



ERT

Expert Paper

Contribution to the ESRS Consultation

July 2023



The Expert Group on Sustainable Finance of the European Round Table for Industry (ERT) welcomes the opportunity to provide feedback on the draft delegated act on European Sustainability Reporting Standards (ESRS). We acknowledge that the ESRS will be an unequivocally crucial component of corporate sustainability legislation in the EU, and it is therefore a high priority for ERT to contribute to the development of the directive in a way that is most informative to the Commission. This sense of priority is reflected widely across the ERT membership base, demonstrated by the fact that many of our members have chosen to submit their own contributions to this call for evidence while also contributing to ERT's response. With the endeavour of providing informative and useful feedback to the Commission, we also present a number of recommendations for further improving the ESRS draft delegated act.

Firstly, ERT companies recognise the need for a high standard of sustainability reporting in order to achieve greater interoperability and ambition across sustainability reporting regimes, across EU Member States and internationally. We welcome efforts by the Commission to address concerns and implementation challenges already acknowledged by preparers. The simplifications that have thus far been included in the draft delegated act are very useful and highly important to facilitate and ease the implementation of the ESRS. We also acknowledge the Commission's efforts to reduce the level of granularity in some areas.

ERT companies appreciate the general approach of applying the materiality concept in determining the reporting boundaries. Now that all topics are now subject to materiality analysis this will enable companies to focus on material datapoints only, hence considering the respective industry sector specifications. This adaptation accounts now for the previously raised concern to disclose only useful information to the market and users of the information. To ensure standardised and harmonised materiality analysis, a more detailed guidance is needed, particularly regarding the materiality assessment.

Furthermore, we strongly support making some disclosure requirement voluntary, for example the metrics on non-employee workers to account for limited data availability and legal uncertainty. Adjustments made on the scope of coverage are also appreciated. Voluntary disclosures that are not yet associated with mature or internationally recognised definitions or methodologies can now be further developed with a view to enhance the quality of these disclosures.

In the spirit of providing formative and useful feedback, we would also outline areas of the draft where we believe the Commission could further improve standards. Implementing the ESRS is a huge challenge for preparers, especially under the backdrop of a very ambitious timeline and various other sustainability reporting initiatives that need to be addressed by preparers at the same time, such as the Taxonomy. Thus, it is even more important that further simplifications like additional phase-ins and more voluntary disclosure requirements are included in the delegated act to make the implementation easier and the ESRS more successful.

The introduction of more than 80 disclosure requirements including more than 1000 potential datapoints from throughout the value chain significantly increases the volume and complexity of regulatory reporting requirements. There are strong concerns reflected across ERT companies that this would result in a disproportionate burden for undertakings and members of their value chains, and substantial further reductions will be needed to meet the Commission's stated intent to simplify reporting requirements and reduce reporting by 25%, as laid out in the Better Regulations Guidelines. We are very much looking forward to the Commission proposal in September as announced by the Commission President earlier this year. Alongside this, the Commission should also consider measures to protect the competitiveness of the European companies by ensuring that companies may use their judgement on what makes business sensitive information, rather than establishing strict and limiting criteria on this.

Further to this, it is of the utmost importance that the Commission consider further convergence of and interoperability with developing sustainability reporting standards such as the Global Reporting Initiative (GRI) and the newly released standards from the International Sustainability Standards Board (ISSB). This is essential in order to avoid fragmented, overly burdensome, and potentially even contradictory sustainability reporting outcomes. Fulfilling the ESRS requirements should be sufficient for European companies to comply also with the ISSB requirements and there should not be any additional requirements for EU companies based on the ISSB standards. This means going beyond alignment on terminology and equivalence regimes toward true convergence through direct engagement to drive toward a common outcome on a common timeframe. It is also important to note that the balance between value brought by the information and the costs and complexity required by companies must be considered. As reasserted by the ISSB in IFRS S1, balancing costs and efforts to obtain information

against the value such information brings to users is a key principle to comply with when disclosing information. This principle should be considered in the ESRS as to the publication of anticipated financial effects or any forward-looking information where the uncertainties are considered too high or the disclosure is not feasible.

Additionally, still many more modifications and provisions will be needed to address significant contradictions with Corporate Sustainability Reporting Directive (CSRD) requirements, as well as to achieve further alignment with the taxonomy. Despite the efforts by Commission to improve the taxonomy framework, some taxonomy criteria are still not operable with the ESRS and CSRD. It is important to note that prior to any further regulatory development, such as sector specific standards or the introduction of a social taxonomy, companies strongly recommend that the current EU sustainability framework should remain stable to allow for further adoption, appropriation and simplification of regimes.

Lastly, more specific and unambiguous definitions are needed in order for disclosed data to be meaningfully comparable between entities. Clearer definitions on “products” are required to make clear to preparers whether regulations refer to single products, components or can these be clustered to product groups. To the same effect, a clearer definition of “value chains” must be established in order for companies to ascertain a universal understanding of boundaries of the value chain in-scope. Further clarity is also needed on the current definition of “financial materiality” under ESRS, as the current definition is broader than the definition provided by the ISSB. We recommend that the Commission seek to further align definitions with the ISSB where possible, particularly regarding “financial materiality” as possible discrepancies between companies and reporting frameworks could be fundamental to the way undertakings carry out their analysis. Further guidance for preparers on how to measure anticipated financial effects to make comparable data among companies is also much needed.

We have compiled our members responses to the main text, standards and annexes of the draft delegated act can be found in our formal response (see attached).

Name of respondent/responding organisation: European Round Table for Industry (ERT)

1. General comments

Generally, we appreciate the efforts undertaken to address the various concerns and implementation challenges voiced by preparers. The simplifications that have already been included in the draft delegated act are very useful and highly important to facilitate and ease the implementation of the ESRS. We also acknowledge the Commission's efforts to reduce the level of granularity in some areas.

- **Materiality Analysis:** We highly appreciate the general approach of applying the materiality concept in determining the reporting boundaries. Now that all topics are now subject to materiality analysis will enable companies to focus on material datapoints only, hence considering the respective industry sector specifications. This adaptation accounts now for the concern to disclose only useful information to the market and users of the information. It does however not imply, that companies can "pick and choose" information as the materiality analysis is still subject to external independent limited assurance, where entities need to outline why a topic is perceived not to be material. To ensure standardized and harmonized materiality analysis, a more detailed guidance is needed esp. on materiality assessment (scale, scope, likelihood, irremediability).
- **Phasing-in:** Extended phase in approach for e.g. measurement of financial effects is highly appreciated. Nevertheless, more guidance needs to be given on how to measure anticipated financial effects to make it comparable data among companies e.g. E1-9 Para 65ff
- **Extending voluntary reporting:** We strongly support making some disclosure requirement voluntary e.g. metrics on non-employee workers to account for limited data availability and legal uncertainty. Adjustments made on the scope of coverage are also appreciated, e.g. 10% of employee workforce. Voluntary disclosures that are not (yet) associated with mature or internationally recognized definitions/

methodologies can now be further developed with a view to enhance the quality of these disclosures.

