieu the efficacy and value of a capital is attached to the specific *nomos* of a certain field (see Bourdieu 1984, p. 127). Therefore he outlines a more complex and extended notion of capitals. He underlines that not all the given resources – either embodied (*habitus*) or objectivised (economic or some cultural forms of capital) – attached to an actor are active everywhere at the same time. It is the field that determines which assets have “currency” as they are pertinent to the existing configuration of the field. Practically, the objective position of an actor in a field is defined by the amount of tangible or intangible assets (capitals) that command access to the specific profits that are at stake in that field. Therefore, the competition within the field is usually over the accumulation of the forms of capital that are relevant for that specific field, more rarely it is about the definition of the field itself (*nomos*). The similarity with Marx exists in that Bourdieu intended this new notion of capital as the basis for a new theory of social classes. Affirming that in our societies classes have not disappeared, Bourdieu claims that the social position of individuals has to be determined looking not just at the volume of economic capital they dispose but also of other forms of immaterial and intangible assets (cfr. Champagne and Christin 2004).

¹⁷ This concept has been progressively elaborated by Bourdieu in different phases. This is typical of Bourdieu’s way of elaborating his sociological concepts. They were rarely defined *a priori* and more often were the result of the need and urgency of having a research tool rather than the need of filling a theoretical gap. In this case which the elaboration of the idea of symbolic (capital; violence; struggles; forms) has to do with his early ethnographic studies centred around extremely fragile concepts of ‘honorability’; ‘prestige’; ‘credit’; ‘honour’ and ‘reputation’.

dominant positions in the fields are always in a precarious situation, as they depend not only on the availability of economic resources but also on the availability of immaterial forms of capital that can also be accumulated or dissipated or even transferred to someone else. Bourdieu already observed that this 'intangible' capital is not purely symbolic; it can be converted into 'material' capital. In his idea of a 'general economy of practices' he highlighted the existence of a circulation of material *and immaterial* goods in which cultural and symbolic capitals have the power of multiplying economic leverage. The idea of symbolic power is closely related to a last analytical tool, the notion of *symbolic violence*. This can be defined as the power to construct and impose mental structures, categories of perception and thought, which become institutionalised in social and symbolic structures. As such, they present themselves as matter of fact, as naturally given.

4. Accountants, activist-lawyers, and financial analysts. The "architects" of the new European regime of NFR

Deploying the reflexive socio-legal approach outlined above, accounting appears as a major field of symbolic power and struggles. As many early theorists of capitalism already noted (i.e. Weber and Sombart), accounting is one of the key, if not *the key*, tools that fostered the emergence of modern capitalism.¹⁸ Seen through Bourdieu's analytical lens, the accounting field is *the* field within which occurs a confrontation over the socially recognised capacity, traditionally performed by professional accountants, to render activities, individuals and objects, in possession of the specific attributes that are potentially relevant for the economic field, capable of evaluation, comparison and hence *transformation into economic capital*. However, it is worth to stress that this symbolic power has been *granted* to professional accountants by the state. Therefore it could also be taken away from their 'control'. This key element has often been taken-for-granted, because during the last three decades the accounting profession has gained autonomy from national law-makers, in particular after the creation of the International Accounting Standard Board (IASB). Over the years, the IASB has been asked by many jurisdictions, including all EU Member States, to develop standards for listed companies filing financial statements.

Nonetheless, as mentioned in section 1, after the financial crisis accounting rules have become the object of heated debates, moving accounting standards and the transnational standardization bodies that developed them in the spotlight. After decades in which accountants had successfully claimed control over accounting regulation – arguing that it was a technical issue that should be left to practitioners and experts – one of the unexpected side-effects of the financial crisis has been that this autonomy was called into question. This concerns the object of this research: the emergence of a new regulatory area, conventionally defined as NFR, traditionally external to the field of accounting, but now increasingly integrated in companies' annual reporting requirements.

