Log of explanations approved by SR TEG on 18 January 2024

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ID 29 and ID 261 – Voluntary reporting requirements

Question asked

What is the meaning of a "may disclose" in ESRS; how does that relate to a "shall disclose"? Can you explain based on Disclosure Requirement S1-12?

In addition, the following more specific questions have been received in ID 261 related to "voluntary reporting requirements":

1. Does the materiality assessment take precedence over ESRS 1 paragraph 18?
2. Is an undertaking required to disclose a datapoint that is not material, if it is a "shall disclose" datapoint?
3. Can an undertaking disregard the disclosure of a "may disclose" datapoint, if the datapoint is material?
4. What is the relevance of ESRS 1 paragraph 18 if materiality takes precedence over ESRS 1 paragraph 18?

ESRS reference

ESRS 1 paragraph 18; ESRS S1 paragraph 77, ESRS S1 paragraph 80, ESRS 1 Chapter 1 to 3.5, ESRS 2 par. 62 and 72, ESRS 1 par. 31, 34

Key terms: Voluntary disclosure requirements ("may disclose")

Background

ESRS 1 paragraph 18 states: 'ESRS uses the following terms to distinguish between different degrees of obligation on the undertaking to disclose information:

a) "shall disclose" – indicates that the provision is prescribed by a Disclosure Requirement or datapoint;
b) "may disclose" – indicates voluntary disclosure to encourage good practice."'

ESRS S1 paragraph 77 states: 'The undertaking shall disclose the percentage of its own employees with disabilities.' And paragraph 80 states: 'The undertaking may disclose the percentage of employees with disabilities with a breakdown by gender.'

ESRS S1 paragraph 80 is voluntary and states: 'the undertaking may disclose the percentage of employees with disabilities with a breakdown by gender.'

Answer

The drafting convention used in the ESRS is defined in ESRS 1 Chapter 1.3. The terms 'shall disclose' and 'may disclose' are used to distinguish the degree of obligation on the undertaking to disclose information; these are defined as follows in paragraph 18:

(a) "shall disclose" – indicates that the provision is prescribed by a Disclosure Requirement or datapoint;

(b) "may disclose" – indicates voluntary disclosure to encourage good practice.'

The terms 'shall disclose' and 'may disclose' are to be applied in the light of the materiality provisions of the ESRS (refer to ESRS 1 Chapter 3.2 to 3.5). In particular:

a) all the ‘shall’ datapoints in ESRS 2 General Disclosures are to be reported, as they are outside the materiality assessment. This includes the datapoints in topical standards that relate to ESRS 2 Disclosure Requirement IRO-1 *Description of the process to identify and assess material impacts, risks and opportunities* (see ESRS 2 *Appendix C Disclosure/Application Requirements in topical ESRS that are applicable jointly with ESRS 2 General Disclosures*);

b) if a topic is not material for the undertaking, the ‘may’ and ‘shall’ datapoints in the corresponding topical standard are not reported, as the undertaking does not report on non-material topics;

c) if a topic is material for the undertaking, the “shall” datapoints in the respective topical standard that relate to ESRS 2 GOV-1, GOV-3, SBM-2 and SBM-3 (refer to Appendix C of ESRS 2 for the complete list by topical standard) are to be reported;

d) if a topic is material for the undertaking, the undertaking discloses the information corresponding to the ‘shall’ datapoints in the topical standard in relation to Policies, Actions and Targets (PAT) as well as the information corresponding to the datapoints in ESRS 2 MDR-P, MDR-A and MDR-T. If the undertaking cannot disclose the information on PAT required under relevant topical ESRS, because such PAT are not in place with reference to a given material matter, it shall disclose this to be the case and provide reasons for not having PAT. The undertaking may disclose a timeframe in which it aims to adopt them;

e) if a topic is material for the undertaking, the undertaking discloses the information corresponding to the ‘shall’ datapoints in the topical standard in relation to metrics if that information is assessed to be material (refer to ESRS 1 paragraph 34);

f) if a topic (or a matter) is material for the undertaking, the undertaking decides whether to include or not the ‘may’ disclosure datapoints related to that matter; however, it is encouraged to disclose it as good practice. For example, ESRS S1 paragraph 89 is related to a voluntary disclosure on non-employee data on health and safety metrics. If this information on non-employees is material for the undertaking, the undertaking has an option to report it on a voluntary basis.

The criteria in paragraph 31 of ESRS 1 (significance of the information and users’ needs) are the point of reference to be used when:

- defining the granularity of the content of the information provided under points a), c) and d) above;
- assessing the materiality of the information under point e) above.

ID 37 – Positive impact only

Question asked

Can an impact be material if it is material from a positive impact perspective only?