- **Biodiversity standards:** We appreciate the changes to voluntary reporting of ESRS E4: biodiversity transition plan, compatibility of business model and strategy with "planetary boundaries". This accounts for current data availability and maturity of the standard. Going forward, clear scientific generally accepted guiding documents are needed to achieve comparable data across entities. As this topic and standard is still evolving, disclosure requirement on biodiversity shall focus on own operations only. Value chain information are not yet available.
- **Higher level of alignment with the current IFRS S1 and IFRS S2.**

Implementing the ESRS is a huge challenge for preparers especially under the background of a very ambitious timeline (reporting already for FY 2024) and various others sustainability reporting initiatives that need to be addressed by preparers (e.g. EU Taxonomy delegated acts). Thus, it is even more important that further simplifications like additional phase-ins and more voluntary disclosure requirements are included in the delegated act to make the implementation easier and the ESRS more successful. Additionally, still many more modifications and provisions will be needed to address significant contradictions with CSRD requirements:

- The introduction of more than 80 disclosure requirements including more than 1000 potential datapoints from throughout the value chain significantly increases the volume and complexity of regulatory reporting requirements, representing a disproportionate burden for undertakings and members of their value chain, and **substantial further reductions will be needed** to meet the EC's stated intent to simplify reporting requirements and reduce reporting by 25%.
- Due to significant anticipated challenges in obtaining and assuring complete, accurate and relevant sustainability-related

information, especially from the value chain and for certain quantitative datapoints related to environmental and social matters, we believe **significant additional phase-ins will be required** in order for undertakings and entities throughout the value chain can properly prepare and provide quality reporting.

- We encourage the stated intent of the EC in providing interpretation mechanisms, additional guidance and educational material for the standards and processes therein, but it will be **important to address the issues raised by this consultation with improved clarity and consistency in the standards themselves** and, where necessary, **additional time provided to implement, apply and assure** reporting on sustainability matters to achieve a quality outcome in the first instance.
- We would also like to highlight that the due process for elaborating the ESRS is insufficient, counter to the European Commission's Better Regulations Guidelines and proven financial reporting standards development practice.

Recommendations for further improving the ESRS draft delegated act:

- **Further convergence of and interoperability with developing sustainability reporting standards** such as those from the ISSB will be necessary to prevent splintered and ever-increasing corporate sustainability reporting outcomes. This means going beyond alignment on terminology and equivalence regimes toward true convergence through direct engagement to drive toward a common outcome on a common timeframe. This is crucial for European preparers to avoid unnecessary double reporting and additional reporting costs. Further alignment should specifically include for example:
 - **Flexibility of timeframes to be reported on.** If financial materiality and impact materiality can be assessed in different timeframes, such as "ISSB financial materiality," this would still mean duplicating the effort to assess risks and opportunities.
 - The **definition of "financial materiality"** included in the draft delegated act on the

ESRS is broader than the ISSB definition ("includes, but is not limited to") while it is unclear what is meant by this broader scope. It is recommended to align the financial materiality definition to the ISSB definition.

• **Materiality assessment:**

- To ensure **standardized and harmonized materiality analysis, a more detailed guidance is needed**, especially on materiality assessment (scale, scope, likelihood, irremediability). So far, there is still too much room for interpretation, with vague formulations in some cases. More specific requirements would also facilitate interaction with the auditor and would also support the goal of creating more transparency in reporting. Examples for concretization: on what basis should impacts be assessed as uniformly as possible? Gross/net impacts/risks? Sequence of analysis.

• **Broad definition of value chain:**

- Value chain definition must be more specific, more guidance is needed in this regard. The value chain reporting requirements in the ESRS are very extensive. The current draft standard does not give any boundary regarding the value chain, neither upstream nor downstream. For examples concerning ESRS S2, if all workers in the value chain have to be covered, an almost infinite number of workers in the value chain of large companies would fall under this requirement. Some companies already have a five-digit number of suppliers at Tier 1 level. Particularly for the value chain outside the EU/EE, this will be a huge challenge for many years to come. It would be even more challenging to disclose information related to workers in the downstream value chain. We support maintaining disclosure requirements on policy and management systems on how to handle the value chain, but we believe that many of the more detailed requirements are premature. We would strongly recommend guidelines for preparers to properly identify the boundaries of value chain, what e.g. "materially affected value chain workers" are. Until further guidance is given, companies shall provide information on their direct value chain partners – tier one

suppliers and direct customers.

- **More specific definitions** are needed to clarify expectations *and* outline unambiguous definition that are the basis for comparable figures among companies (and not leave it to company to define and align with respective assurance company):
- **Clear definition on boundaries** of “own site location” e.g. ESRS 2 IRO 1 T6 a) needed – focus shall be on own operational/production sites and not including projects sites with respective disclosure requirements on pollution, water etc.
- **Products:** are we talking about single products, components or can these be clustered to product groups?
- We appreciate the adaptation on metrics done for the S1 standard (voluntary metrics, breakdown of data adjustments) however we still point out, that the ability to collect data on the contents/KPIs required by the social reporting standards (e.g. persons with disabilities, work related ill health) is **highly dependent on national legislation**, including existing definitions. **Unclear definition, different local regulations will result in irrelevant information** that are not comparable and hence provide limited added value to user of the information. The focus should be on disclosing information based on clear, unambiguous and internationally harmonized definitions. It cannot be up to the undertaking to outline different definition of different countries used as e.g. required under AR 77 “When disclosing information regarding person with disabilities the undertaking shall provide contextual information regarding legal definitions of person with disabilities in different countries in which the undertaking has operations.” This definition must be provided by the Commission to achieve comparability.
- **More guidance** needs to be given on **how to measure anticipated financial effects** to make it comparable data among companies e.g. E1-9 Para 65ff.
- **Balancing the value brought by the information and the costs and complexity required:** As reasserted by the ISSB in IFRS S1, balancing costs and

efforts to obtain information against the value such information bring to users is a key principle to comply with when disclosing information. This principle should be considered in the ESRS as to the publication of anticipated financial effects or any forward-looking information where the uncertainties are considered too high or the disclosure is not feasible.

- **Higher level of alignment and interoperability with the taxonomy.** Despite notable effort from the Commission to improve the taxonomy framework, some taxonomy criteria are still not operable with key frameworks like ESRS and CSRD.
- **Measures to protect the competitiveness of the European Companies:** An adequate level of protection of EU companies should be reaffirmed and not limited to specific conditions but on any company’s judgement on what makes business sensitive information

The ESRS still include many requirements that pose significant challenges which we have highlighted in the sections below.

2. Specific comments on the main text of the draft delegated act

3. Specific comments on Annex I

Standard

ESRS 1 & ESRS E1

Paragraph or AR number or appendix

62 (ESRS 1), 47 (ESRS E1)

Comment

Definition of a reporting entity

- Par. 62 of ESRS 1 outlines that the sustainability statement shall be for the same reporting undertaking as the financial statements.
- Whereas Par. 47 of ESRS E1 stipulates

regarding that regarding the disclosures on GHG emissions the undertaking should include for its associates, joint ventures, unconsolidated subsidiaries (investment entities) and contractual arrangements that are joint arrangements not structured through an entity (i.e., jointly controlled operations and assets) the GHG emissions in accordance with the extent of the undertaking's operational control over them.

- The concept of "operational control" has been taken from the GHG Protocol where it is one of two control approaches – the other being "financial control". A company has financial control over an operation for GHG accounting purposes if the operation is considered as a group company or subsidiary for the purpose of financial consolidation, i.e., if the operation is fully consolidated in financial accounts. This concept is based and aligned with the concepts of consolidation as defined by IFRS 10 and IFRS 11 ensuring harmonization between financial and sustainability reporting.
- However, the GHG Protocol allows the reporting undertaking to choose which concept of control it implements for the required disclosures.
- ESRS E1 does not contain any choice of the reporting undertaking – it clearly mandates the use of the concept of "operational control".
- This contradicts Par. 62 of ESRS 1 that the sustainability statement should comprise the same reporting undertaking as the financial statement. To ensure the same scope of consolidation, the undertaking needs to be allowed to use the concept of "financial control".
- If the contradiction between ESRS 1 and ESRS E1 is not solved, undertaking won't be able to comply with the ESRS requirements.
- Besides, to increase the coherence between ESRS and the IFRS sustainability standards (IFRS Sx), we would also support an alignment und to resolve this inconsistency. In the recent published IFRS S1 the definition of a reporting entity is similar to that of ESRS 1 and not ESRS E1. Thus, a mismatch would also reveal when an undertaking follows both ESRS and IFRS Sx.