What I am going to consider below is the way in which accountants are managing the progressive emergence of NFR rules. In particular, I will look at their relations with two other professionals, which are increasingly active in expanding reporting requirements beyond financial disclosure, therefore implicitly challenging the 'monopoly' of accountants: activist-lawyers and financial analysts. This section maintains that behind the current battles to shape the emerging transnational field of NFR regulation, there is also a struggle between different 'tribes' (Dezalay 1991) of professional experts. They could be described as the symbolic "architects" of the regulatory regime that is emerging as we are going beyond purely 'financial'

¹⁸ Accounting made it possible for capitalists to evaluate 'rationally' the consequences of their past decisions. It allowed the entrepreneur to calculate exactly the resources available and the ones that are expected to come in the future. It finally gave investors the information necessary to compare and assess various alternative investments.

accounting. In order to understand the position of these different professional élites, I have systematically analysed the available secondary sources concerning their activities in the context of the EU-European regulatory debate on NFR. This exploratory analysis covers the period which immediately follows the onset of the 2008 financial crisis, until the 2011 EU Commission's announcement of a legislative proposal on NFR (Single Market Act I). In fact, as already mentioned, the financial crisis worked as a catalyst for triggering a global debate on the failures of traditional accounting. The aim of this method has been to triangulate the analysis of this material with 26 in-depth interviews with key stakeholders involved in the regulation of NFR and a detailed analysis of EC official documents (Monciardini 2013). This analysis allowed me to map changes in the field of research and unveil the existence of conflicting narratives that ultimately reflect the many stakes and the central conflicts that characterise the emergence of NFR regulation. The objective is "to break up the 'officialised story' into its many overlapping and even opposing texts and identify its many co-writers" (Madsen 2006, p. 114), showing as different approaches to NFR definition (see section 2) also conceal professional conflicts and interests. Details of the analysis have been presented elsewhere (see Monciardini 2013), hence here I concentrate on key results and conclusions. From the study emerged, in particular, the attempt of lawyers-activists and financial analysts, two professions previously external to the field of accounting, to reshape the nomos of the accounting field, traditionally based on the division between financial/non-financial. However, each professional élite advocates a different approach to mandatory non-financial disclosure. Despite having to concede profound changes that eventually will open the door to the integration of non-financial aspects in the accounting standards, the study shows also the ability of international accountants to maintain control. However, the game is still on.

4.1. The crisis of traditional accounting in the EU context. Lawyers, accountants and analysts conflicting claims over the definition of NFR

During the last decade, evidence that the accounting system is fundamentally flawed has become increasingly significant. The accounting scandals of the early 2000s (Enron and Parmalat) attracted the attention of regulators and seemed to start putting existing standards into question. However, the regulatory outcome was favourable to professional accountants. Traditional financial accounting was strengthened rather than radically transformed. Furthermore, the decision of the EU Commission that, starting from the year 2005, all EU listed companies had to prepare their financial statement in accordance to IFRS standards gave new, unprecedented autonomy and regulatory power to the profession (Dewing and Russell 2007, Botzem 2012). However, it was just question of time, the pressure for including non-financial aspects was steadily growing, therefore the accounting world started to look at the inevitable merger with the non-financial nebula also as a business opportunity. All the Big Four auditing and accounting global firms – Deloitte, KPMG, Ernst & Young and PwC – created internal units which were starting to gather knowledge; testing frameworks and pushing the issue of reporting beyond financial information. In particular, in 2004, Deloitte published a ground-breaking survey significantly called *In the Dark* that revealed an astonishing 92% of the 250 corporate executives interrogated by them believed that financial indicators were not capturing their own strengths and weaknesses (Deloitte Touche Tohmatsu 2004). Even before the eruption of the 2008 financial crisis, there was evidence that traditional accounting needed fundamental changes or it would have soon been wiped out.

The growing acknowledgement of the relevance of non-financial data appears clear looking at the documents produced by one of the laboratories created by the European Alliance for CSR. Between 2007 and 2009, the largest European companies and the European Federation of Financial Analysts (EFFAS) organised a series of influential workshops on "Valuing non-financial performance". The final

report of the workshops (CSR Europe 2010) provides striking evidence of the actual economic significance of such information and of its relation with broader changes in our financial-driven regime of capital accumulation. The report concluded that, during the last 25 years, the explanatory capacity of traditional financial reports had constantly declined. The collective market value of the S&P 500 Index was equivalent to four times the asset value showed in the balance sheets of S&P 500 companies. Considering the value of the global stock markets at US\$ 50 trillion (March 2010), this represents an astonishing US\$ 40 trillion in intangible assets that cannot be explained by traditional material and financial accounting. Interestingly, the workshops were borrowing the language adopted by the world of responsible investors, defining these non-financials as ESG (Environmental Social and Governance) information. At the same time, it was adopting the underlying market-oriented argument that identified NFR as intangibles, as the difference between book and market value. This element demonstrates how the 'corporate social accountability' and 'accounting for intangible assets' arguments outlined in section 2 can be mixed and (mis)used strategically by the players under the blurred boundaries of non-financial performance. The report concluded that the decreased value of traditional financial accounting statements can be only partly explained by a post-industrial shift from manufacturing to services and the emergence of technology and knowledge-based industry. It maintains that "the real story is the growth of future earnings as the primary determinant of company market value. This is the projection of current or immediate past performances into the future." But the report acknowledges that future earning streams are "by their nature, difficult to quantify and control. The ability to recruit and retain people with skills and knowledge to maintain and develop products and services and drive innovation. The loyalty of customers to brand and their willingness to forsake new or more innovative competitors. The continued supply of resources of the right quality and at the right price. The management and mitigation of risk. Reputation management and avoidance of regulation impingement on licence to operate."

The 2008 financial crisis, which exploded while the workshops were still running, gave an extraordinary relevance to these data, which provided European *financial analysts* (EFFAS) with strong arguments to demand EU public authorities to issue binding rules for non-financial data disclosure. Accounting standards, it was claimed, were based on short-term measurement of corporate performance. They could not provide investors with the kind of long-term and intangible information that explain where economic value comes from and where pension funds and large asset managers could invest on a 20-30 years basis. In particular, financial analysts stepped into the European debate on non-financial reporting in December 2008, when the DVFA, the German Society of Investment Professionals, designed a set of KPIs for ESG disclosure. This is a set of indicators applicable to any individual company, ensuring materiality by limiting the number of indicators (DVFA/EFFAS 2009a). The KPIs were soon endorsed by EFFAS and proposed, at the EU level, as the first major framework for ESG reporting tailored to the needs of investors and not designed thinking about the companies that are issuing the report (DVFA/EFFAS 2010). This potentially set EFFAS in competition with both accountants and the big players in the sustainability reporting area – such as the GRI, CDP and ISO 26000.

On September 2009, EFFAS held its second 'Conference on ESG disclosure' significantly titled: 'ESG Mainstreaming: Looking for something that has already found us?' One of the most intriguing arguments that emerged from the Conference is that, after years looking for evidence of the relevance of ESG information, following the crisis, this became so universally evident that there was suddenly no need for more proofs. "Demanding proof for the effects of good ESG performance on the bottom line of corporates has been a *volkssport* in capital markets for many years. Many of us have been eager to produce this sort of proof. Taking ESG into Account 2009 goes one step further: *we simply assume (or for agnostics: pretend) that a corporate managing, measuring and disclosing ESG is the default.* And we

likewise simply presuppose that taking risk factors (and thus accordingly ESG factors) into account is the default for recognizing fiduciary duties in making asset management decisions, and consequently the default of an industry delivering service for asset managers.”¹⁹

Drawing on Bourdieu’s work, this belief and presumption appears as the necessary foundation for a new ‘illusio’, a new vision of the economic field through the field of accounting, able to overcome the traditional divide ‘financial/non-financial’. It seems to confirm Bourdieu’s sociological approach that capital is “a relational concept” that is socially and historically constructed on the basis of categories and categorizations and, particularly, by struggles for imposing certain categories instead of others.