Standard

ESRS 1

Paragraph or AR number or appendix

Materiality, Due Diligence and other sections

Comment

When talking about impacts, the wording 'caused or contributed and those which are directly linked' has been replaced by 'connected'. 'Caused or contributed and those which are directly linked' should be maintained, considering that:

- 'connected' has no basis in law
- 'connected' it is a very vague term going against the need of clarity to prepare disclosures in order to ensure comparability
- 'caused or contributed' better fits with the OECD Guidelines and applicable regulations on due diligence (eg German Act on Supply Chain Due Diligence) which consider that the actions taken by the company must be appropriate to the nature of the causal contribution to the risks or impacts ('connected'- CORRELATION vs 'caused or contributed' - 'RESPONSIBILITY')
- when talking about the value chain, 'connected' becomes very complex. Matters with tx can only be addressed through the tier 1

If the wording update aims to address 'financially connected' impacts, this should be explicitly explained

Standard

ESRS 1

Paragraph or AR number or appendix

Para 25-61

Comment

There is a **fundamental lack of clarity about how to apply the concept and processes of double materiality assessments and sustainability due diligence**. Specifically, we expect issues in application of the topical standards regarding the process for

defining and using criteria and thresholds in determining materiality, and the materiality assessment and aggregation processes for locally specific matters at a globally consolidated level. As this is a foundational process for identifying and assessing what and how to report on sustainability matters, it will be critical for undertakings to fully understand how to apply the process to meet expectations in reporting.

Standard

ESRS 1

Paragraph or AR number or appendix

Para 43

Comment

The wording of Para 43 would seem to indicate that an undertaking will need to conduct an impact materiality assessment on every aspect of its operations, products, or services throughout the entire upstream and downstream value chains, which is extremely broad and would be impossible to implement. The definition of value chain needs to be amended and limited to Tier 1 suppliers when referred to the upstream value chain. Anything beyond Tier 1 is not manageable by an undertaking e.g. some large companies have a five-digit supplier base already at Tier 1 level. Same applies to downstream activities. Only specific definition will allow for the needed comparability.

Proposed amendment:

Scope of the impact materiality assessment should be limited – especially the definition of value chain.

Standard

ESRS 1

Paragraph or AR number or appendix

Para 45

Comment

There is no precise definition of the individual characteristics (scale, scope, and irremediable character of the impact) on the basis of which

the severity of the impact is to be assessed for the purpose of determining materiality. More guidance should be provided here in order to achieve the goal for comparability among entities.

Proposed amendment:

Clear guidance needed on scale, scope, and irremediable character of the impact.

Standard

ESRS 1

Paragraph or AR number or appendix

Para 62-67

Comment

The **“reporting undertaking” (i.e., boundary) definition** requiring companies to report sustainability statements in the same manner as the related financial statements (i.e., report on a financial consolidation boundary) **is not clear or consistently applied across general and topical ESRS**, especially related to metrics and targets. For certain environmental and social quantitative datapoints, this can lead to significant challenges and issues with collection, aggregation/disaggregation and reporting of datapoints, and in some cases would render such quantitative metrics and targets reports irrelevant or meaningless.

Standard

ESRS 1

Paragraph or AR number or appendix

Para 62-67

Comment

The extension of reporting undertaking boundaries for sustainability-related disclosures to include information connected to the undertaking through its direct and indirect business relationships in the **upstream and/or downstream value chain, is extremely broadly defined**, will significantly increase the reporting burden for companies beyond the reporting undertaking itself, and in some cases will make obtaining and assuring such information extremely

difficult if not impossible. We believe that these requirements will bring increasing commercial, regulatory and social risks (e.g., certain forward-looking information may be commercially sensitive and/or non-compliant with other regulations), and challenges in application in a timely manner. We also believe disclosure of certain granular quantitative and qualitative information across a company's full value chain provides limited value for users, leading to potential confusion and/or more important information being obscured from their view.

Standard

ESRS 1

Paragraph or AR number or appendix

Para 119 e

Comment

The option to incorporate by reference (ESRS 1 Par. 119), which we strongly support, is subject to certain strict conditions (e.g. that they are available with the same technical digitalisation requirements as the sustainability statements) that may limit considerably the use of this option and the number of references when drafting the management report. If the incorporation by reference cannot be used extensively, the result will be extremely voluminous reports.

Proposed amendment:

Adjustment of criterion e.g. "available digitally" instead of "same digitalisation requirements".

Standard

ESRS 1

Paragraph or AR number or appendix

Appendix B, 3.3, AR 8 and AR 9

Comment

The specifications here do not appear to be clear or contradict each other in the context of stakeholder engagement:

- Clear definitions of relevant and affected

stakeholders or their clear distinction should be integrated.

- The formulations of "may" and "shall" should be reviewed and corrected/adjusted with regard to disclosure requirements.

Proposed amendment:

To ensure a common understanding, ambiguity should be avoided and clear definitions of relevant and affected stakeholders be provided.

Standard

ESRS 1 & ESRS 2

Paragraph or AR number or appendix

-

Comment

Impact assessment:

The standards require detailed information on the undertaking's material actual or potential positive or negative impacts on people or the environment over the short, medium or long-term. This impact assessment should consider not only an undertaking's own operations but also the upstream and downstream value-chains. However, there are no common methodologies to assess the impacts of a company on its entire value-chain.

Standard

ESRS 2

Paragraph or AR number or appendix

Para 40 a IV

Comment

International companies comply with US and European Export Control Regulations globally. However, disclosing "bans" contradicts anti-discrimination law. Disclosing this information for a very large market scope, huge product basis, volatile statutory environment (bans legislation changing throughout the year) is an extremely complex procedure.

Additionally "bans" is too broad and not clearly

defined.

Proposed amendment: Delete all.

Standard

ESRS 2

Paragraph or AR number of appendix

Para 42 c

Comment

Disclosure of key supplier information poses risk for the company by revealing significant confidential information that can be related to a competitive advantage.

A threshold is required to identify which value chains would be considered key. Revenue generation would seem like a fair unbiased way to approach this and would align with AR12 thinking.

This wording lacks clarity as to what it means by key value chains, what granularity and depth will be required to meet the requirement significantly alters the workload required to fulfil this.

Proposed amendment: AR 13 should add a clear and objective definition on what qualifies as key supplier. We propose a similar addition as was included in AR 12 that a value chain must generate over 20% of revenues to be considered key.

Standard

ESRS 2

Paragraph or AR number of appendix

Para 45 c

Comment

We would not disclose potential changes to general strategy due to the sensitive nature of this information and competitiveness implications. Additionally, it is not appropriate to make predictions/assumptions about how our stakeholders will respond to changes we make.

Proposed amendment:

(c) where applicable, amendments to its strategy and/or business model, including:

i) how the undertaking has amended or expects to amend its strategy and/or business model to address the interests and views of its stakeholders;

ii) any further steps that are being planned and in what timeline; and

iii) whether these steps are likely to modify the relationship with and views of stakeholders; and

Standard

ESRS 2

Paragraph or AR number of appendix

Para 48 b

Comment

Future looking requirements on Strategy topics mean we would need to disclose commercially sensitive information.