However, the argument of financial analysts goes on affirming that more non-financial disclosure is critical, but complete transparency may be counterproductive, it might result in too much data and irrelevant information. Disclosure must be ‘material’ and it is on the definition of which non-financial information is financially material that the exercise of symbolic violence is taking place. *Materiality, in fact, is not objectively but subjectively determined.* The materiality determination process provides a socially recognised answer to the most important question of all: *to whom* the information should be material? It should be material to various stakeholder groups (such as employees, governments, local communities, NGOs) or only to the firms’ shareholders? This question is related with the nomos of the accounting field and it was been traditionally taken-for-granted: only the information material to shareholders should be disclosed on a mandatory basis. Financial analysts’ interest for NFR marks a shift in the nomos of this field, stressing that this line should be extended to include more information that, due to societal and economic changes are now financially material.

However, financial analysts’ approach to prospective changes in NFR regulation is still rather narrow. It overlooks the ‘political’ dimension of current transformations in business-society relations. It treats corporate disclosure as a private matter between shareholders, seen as the owners of the company, and managers, their agents. As pointed out by Maclean and Crouch (2011, p. 2), many large corporations now recognise their accountability beyond financial matters. However, “for politics and political science, this is just the beginning of the story of what it means to accept corporations as political actors.” To start with, corporations are operating – at least in Europe – within democratic states, where the power belongs to the people. Then, the issue of non-financial disclosure becomes a completely different matter, one that concerns the ‘right-to-know’ about the impact of transnational corporations on society and the environment. Clearly, the two visions might partially overlap, as some aspects of corporate social and environmental performance (e.g. corporate reputation) are (potentially) financially material. Yet, this is not necessarily the case. Mclean and Crouch’s remarks help to introduce another professional group that, together with financial analysts, recently stepped into the debate on the European regulation of NFR: *activist-lawyers*.

On the other hand of the spectrum of agents pushing for reshaping traditional EU accounting regulation, one could find the activist-lawyers that have been assisting NGOs and civil society in obtaining the inclusion of human rights and anti-corruption policy in the 2014 EU directive on mandatory NFR (European Council 2014). In particular, ECCJ (European Coalition for Corporate Justice) has been at the forefront of this cluster. This is a pan-European NGOs’ platform, representing and co-ordinating at the EU-level over 250 CSOs (civil society organisations). One might be surprised about the quantity and quality of ECCJ’s legal and policy proposals, considering the size of its tiny office in Rue d’Edimburg, Brussels, not far

¹⁹ The document can be retrieved at: <http://www.efas-esg.com/?m=200906> Emphasis added.

from the European Parliament, where the four members of its staff can barely fit.²⁰ ECCJ's 'secret' has been that, despite its very limited economic and logistic resources, it can count on a competitive level of social, human and, especially, legal resources. As Vaclav Havel said, this is the 'power of the powerless'. The symbolic 'weapons' of this organisation are legal and ECCJ's platform is filled with lawyers specialized in human rights and environmental law. *The whole strategy of ECCJ can be summarized in re-radicalising Corporate Social Responsibility bringing it into a universal legal domain.* This aim can be easily recognized looking at the name of its campaign 'right for people, rules for business'²¹ and by considering the three broad chapters in which its activity has been organised: "better access to justice"; "direct liabilities of directors and companies in Europe"; and "mandatory transparency and disclosure".

From the interviews emerges that ECCJ provided important resources and relevant information to the Commission's services, during the process of elaboration of the EU directive on NFR. This concerned, in particular, contacts with the main academics in the field²². This was possible thanks to the legal and academic resources that were provided by its network. As Yolaine Delaygues, ECCJ's staff member, told me "We are a coalition using the strengths of our members. For instance, our Czech member [then ELS now changed its name in Frank Bold²³] is an environmental law service, it is an organisation composed of 30 lawyers. So, basically, the legal proposal [on the EU NFR directive] has been developed by them." Furthermore, she added: "we have as a member FIDH, the International Federation of Human Rights²⁴. Other proposals have been developed by the French platform called Sherpa²⁵, which is a lawyers' organisation."²⁶

Through my research, I carefully reconstructed the actors' role in the NFR regulatory debate at the EU-level and it emerged a key role of ECCJ in pushing for a *legal approach* to NFR regulation, framing it within a legal structure of human rights and environmental protection and directors' liabilities. In the publicly available documents of the 3rd ESG Workshop, titled "Civil society view on ESG disclosure" (European Commission 2009b, p. 2), it is possible to read a 'sample' of this legal approach to NFR: "Information is essential to uphold human rights because it helps to prevent abuses, hold companies to account and seek remedies. 'Abuses always happen in the dark'. Disclosure can also prevent abuses by enhancing the participation of people whose rights might be affected. *The right to know is also a human right.* Courts need information in order to function, and in this way ESG disclosure is linked to provision of remedies." NGOs are perhaps the group of actors recurring more to a legal argumentation and rationale to justify mandatory NFR (e.g. SOMO 2013, CORE 2011). According to my analysis, their aim is to use what Bourdieu (1986) called the symbolic power of law to re-shape the dominant vision of corporate disclosure requirement, which has been traditionally organised around the idea of financial accounting and 'materiality', rather than 'transparency' and the right-to-know about corporate social and environmental impact. However, as the result, NGOs and activist-lawyers are entering a territory that is not merely legal

²⁰ As term for comparison, CSR Europe, a similar organization, can count on about 25 staff members. Source: CSR Europe website

²¹ See ECCJ (2010) publication '*Rights to Whom? Corporations, Communities and the Environment*'. ECCJ's campaign had a major impact, reaching and surpassing its targets. 80 000 signatures were presented to the EU Commission.

²² Interview # 17 (30.07.2012)

²³ See Frank Bold's website <http://en.frankbold.org/>.

²⁴ <http://www.fidh.org/-FIDH-s-Role-> The International Federation for Human Rights (FIDH) is a non-governmental federation for human rights organizations. Founded in 1922, FIDH is the oldest international human rights organisation worldwide and today brings together 164 member organisations in over 100 countries.

²⁵ <http://www.asso-sherpa.org/association/organisation> The website is mostly in French.

²⁶ Interview # 12 (17.06.2011) with Yolaine Delaygues (ECCJ)

and which has been historically dominated by the accounting profession, with whom ECCJ does not have any relation.²⁷

International professional accountants have been able to place themselves right at the centre of the scene. The Federation of European Accountants (FEE), soon after the onset of the financial crisis, issued (December 2008) a discussion paper on 'Sustainability Information in annual reports – Building on the Modernisation Directive'. The analysis of this document shows that it was aimed at sending out three messages. First of all, that NFR was still a matter of *accounting standards*, as similar requirements had been already introduced – on a voluntary basis – by the 2003 EU Modernisation Directive. Therefore, the document highlighted that professional accountants had the right expertise to deal with this issue. Secondly, similarly to ECCJ and EFFAS, the FEE highlighted the need for strengthening the existing EU accounting requirements. However, the request was for 'guidance' from public authorities, *not yet regulation*, on this issue and the paper mentioned the existence of International Accounting Standards (IAS) that were already able to address the problem. Thirdly, as regards the content of possible regulatory changes, references to environmental matters and human rights were almost accidental, while the key problem is identified in the lack of 'materiality' and 'relevance' of NFR.²⁸ Crucially, while ECCJ references were on the 'right-to-know', the FEE stressed that non-financial disclosure is aimed to meet growing demands by *shareholders and investors*.

On 29 April 2009 FEE together with Eurosif, the confederation of European responsible investors, organised a successful roundtable hosted by the European Parliament.²⁹ This was later used as a model by DG Enterprise for the EU Workshops on ESG disclosure that the Commission hosted between 2009 and 2010. After the Conference the two organisations released a joint 'call for action': "In the current climate of financial and economic crisis, FEE and Eurosif wish to raise the strategic importance of sustainability disclosures in order to provide financial information in a more comprehensive and meaningful way. Greater transparency can play a role in helping to restore trust in business." (FEE and EUROSIF 2009)

However, international accountants' key tactical move to re-claim control over NFR regulation came between the end of 2009 and the beginning of 2010. Following a meeting held in London (December 2009) hosted by The Prince of Wales' organisation Accounting for Sustainability Project (A4S) – in which intervened some of the key standard-setting organisations both in financial and non-financial reporting – a new regulatory initiative was launched: the International Connected Reporting Committee. This was the first embryo of what is now the International Integrated Reporting Council (IIRC). The task of the IIRC is to draft an "internationally accepted" framework able to integrate financial and non-financial information in one concise and material communication. The publication (December 2010) of the IFRS Practice Statement on Management Commentaries was widely

²⁷ Interview # 12 (17.06.2011) with Yolaine Delaygues (ECCJ).