Proposed amendment:

(c) the effects of material impacts, risks and opportunities on its strategy and decision-making, including how the undertaking is responding to these effects. In this context, the undertaking shall disclose any changes the undertaking has made, or plans to make, to its strategy or business model(s) as part of its actions to address particular material impacts or risks, or to pursue particular material opportunities;

Standard

ESRS 2

Paragraph or AR number of appendix

Para 48 c, d, e

Comment

Future looking requirements on Strategy topics mean we would need to disclose commercially sensitive information.

Additionally, this requirement should only

consider a 12 month outlook as predicting financials beyond that period is highly unreliable.

Currently no legal requirement to report quantified risk and opportunities to do so would mean capturing the Gross risk, mitigation costs etc. as well as net risk cost, huge efforts would need to go into from Regional Countries upwards to collect this data to give a cumulative reporting total. Equally well any numbers disclosed in this section would be considered sensitive if they are future looking. Time horizon beyond 3 years obviously are challenging and added value to the user of the information questionable.

Standard

ESRS 2

Paragraph or AR number of appendix

Para 72-80

Comment

The disclosure requirements on metrics are primarily focused on **what to disclose, which is sometimes poorly defined, while providing limited or in some cases no direction on how to measure and calculate.** We believe that clearer and more consistent definitions are required for the “what” to report and a better balance with the “how” in most metrics disclosure requirements will be important for consistency and comparability. Additionally, there are a **significant number of granular metrics and targets disclosure requirements for environment and social matters where the subject is early on in its development from a scientific and/or social (e.g., political) standpoint,** and/or the information is either not considered or not available globally and throughout the full value chain. Consideration should be given to ongoing scientific and/or regulatory developments across all ESG topics to determine if there is enough available and useful information on an ESG subject to warrant detailed disclosures or not, and to consider qualitative disclosure requirements on the subject where quantitative measures may not be ready.

Standard

ESRS E1

Paragraph or AR number of appendix

Objective

Comment

The reference to ‘well below 2°’ in the chapter ‘Objective’ has been removed. It should be reintegrated, in accordance with the Paris Agreement (Article 2 (a): ‘(a) *Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;*’

Standard

ESRS E1

Paragraph or AR number of appendix

-

Comment

Reference to scientific state of the art should be defined more clearly to include IPCC, IEA and principles of reliance on peer-reviewed publications.

Standard

E1-1

Paragraph or AR number of appendix

Para 16 d

Comment

Calculating locked-in CO₂ will create a lot of effort. This should only be expected if no 1.5°C aligned reduction target (such as validated SBTi) can be presented; Otherwise, validated SBTi should be sufficient.

Proposed amendment:

Erase locked-in CO₂, replace with SBTi:

“a qualitative assessment of a 1.5°C aligned reduction target (such as validated SBTi) or, of not available, potential locked-in GHG emissions from the undertaking’s key assets and products. This shall include an explanation of if and how these emissions may jeopardise the achievement of the undertaking’s GHG emission reduction targets and drive transition risk, and if applicable, an explanation of the undertaking’s plans to manage its GHG-intensive and energy-intensive assets and products;”

Standard

E1-1

Paragraph or AR number of appendix

AR 2

Comment

Benchmarking will not lead to additional reduction potential if a validated SBTi target is in place. Hence, a validated 1.5° SBTi should be considered sufficient to proof temperature-alignment.

Proposed amendment:

Erase benchmarking, replace with SBTi:

The disclosure under paragraph 16(a) on the compatibility of the transition plan with the objective of limiting global warming to 1.5°C should be understood as the disclosure of the undertaking’s GHG emissions reduction target. The disclosure under paragraph 16(a) shall be benchmarked in relation to a pathway to 1.5°C. This benchmark should be based on either a sectoral decarbonisation pathway if available for the undertaking’s sector or an economy-wide scenario bearing in mind its limitations (i.e., it is a simple translation of emission reduction objectives from the state to undertaking-level). AR2 should be read also in conjunction with AR 27 and AR 28 and the sectoral decarbonisation pathways they refer to.

Standard

E1

Paragraph or AR number of appendix

IRO-1 b

Comment

Since these risks are already addressed as part of the EU Taxonomy, it should be sufficient if a company complies with EU Taxonomy DNSH (climate change adaptation).

Proposed amendment:

To ensure coherence with other EU frameworks, establish a linkage to EU Taxonomy DNSH activities and how these can be incorporated to comply with this requirement.

Standard

E1-6

Paragraph or AR number of appendix

AR 47 f

Comment

Should be aligned with SBTi requirements (update latest every 5 years).

Proposed amendment:

(f) update the full Scope 3 GHG inventory at least every three five years or on the occurrence of a significant event or a significant change in circumstances

Standard

E1-6

Paragraph or AR number of appendix

AR 52

Comment

Should be erased completely as it is not aligned with the GHG protocol.

Proposed amendment: Delete all.

Standard

E1-9

Paragraph or AR number of appendix

AR 74 c

Comment

Clear definition on “assets” is needed.

Proposed amendment: Delete all.

risks before adaptation measures” could be added.

Para 68(a): Remove “before considering climate change mitigation actions” to focus on monetized/quantitative **net** risk. If information/context on gross risk needs to be provided, “companies shall – on a **qualitative** basis – describe their general risks before mitigation measures” could be added.

Standard

ESRS E1-9

Paragraph or AR number of appendix

Para 67-68

Comment

The addition of “before considering climate change adaptation/mitigation actions” under para 67(a)/68(a) respectively is highly problematic as this would mean companies need to report on the gross risks, rather than the net risks. Reporting on the net risks is already challenging, but standards and methodologies do exist (e.g. CDP, TCFD).

This is clearly an undue reporting burden which would create significant additional reporting efforts on the part of preparers while these efforts will only ever yield non-robust results (such risks can only be roughly estimated). Auditors have already stressed that this data cannot be verified for this very reason. In other words, this requirement would not help readers in assessing a company’s performance. Decision-useful information addresses risks after mitigation measures (= net risks). Instead of requiring monetized/quantitative reporting on gross risks, **a qualitative description of gross risks** could help provide context for monetized/quantitative net risks.

Recommendation:

- Para 67(a): Remove “before considering climate change adaptation actions” to focus on monetized/quantitative **net** risk. If information/context on gross risk needs to be provided, “companies shall, on a **qualitative** basis, describe their general

Standard

E1-9

Paragraph or AR number of appendix

Para 70

Comment

Potential market size of expected revenue from low carbon products are business sensitive information.

Proposed amendment: Delete all including related AR 81, 82

Standard

ESRS E2

Paragraph or AR number of appendix

Para 1(a)

Comment

Objective: “how the undertaking affects **pollution** (...)”

According to the glossary of terms, pollution refers to any substance that may cause harm. Pollution in this context should refer to substances clearly defined, i.e., that are reportable under prevailing legislation.

Standard

ESRS E2

Paragraph or AR number of appendix

Para 1(b)

Comment

Objective: "**any action taken** (...) to prevent (...) negative impacts (...)"

It is unclear what the intention of this paragraph is. Undertakings comply with emission standards and legislation to prevent negative impacts. "Any action" could mean

i) an explanation of emission control measures for each process and emissions source. This is completely unfeasible for an undertaking with hundreds of plants and thousands of individual emission sources.