²⁸ Here there is a short sample of the document. The emphasis has been added to highlight the use of a language that is not legal but it come from the accounting tradition: "In identifying the type of non-financial information, in particular on sustainability, that can be included in the annual report the concepts of relevance and materiality play an important role. Materiality is considered in the context of the other qualitative characteristics of information, especially relevance and faithful representation. Materiality judgements are made in the context of the nature and the amount of an item, as well as the entity's situation. Materiality has a different connotation in a sustainability and financial reporting context. For sustainability information to be included in annual reports additional guidance would be helpful in deciding what constitutes relevant information and how to select any performance indicators, especially when an increasing number of entities combine their sustainability information with their financial information. FEE therefore welcomes further guidance on including sustainability information in the annual report. Exchange of good practice can play an important role. Guidance that has already been developed within some European countries can be a basis for further guidance, both at national and European level. (FEE 2008)

²⁹ All the documents of FEE/EUROSIF's roundtable on Sustainable Disclosure can be retrieved at FEE (2009).

seen as confirming that the IASB (International Accounting Standard Board) and the Big Four (the four largest world auditing firms) would have thrown their weight to support the IIRC initiative. Significantly, EFFAS soon decided not to continue developing its own standard for NFR, joining this global alliance of all the economic stakeholders interested in developing a framework for integrated reporting. Paul Druckman, former Chairman of the FEE Sustainability Policy Group, became the CEO of the IIRC. The following step, in 2011, saw the IIRC gathering the support of all the private financial and non-financial reporting standard-setters. Finally, at the end of 2013, the IIRC published its International <IR> Framework for Integrated Reporting, which remarkably expands traditional business reporting in the terrain of non-financials. However, it also re-affirms that integrated reports should include only information that is relevant to shareholders and capital providers. Therefore, the market-driven IIRC initiative marks an alliance between international accountants – who are trying to re-affirm their control over an expanded accounting field – and financial analysts – who would obtain the application of the materiality principle beyond financial matters. However, it is still very early to make any conclusion. At the moment, the <IR> Framework is far from being widely applied. Only a very limited number of large global firms – less than 100 – has attempted to use it. Secondly, even if the European Parliament has recently voted its support the objective of the IIRC “of making ‘integrating report’ the global norm within a decade” (European Parliament 2013, p. 6), in order to become ‘internationally accepted’ it has to become legally binding. Therefore, the IIRC is heavily lobbying governments and parliaments around the world to obtain legal recognition. So far, only in South Africa and Singapore stock exchanges require listed companies to comply with the <IR> Framework. This situation seems to confirm the idea that accountants’ symbolic power is (still) granted by the state, relying on its legal support to be able to fully and legitimately exert it.

5. Conclusions: limitations and future research

The paper has outlined the preliminary results of a work-in-progress symbolic ‘archaeology’ of so-called corporate ‘non-financial reporting’ (NFR) regulation, focusing on the EU-level. Section 2 has identified two distinct underlying regulatory strands, based on competing rationales and supported by different interests, which are re-defining business reporting to include extra-financial information. On the one hand, while conventional accounting standards tend to focus on financial ‘materiality’, this approach has become increasingly elusive and problematic. Managerial studies show that intangible assets (e.g. know-how, reputation, human capital, intellectual capital) currently count for over 80% of the value of large listed companies (it was 20% in the 1980s). Therefore, particularly after the onset of the global financial crisis, standard-setters and law-makers are called on to include ‘intangibles’ in business reporting. On the other hand, we are witnessing the emergence of a second trend in accounting regulation, related to ‘corporate social accountability’. Companies are increasingly required to disclose information concerning not only their financial but also their environmental and social performance. The latter typically includes information about human rights impact, employee- and environmental-related matters and anti-corruption policies. In order to analyse this emerging multi-level regulation of NFR, section 3 has briefly summarized the main elements of Bourdieusian reflexive sociology: its epistemological implications; and the holistic set of open-ended, inter-related, analytical tools (field, habitus, nomos, illusion, capitals, etc.) that are provided to researchers. Section 4 has deployed this approach to analyse some of the empirical findings of a study of NFR regulation in Europe, based on interviews and documents. The focus has been on the period after the onset of the 2008 financial crisis, which has witnessed a stronger support for mandatory NFR and the discussion and approval of a new EU directive on this issue.

Overall, the strength of this study lies in its attempt to open up a sociological approach to explore this emerging, fascinating and increasingly important terrain of business regulation. Rather than starting from a given definition of NFR, it tried to deconstruct and identify some of the different rationales that are contributing and competing to advance business reporting beyond its traditional financial boundaries. Namely, it has presented a preliminary hypothesis, which remains to be confirmed by more in depth empirical work, that the 2008 financial crisis triggered a regulatory debate about the role of business reporting and its current limitations, providing new support for mandatory NFR. The research maintains that this shift represents a challenge to the monopoly of international accountants over the field of business reporting and also attracted the interest of two other transnational professional élites, activist-lawyers and financial analysts, traditionally considered as distant from the world of accounting.

The analysis has underlined the co-existence of different competing and often incongruous approaches to the ongoing definition of NFR. In particular, the article hypothesised that the regulatory trend demanding for 'corporate social accountability' could be linked to the role and activities of activist-lawyers and to a legal understanding of NFR. On the other hand, financial analysts tend to define the territory of NFR as a matter of 'accounting for intangible assets', acknowledging the relevance of social and environmental disclosure only as far as it is financially material. The subtle difference between these two normative approaches to NFR was already described in the documents of the first EU Workshop on the disclosure ESG information (European Commission 2009a, p. 4), "Although they are not mutually exclusive, transparency and materiality correspond to different stakeholders with different constituencies and agendas, each legitimate in its own right, and they can sometimes be conflicting. Transparency values the disclosure of data for its own sake, sometimes as a question of principle. Materiality seeks to define which data is actually important in terms of influencing the decisions of the intended recipients of the information." Lastly, the paper has also briefly outlined the reaction of international accountants to the attempts by activist-lawyers and financial analysts to reshape the field of business disclosure. While they have become more open to the prospective of integrating non-financial information into accounting requirements, their aim is to keep NFR within their domain. Therefore, international accountants joined forces with financial analysts, applying the principle of financial materiality to non-financial matters. This is particularly clear considering the support of both professional communities to the creation of the International Integrated Reporting Council (IIRC), which has the ambition to become an internationally recognised framework.

The paper should be considered as a preliminary analysis, which requires more in depth empirical studies and opens a number of avenues for future research. In particular, at its current stage, the research remains unfinished as the three broad professional communities identified here – accountants, financial analysts, activist-lawyers – should be further investigated at the level of individual agents. In particular, future research could be developed in three directions:

1. *Analyse how these professional élites came to define and frame their position on NFR.* The way these professional communities affect governance is by creating a transnational 'problem space' where different individuals and organizations can meet and collaborate, serving as public arenas for discussion and, sometimes, conflict (Djelic and Quack 2010). Then, what is their shared interest in the regulation of NFR? How do they find compromise solutions, framing their preference transformation and defining their goals? How do they impose social control over their members, mobilizing collective action and pooling resources towards these goals? How do they learn new things and gain new perspectives?

2. *Map how these professional communities have positioned themselves in the field of NFR.* How are the relations of power configured between them and towards other organisations and groups (large corporations, organised labour, NGOs, political parties, civil society, etc.)? How do they find ways to involve other actors in their strategies? Which coalitions and conflicts can be identified in the field of NFR regulation?
3. *Explain how and why these professional communities succeeded in shaping regulatory changes.* As they operate across national and organizational borders, their members are in a unique position to influence various rule-making processes. How do they link with formal organizations, standard-setting bodies and law-makers? How do they achieve and maintain their legitimacy, being regarded as neutral and authoritative? What has been the role of these groups of actors in setting rules for NFR at different levels of regulation and through various modes of governance?

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