OR

a reference to relevant emission standards and emission control technologies in general terms. This is the basis of any license to operate. Under the assumption that all reporting undertakings are operating legally, this requirement seems superfluous.

Standard

ESRS E2-4

Paragraph or AR number of appendix

Para 26

Comment

Pollution of air, water and soil: "(...) shall disclose the **pollutants** (...)"

It must be clarified that "pollutants" are substances according to prevailing legislation

Standard

ESRS E2

Paragraph or AR number of appendix

Para 28

Comment

Pollution of air, water and soil: "(...) **the consolidated amount** (...)"

"Consolidated" needs to be clarified. If this refers to all >90 substances according to PRTR and covers site data for emissions into air,

water and soil of all (relevant) sites this would mean significant regulatory (extra-territorial) overreach. All sites located outside of the EU would have to comply to ensure the >90 PRTR substances can actually be measured. For large companies active globally, this would mean investments of several million EUR in equipment and FTE for the reason of reporting according to this DR.

Standard

ESRS E2

Paragraph or AR number of appendix

Para 31

Comment

Pollution of air, water and soil: "(...) **inferior methodology** (...) compared to direct measurement of emissions"

This requirement is unfeasible and unreasonable. Firstly, 'inferior methodologies' are not defined. There is for example no reason why a mass balance would be inferior to direct measurement. Secondly, this can lead to millions (!) of data points where methods would have to be explained.

Recommendation: undertakings could be required to outline their general approach and policies regarding the measurement of emissions and the methods used.

Standard

ESRS E2-5

Paragraph or AR number of appendix

Para 32-35

Comment

Substances of concern and substances of very high concern:

The requirement for an undertaking to *disclose information on the production, use, distribution, commercialisation and import/export of substances of concern and substances of very high concern, on their own, in mixtures or in articles* would expose that undertaking to unfair competition by allowing

its competitors to calculate production volumes for specific products. This could affect competition within the Single Market and deteriorate competitiveness vis-à-vis third-country competitors in particular. Especially Para 34 mandating these disclosures should include the total amounts of substances is problematic. Furthermore, the focus on the use of substances during production is not appropriate as it is not a proxy for environmental impacts. Currently, the draft standard wrongly implies that substances of (very) high concern are emissions with a negative impact by default. Yet, the essential information that needs to be disclosed is the management/monitoring system to ensure safe handling of such substances.

Recommendation: Remove the references to amounts/metrics and disclosure obligations regarding the production phase. Instead, preparers could be required to disclose their due diligence/management processes to ensure the safe handling/substitution of substances of (very) high concern.

Standard

ESRS E2

Paragraph or AR number of appendix

E2 6 Anticipated financial effects 34 (36)

Comment

The definition of "undue cost or effort" should be included.

Standard

ESRS E2

Paragraph or AR number of appendix

38 (40).

Comment

SVHC will always be enclosed in the substances of concern perimeter. Clarification is needed if it refers to a separate disclosure of Substances of Concern and Substances of Very High Concern - Otherwise, it would be redundant.

So far, only regulatory definition is the EU

definition which is as follows: "microplastic means a material consisting of solid polymer containing particles, to which additives or other substances may have been added, and where $\geq 1\%$ w/w of particles have (i) all dimensions $1\text{nm} \leq x \leq 5\text{mm}$, or (ii), for fibres, a length of $3\text{nm} \leq x \leq 15\text{mm}$ and length to diameter ratio of >3 ."

This definition needs to be completed by the following definitions:

"Particle is a minute piece of matter with defined physical boundaries; a defined physical boundary is an interface." "polymer-containing particle means either (i) a particle of any composition with a continuous polymer surface coating of any thickness or (ii) a particle of any composition with a polymer content of $\geq 1\%$ w/w."

However, there is no scientifically agreed definition of microplastics, although they are frequently defined as plastic particles $<5\text{ mm}$ in length. However, this is a rather arbitrary definition and is of limited value in the context of drinking-water since particles at the upper end of the size range are unlikely to be found in treated drinking-water.

The definition of microplastic defining them as "plastic particles $<5\text{ mm}$ in length" is the WHO definition.

Standard

ESRS E3

Paragraph or AR number of appendix

-

Comment

Clarification/Guidance needed for 'purchased grey water' - should it be considered as water withdrawal and/or water reused/recycled?

Standard

ESRS E4

Paragraph or AR number of appendix

-

Comment

Scenarios: Further clarification needed on how a company should perform scenario analysis for biodiversity topics, including minimum requirements and connections to climate change scenarios as needed.

Standard

ESRS E4-2

Paragraph or AR number of appendix

Para 21 d

Comment

Not on single products and components, need to be on product group level. Some companies will have several hundreds of thousands of products let alone components. Same definition as for EU taxonomy shall be applied.

Standard

ESRS E4-2

Paragraph or AR number of appendix

Para 22 a

Comment

Delete “managed” as unclear terminology.

Standard

ESRS E4

Paragraph or AR number of appendix

AR 15

Comment

Definition of prior informed consent not consistent with the Glossary (which is the correct one) in that it merely mentions consent from a competent national authority rather than from rights holders such as indigenous groups.

Standard

ESRS E5-4 & ESRS E5-5

Paragraph or AR number of appendix

-

Comment

Material resources inflows (ESRS E5-4) and outflows (ESRS E5-5):

Similar to the issues highlighted with regard to E2-5, the requirement for an undertaking to disclose granular information on the inflow and outflow of resources in quantities (kg/tons) leads to concerns around competitiveness as competitors could calculate production volumes for specific products. This could affect fair competition within the Single Market and deteriorate competitiveness vis-à-vis third-country competitors in particular.

Recommendation: Remove the references to amounts/metrics. Instead, preparers could be required to disclose the relevant due diligence/management processes.

Standard

ESRS Social

Paragraph or AR number of appendix

-

Comment

Concerning the wording used when referring to international standards (e.g. OECD Guidelines on Multinational Enterprises), ‘compliance’ should be replaced by ‘alignment’ as it refers to standards (soft law) and not to binding requirements (hard laws).

Example ESRS S1 Chap 20 => Chap 20: replace “compliance” with “alignment”: no compliance required for companies with international instruments which are non-binding instruments

Standard

ESRS S1

Paragraph or AR number of appendix

Employees and collective bargain coverage

Comment

Suggestion to extend the disclosure prerequisite (currently applicable to employees by country and collective bargain coverage) of disclosing in countries in which the undertaking has 50 or more employees representing at least 10% of its total number of employees to other social metrics. Other options could be to express this in terms of % workforce.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 50 b

Comment

No such classification according to particular criteria is required by CSRD. Disclosing these details about key characteristics of employees touches upon sensitive issues related to the business model and the entire HR policy. Additionally, the multitude of definitions of permanent, temporary and non-guaranteed hours across different countries dilutes the added value of this requirement aiming at collecting comparable information. Moreover, not all countries have the same data protection and privacy laws, and it is therefore impossible to provide differentiated gender-related information on the entire workforce. In terms of the concept of “gender”, requiring employees to provide this kind of personal information may become delicate in certain cultural settings and could be considered an invasion of privacy.

The requirement should therefore be limited to reporting on permanent employees.

Proposed amendment:

the total number by head count or full time equivalent (FTE) of:

i. permanent employees, and breakdown by gender;

Standard

ESRS S1

Paragraph or AR number of appendix

Para 52 a

Comment

Disclosing these details about key characteristics of employees touches upon sensitive issues related to the business model and the entire employment strategies. We suggest dismissing the breakdown criteria gender on contract level.

Proposed amendment:

(a) full-time employees, and breakdowns by gender and by region; and

Standard

ESRS S1

Paragraph or AR number of appendix

Para 52 b

Comment

Disclosing these details about key characteristics of employees touches upon sensitive issues related to the business model and the entire employment strategies. We suggest dismissing the breakdown criteria gender on contract level.

Proposed amendment:

(b) part-time employees, and breakdowns by gender and by region

Standard

ESRS S1-10

Paragraph or AR number of appendix

-

Comment

Adequate wages:

We noted the change of the definition in the Appendix A, but the old definition still appears in the Annex 2 – Acronyms and glossary of terms. The Commission should clarify this.

The notion of adequate wages as defined in Appendix A ('EU, national or local legal definitions of adequate wages, fair wages, and minimum wages') should take into account that companies respect the legal requirements and customs that apply within the national context of their economic activities. Reporting on compliance would thus become redundant.

Furthermore, there is legal unclarity regarding GDPR restrictions and individualized wage disclosures ("highest/lowest paid individual") both regarding the collection and the publication of this data.

Recommendation: Rather than using quantitative KPIs which currently cannot be compiled due to the lack of country-specific data – both for countries outside of Europe and European countries -, companies should be required to holistically describe their policies and respective monitoring systems aimed at ensuring its employees are paid adequate wages.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 72

Comment

The company must disclose whether all employees are covered by the respective social protection systems.

Yet, globally, a wide array of legal frameworks exists, each with their own idiosyncrasies. 'Global statements' will not be meaningful. Alternatively, reporting could become extremely granular and disproportionate. Information would also have to be collected manually, adding on to the reporting burden.

The disclosure requirement also has no basis in the CSRD, which does not mention the

term "social security". Moreover, the term "social protection against loss of income" does not clearly define if statutory and/or privately arranged protection under a scheme created by law are subject to this disclosure requirement. We therefore see a clear breach of the "non-essential elements"-principle in accordance with Art. 290 TFEU.

Alternatively, very clear guidance on and a workable definition of "social protection" is necessary, per country and on a global scale as this would be the basis for meaningful comparable data

Proposed amendment: The potential usefulness of this requirement does not justify the associated reporting burden while also exceeding the CSRD and should therefore be removed.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 77

Comment

Due to legal boundaries/divergent legal provisions (sometimes within the EU), data on persons with disabilities is not completely available in the company (data retrieval can also be understood as an invasion of privacy and sometimes prohibited by law), so extensive data collection is not possible. Companies are not allowed to acquire such kind of information from employees. In addition to the legal constraints, information gathering and processing with regard to disabilities of employees is also likely to lead to protracted discussions with employee representatives (also outside of Europe). Many (other) social indicators also mandate a breakdown by gender which could again give rise to similar issues. Detailed guidance should be given on how to deal with the different legal definitions of "disability" (there is no universal definition of disability). or provide a country definition on a global scale that ensures comparability.

AR 77: Already confirms that there can be different definitions and that they should be reported as contextual information. However, it leaves open the question of whether a company should simply always

use the national definition or whether they can "choose" whether to use the national definitions or to apply a definition globally. Depending on which option a company chooses, this can of course lead to major differences and therefore to reduced comparability.

Proposed amendment: To be deleted.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 83

Comment

Regular performance and career development reviews:

- Especially in smaller markets, system mapping is difficult or impossible; manual queries would be required, including country-specific definition and implementation.
- It should be sufficient to explain the policies and systems of the regular performance and career development reviews - without having to disclose exactly how many employees have received these reviews per year.
- The reporting requirement also does not reflect the operational implementation of these tools. Previously, a regular query was sufficient for ISO certification, not an annual one. A review should be conducted every 2-3 years.

In some countries/markets e.g. USA this requirement is likely to be not legally admissible to record gender.

Proposed amendment: Delete (a) and substitute by respective available qualitative information

Standard

ESRS S1

Paragraph or AR number of appendix

Para 85 b

Comment

In certain EU countries, this example could cause significant confusion and legal uncertainty. In Germany, for example, this could cause confusion in terms of insurance since commuting accidents are considered as work-related from a social security perspective and covered by the statutory accident insurance. The disclosure should respect the difference between a work accident (typically defined as a sudden incident resulting in an injury immediately or within a few days) and work-related illness (which is a result of a long-time impact from the work conditions). It should also take national definitions into consideration, i.e., in some countries, transportation to/from work is considered part of work hours while in other countries it is considered to be outside of work hours. In addition, the examination of whether an incident is actually considered as a work-related illness (occupational disease) is in the hands of a competent accident insurance firm (for example in Germany). There are therefore country-specific differences as to which occupational diseases are (or can be) recognised at all.

Corporate reporting with regard to occupational health and safety is superfluous and would cause unjustified administrative burdens. A multitude of differences exists across the occupational health and safety standards between the different countries, especially outside the EU. It is important to have a clear distinction between the safety and health system provided by the government and the company. The coverage would be considered as a minimum per law or above the legal requirements, depending on the definition.

Germany, for example, has very strict occupational health and safety laws and regulations, which are also regularly monitored by the accident insurance and state supervisory authorities; these standards cannot be applied internationally. Companies are already compliant with the legal requirements and customs that apply within the national context of their economic activities, reporting on compliance thus would become redundant.

The requirement should therefore be deleted.

Proposed amendment: To be deleted.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 88 d

Comment

The number of work-related illnesses cannot be reported due to the different definitions and legislation. In Germany, for example, the reason for illness is not transmitted to the employer. There is no international definition of work-related diseases that covers all countries in which global companies operate. In Germany, only work-related accidents and occupational diseases can be recorded. Occupational diseases are a subset of work-related diseases. Occupational diseases in Germany can be recorded very reliably, but other work-related diseases cannot and must not be recorded.

The mere indication of numbers and quotas will not provide any meaningful insights in this regard. They must be put into context considering, in particular, what accident rates and occupational diseases are common in the respective countries and in the corresponding sector. The applicable timeframe plays a vital role as well, as to whether the figures are counted, for example, within a calendar year, quarterly, or since the company was founded. Requiring this high level of detail is disproportionate.

There are strong concerns that this more complex classification will not be possible, especially for smaller enterprises.

The requirement should therefore be deleted.

sensitive/legally questionable content. Clear unambiguous definition per country and calculation methodologies are needed.

The current disclosure requirement and related footnote regarding “days lost from work related fatalities and work-related ill health” (KPIs) perpetuate the adoption of non-meaningful KPIs that lack the necessary basis to draw relevant insights for improving health and safety at work.

This indicator also introduces a subtle social bias by potentially implying that the value of a young person's life outweighs that of a senior citizen nearing retirement. Therefore, it is essential to consider deleting this KPI and focusing on indicators that can effectively support the European transformation into a more sustainable continent for all its citizens.

Another main issue with this indicator is the complexity and inconsistency in its calculation. The number of days lost to work-related injuries can be counted differently under different legislations, making it challenging to collect data in a comparable manner. Currently, there are numerous definitions among experts, further enhancing the claim to reduce complexity and eliminate this non-meaningful indicator.

To illustrate the challenge and lack of meaning, let's consider two calculation methods that are possible. The first method suggests calculating the days lost as the product of the number of fatalities, average life expectancy, and the percentage of the workforce affected. However, this method overlooks crucial factors and relies on assumptions that may not hold true in all cases. For instance, it includes employees who witnessed the incident or were emotionally impacted, which can significantly vary in different situations and workplaces.

The second method proposes calculating the days lost as the product of the number of fatalities, average days worked per year, and years of potential life lost per fatality. While this method appears more straightforward, it still relies on assumptions and generalizations. It assumes a fixed average number of workdays per year, which may not accurately represent the actual work schedule of a company or region. Moreover, the years of potential life lost per fatality are based on demographic data, which can also vary across countries and regions.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 88 e

Comment

This reporting requirement poses fundamental problems and requires a revision with regard to (internal) national legislation as well as the extension of the option of omitting

Given these limitations and inconsistencies in calculating the indicator, it is evident that it does not provide meaningful insights into improving health and safety at work. Instead, it adds unnecessary complexity and fails to capture the diverse realities across the globe. Therefore, it is crucial to delete this non-meaningful KPI and focus on indicators that can better support the European transformation into a more sustainable continent, ensuring the well-being and safety of all its citizens.

Proposed amendment:

Deletion of the “number of days lost due to fatalities from work-related accidents” and “number of days lost with fatalities from ill health”.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 91

Comment

One problem with collecting data on parental leave entitlements is that data is sometimes only available for employees who have actually taken parental leave. As a rule, companies do not know which employees have children (and thus parental leave claims), as there is no obligation to report on the part of employees. More broadly, work-life balance indicators should not be limited to family-related leave and should instead have a stronger focus on material topics like flexible and part-time work options.

In Germany, like elsewhere, family-related leave is regulated by law. Differences in national law reflecting cultural and societal preferences would not allow for meaningful comparability. Companies are already compliant with the legal requirements and customs that apply within the national context of their economic activities. Reporting on compliance thus would become redundant. In this context, data access and availability remain a contentious issue as well. Requesting this kind of personal information from employees is often prohibited by law and considered an invasion of privacy. Reporting companies will be dependent on the employees' readiness to

share information on their entitlement to take family-related leave in order to report exact figures in percentage form, as required.

Proposed amendment:

“The undertaking shall disclose the extent to which employees are entitled to family-related leave, and report on policies in place related to different work-life balance approaches.”

PLUS Deletion of 93 and 94

Standard

ESRS S1

Paragraph or AR number of appendix

Para 97 a

Comment

Not all countries (e.g. USA) can use gender-specific data for analysis that complies with prevailing anti-discrimination regulations. Further, gross hourly earnings should be extended by the possibility of the logic of monthly earnings and/or annual earnings.

In addition, a gross pay gap says very little unless it is disaggregated by age, education and position level.

Proposed amendment:

A clear and unambiguous definition of gross hourly earnings is needed and the requirement shall reflect that not all countries allow for the use of gender-specific data.

Standard

ESRS S1

Paragraph or AR number of appendix

Para 97 b

Comment

Obtaining a meaningful KPI is very complex due to the need to consolidate different currencies and types of compensation elements across different markets/countries.

In addition, median instead of mean annual compensation is burdensome to be calculated on the entity side. Furthermore, the comparisons between the compensation of the highest paid individual and the median compensation of employees is very difficult for global cooperations to report on as compensation is based on local pay bands (in addition to different currencies and compensation elements). This will not yield a useful KPI.

Proposed amendment: To be deleted.

Standard

ESRS S2

Paragraph or AR number of appendix

-

Comment

Reference made to the monitoring of compliance with international instruments (eg UN Guiding Principle and other instruments) is inappropriate because these standards are not directly binding for companies and are different from law/regulations. Therefore, companies do not have any obligation to monitor compliance with these standards. The wording must be accordingly amended to rather refer to any applicable law/regulation related to due diligence.

Standard

ESRS S3

Paragraph or AR number of appendix

-

Comment

§22: obligation to report on the implementation of the rights of indigenous peoples guaranteed under the UN Declaration on the rights of Indigenous people (soft law) → to be confirmed in the gap analysis the status for Airbus

Standard

ESRS S4-4

Paragraph or AR number of appendix

Para 31(a) & (b)

Comment

In relation to material impacts:

Without further clarification, Para 31(a) can lead to highly granular reporting obligations when this means an exhaustive list of actions would need to be compiled (regarding quality-related non-conformities).

Recommendation: Clarify that the reported list of 'actions' should not be exhaustive but rather provide an overview of the *types of actions* taken/planned/underway. Similarly, Para 31(b) should be removed, or it should be clarified that an example(s) of a remedial action(s) should be provided, not an exhaustive list.

Standard

ESRS S1-S4

Paragraph or AR number of appendix

Human Rights

Comment

Replacement of 'violation' for 'cases of non-respect': the modification widens the scope of the disclosure increasing the reporting burden on companies. A different, more scope restrictive distinction would be highly preferred, such as 'cases of direct mis-alignment' or '...'

Standard

ESRS G1

Paragraph or AR number of appendix

Para 21 and 22

Comment

The undertaking shall provide information on confirmed incidents of corruption or bribery during the reporting period:

Clear distinction needed between active/passive and public/non-public corruption. Differentiation reasonable as public corruption

is much more severe (and rare compared to private passive corruption which comprises e.g. conflict of interest situations.). With regard to the relevance of confirmed incidents of corruption or bribery, we suggest to focus on cases of active corruption. In our opinion, cases of passive corruption (bribery) are less or even not relevant, as the company was a victim in this case.

Standard

ESRS G1

Paragraph or AR number of appendix

Para 23, 24 and 25

Comment

The disclosure required by paragraph 21 shall include information about the following: (a) the total number and nature of confirmed incidents of corruption or bribery; [... and further details such as number of convictions and amount of fines ...]:

- In general, with the required level of detailed information there might be conflicts with the legal requirements of data privacy protection (GDPR).
- From our experience, the corresponding figures (total number of confirmed incidents of corruption or bribery, amount of fines, etc.) will fluctuate significantly over the years, as it might take a significant while to resolve such kind of cases. This severely limits the comparability of such data over the years. We therefore question the general approach and usefulness of this information.
- The same arguments (lack of comparability) apply to the comparability of such information provided with respect to different companies: The risk of corruption, for example, depends very much on the general type of business (business with state-owned companies and public authorities, wholesale vs. retail business, etc.)

In addition, there are no materiality criteria for reporting on corruption available up to now: We had already pointed out above that, in our opinion, it is absolutely necessary (at least) to differentiate between active and passive corruption.

Standard

ESRS G1-4

Paragraph or AR number of appendix

Para 25 (d)

Comment

Incidents of corruption or bribery:

"**details** of public legal cases regarding corruption or bribery brought against the undertaking and its own workers"

It is not clear from the glossary of terms what these details would be. This needs to be delineated.

Standard

ESRS G1-4

Paragraph or AR number of appendix

Para 26

Comment

Incidents of corruption or bribery:

"The disclosures required shall include **[confirmed]** incidents involving actors in its value chain only where the undertaking or its employees are directly involved."

'confirmed' should be added to maintain consistency with the other data points and avoid reporting on frivolous claims.

Standard

G1

Paragraph or AR number of appendix

Para 29 b

Comment

Large multinational companies have hundreds of different associates to which they pay a membership fee to or which they provide a contribution. There is no cost / benefit value to request from these various associations information about whether they do also

support political parties. Hence indirect contribution shall be deleted.

Proposed amendment:

The disclosure required by paragraph 27 shall include:

(b) for financial or in-kind political contributions:

i. the total monetary value of financial and in-kind political contributions made directly and indirectly by the undertaking aggregated by country or geographical area where relevant, as well as type of recipient/beneficiary; and

Standard

ESRS G1-6

Paragraph or AR number of appendix

Para 33 (b)

Comment

Payment practices:

(d) should also apply to the calculation of the percentage referenced in (b) - not only to (a) - to maintain consistency and avoid undue reporting burdens.

'Supplier categories' need to be clarified as part of the definition of 'supplier' in the glossary of terms

Since AR17 uses the word 'approximately' in relation to (an example of) the reported percentage, it might be helpful to clarify in the DR that this is an estimate.

Standard

All

Paragraph or AR number of appendix

Cross-cutting

Comment

Relevant (mandatory) metrics should be enough to provide an understanding of a company's sustainability performance.

Requirements to provide further information should be optional - this relates to the description of methodologies used to prepare the information/data, detailed explanations of materiality process and/or stakeholder engagement, targets setting, etc required under the CSRD draft reporting standards that brings very limited value to assess the performance on a given topic, largely covered by auditors' review and report. They could become voluntary or largely re-focused on key elements to external stakeholders. In addition, these kind of requirements are repeated all over the documents and becomes an administrative burden that could be avoided by 1/ consolidating the relevant explanations under ESRs transversal requirements and 2/ limiting the explanations to the list of references / standards used (for example TNFD, GHG protocol, etc.) as the description might not have added value for the reader of the sustainability reporting. In addition, the complexity of the reporting requirements as proposed would be inevitably transferred to the auditing exercise.

4. Specific comments on Annex II

Defined Term

Climate change mitigation

Comment

In the public consultation draft, the reference to 'well below 2°' under the definition of this term has been removed. It should be reintegrated, in accordance with the Paris Agreement (Article 2 (a): '(a) *Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;*'

Defined Term

Adequate wage

Comment

This term needs a very clear definition and

calculation methodology. Adequate wage could be considered as Minimum wage or as Living wage, which have different implications. On top, the fact that the EU Directive 2022/2041 is not yet transposed brings another layer of complexity.

Defined Term

Affected communities

Comment

Any affected stakeholders or communities identified would be related to the company's activities and business operations.

The modifications are suggested in **bold** below:

Amend the definition as follows:

People or group(s) living or working in the same area that has been or may be affected by a reporting undertaking's operations or through its value chain. Affected communities can range from those living adjacent to the undertaking's operations (local communities) to those living at a distance **affected in connection with the company's business operations**. Affected communities include actually and potentially affected indigenous peoples

Defined Term

Value chain

Comment

The modifications are suggested in **bold** below:

The full range of activities, resources and relationships related to the undertaking's business model and the external environment in which it operates.

A value chain encompasses the activities, resources and relationships the undertaking uses and relies on to create its products or services from conception to delivery, consumption and end-of-life.

Relevant activities, resources and relationships include: a) those in the undertaking's own operations, such as human resources; b) those

along its supply, marketing and distribution channels, such as materials and service sourcing and product and service sale and delivery; and c) the financing, geographical, geopolitical and regulatory environments in which the undertaking operates.

Value chain includes actors upstream and downstream from the undertaking. Actors upstream from the undertaking (e.g., suppliers) provide products or services that are used in the development of the undertaking's products or services.

Entities downstream from the undertaking (e.g., distributors, **customers**) receive products or services from the undertaking. ESRs use the term "value chain" in the singular, although it is recognised that undertakings may have multiple value chains

Defined Term

Business relationships

Comment

The definition of 'business relationship', must be amended in order to only cover relationships connected with the company's business, product and services and the customer, and end user must be explicitly excluded from the notion of business relationships.

The modifications are suggested in **bold** below:

Business relationships= The relationships the undertaking has with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services. Business relationships are not limited to direct contractual relationships related to the operations, products or services of the company or to whom the company provides services, "direct business partner".

They include indirect business relationships in the undertaking's value chain beyond the first tier, and shareholding positions in joint ventures or investments **which performs business operations related to the operations, products or services of the company ("indirect business partner")**

Individual consumers and end users shall

not be considered as business relationships (nor as business partners).

Defined Term

Consumer & end-user

Comment

According to the OECD Guidelines on MNES (revised version), 'consumers' are explicitly excluded from business relationships - reporting standards requirements should align with this update.

The modifications are suggested in **bold** below:

Definitions

Consumer:

Individuals who acquire, consume **[or use-goods]** and services for personal use, either for themselves or for others, and not for resale, commercial or trade, business, craft or profession purposes. Consumers include actually and potentially affected

End user: Individuals who ultimately use or are intended to ultimately use a particular product or service **for personal use only (out of the course of a professional relationship),**

Defined Term

Forced labour

Comment

The definition should refer to ILO Convention > ILO convention C29 Forced labour Article 2 (IFA)<

The elements to be taken into account are suggested in bold below:

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this

Convention, **the term forced or compulsory labour shall not include--**

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;

(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Defined Term

Recordable work-related injury or ill health

Comment

The current definition under consideration raises two major concerns: the lack of work-relatedness and related exclusions, and the absence of a clear definition for significant injury. These issues necessitate the deletion of certain items from the term definition.

Firstly, the absence of a definition for work-relatedness within the current text for "Recordable work-related injury or ill health" leads to a potential problem when

correlating it with the current definition for "work-related incident" in cases involving loss of consciousness. Loss of consciousness can occur both as a result of a workplace event or exposure (such as exposure to chemical substances or gases) and due to personal health conditions (like epilepsy). As a result, the current definition would lead to overreporting, as all instances of loss of consciousness, regardless of the cause, would be categorized as work-related incidents.

Moreover, loss of consciousness can have varying consequences, which would result in different severity levels and should be reported under appropriate categories, such as first-aid, days away from work, or medical treatment. By lumping all work-related loss of consciousness cases under the same category, the true severity of these incidents is not accurately reflected. For instance, a work-related loss of consciousness resulting in a two-day absence from work should only be reported once, either as a lost-time case or as a work-related ill health case.

Secondly, the introduction of the term "significant injury" within the definition of "Recordable work-related injury or ill health" introduces further ambiguity. This ambiguity makes it impossible to harmonize and collate meaningful and reliable data, as physicians are likely to apply different criteria for determining the significance of an injury. This subjective interpretation of significance would lead to inconsistent reporting and hinder the comparability of data across different sources and jurisdictions.

In conclusion, the current definition suffers from the lack of a clear work-relatedness definition and the introduction of the term "significant injury," both of which pose significant challenges to accurately reporting and comparing work-related incidents. Deleting the items that contribute to these issues would enhance the clarity and reliability of the definition, ultimately improving the effectiveness of the directive.

Proposed amendment:

Deletion of "loss of consciousness" and "significant injury"

Work-related injury or ill health that results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid or ill health

diagnosed by a physician or other licensed healthcare professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid.

Defined Term

Freshwater

Comment

The definition of freshwater (salinity <0.5‰) differs from the international definition e.g. in GRI (<1000 mg/L TDS).

Additionally, rainwater was explicitly covered in the definition of freshwater as part of surface water; but in the consultation version the definition has changed and the reference to rainwater has disappeared. Is it considered as being part of water withdrawal?

Defined Term

Area at water risk

Comment

The definition of areas at water risk as "catchments with water bodies with less than good status" according to WFD includes pretty much all water bodies in Europe, e.g. the whole of Germany. This definition should be more specified.

Defined Term

Water consumption

Comment

The definition of water consumption (input minus output) should allow for alternative calculations as the measurement of output is affected by uncertainties. As per the GRI, WFN, and USGS, an alternative definition for consumptive water use is *the part of water withdrawn that is evaporated, transpired, incorporated into products or crops, consumed by humans or livestock, or otherwise not available for immediate use.*



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