EFRAG considers that the question should be reworded in the following way to be clearer: *Can a sustainability matter be material from a positive impact perspective only?*

ESRS reference

ESRS 1 chapter 3.4 ; ESRS 1 paragraph 43 and 46

Key terms: Materiality, only positive impact is material

Background

Background as provided by the submitter:

'It is essential that when I have evaluated and qualitatively assessed the actual/potential negative and positive effects on human beings and the environment, I have concluded that the topic is irrelevant in terms of actual negative impacts and also irrelevant in terms of actual positive impacts. However, it is critical from the perspective of potential positive impacts. Is my topic then considered significant?'

ESRS 1 paragraph 43 states: 'A sustainability matter is material from an impact perspective when it pertains to the undertaking's material actual or potential, positive or negative impacts on people or the environment over the short-, medium- or long-term.' ESRS 1 paragraph 46 states the criteria on which positive impacts are based.

Answer

Yes, a sustainability matter can be material from a positive impact perspective only. Based on the definition in ESRS 1 paragraph 43, a sustainability matter is material when it pertains:

(a) to material actual or potential impacts, or

(b) to material positive or negative impacts.

Positive impacts can be either actual or potential.

ESRS 1 chapter 3.4 defines the criteria used to assess materiality. For actual positive impacts, the criteria are scale and scope. In addition, for potential positive impacts likelihood is considered.

ESRS 1 paragraph 45 describes the relationship between negative impacts and the due diligence process defined in international instruments (i.e., the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises). In particular, due diligence focuses on negative or adverse impacts on the people and the environment, but this does not mean that impact materiality is limited to negative impacts under ESRS reporting.

ID 41 – Financial institutions – scope of reporting boundary

Question asked

What is the scope of insurance companies' own operations under ESRS? Is it the same as under Solvency II, i.e. do the ESRS standards relate only to insurers' non-life insurance activities (fire, health, damage to vehicles, third part liability, assistance, legal expenses etc.), or also to investment activities? How should the sustainability report address Insurance with profit participation?

ESRS reference

ESRS 1, Chapter 5.1, paragraph 62 as well as paragraph 63

Key terms: Insurance, financial institutions, own operations, investment activities, investments, reporting boundary

Background

The Accounting Directive (Directive 2013/34/EU) articles 19(a)(3) and 29(a)(3) require that reported information relates to the undertaking's own operations and its upstream and downstream value chain.

ESRS do not define an undertaking's 'own operations'.

Answer

ESRS 1 paragraph 62 clarifies that the sustainability statement shall be prepared for the same reporting undertaking as the financial statements. Therefore, this is not necessarily the same as under Solvency II. Refer also to Chapter 2.3 of the Value chain implementation guidance (IG 2).

Per definition of business relationship in Annex 2 of the ESRS Delegated Act, investments fall under the scope of an undertaking's business relationships. Therefore, investments are considered part of the value chain and are subject to consideration in the materiality assessment of impacts, risks and opportunities as established in ESRS 1 paragraph 63. Also refer to FAQ 2 in the VCIG. When the undertaking has identified material impacts, risks or opportunities that are connected to an investment business relationship, it has to disclose them (ESRS 1 Chapter 5 Value chain).

When an associate or joint venture is not an actor in the value chain (e.g. supplier), the reporting shall consider the investment relationship as potential source of material impacts, risks and opportunities (refer to IG2 – Chapter 2.3).

Regarding investment activities, the sector-agnostic ESRS do not have specific reporting requirements apart from GHG Scope 3. For GHG Scope 3, Category 15 (Investments) is to be provided, where significant in accordance with ESRS E1 paragraph 44(c), AR 39(a), AR 46 and AR 48.

EFRAG expect to add more guidance on these aspects in the forthcoming sector ESRS.

ID 67 – SBM3 vocabulary / grammar used

Question asked

Can you provide a more detailed explanation on how the expression 'as opposed to' is to be interpreted in the context of the disclosure requirement SBM-3?

ESRS Reference

ESRS 2 paragraph 48 (h)

Key terms: SBM-3

Background

According to ESRS 2 paragraph 48(h), the undertaking shall disclose a specification of those impacts, risks and opportunities that are covered by ESRS Disclosure Requirements as opposed to those covered by the undertaking using additional entity-specific disclosures.

Answer

ESRS 1 Chapter 1.1 describes the three categories of ESRS standards (i.e., cross-cutting, topical and sector-specific). ESRS 1 para 11 explains the entity-specific disclosures that complements the disclosures laid out in these three categories of ESRS standards.

In addition, ESRS 1 AR1 to AR5 provide further guidance on the requirements that entity-specific disclosures shall fulfil.

ESRS 2 paragraph 48 h) requires undertakings to separately identify those material impacts, risks and opportunities whose disclosures follow the ESRS standards (i.e., standardised disclosures) from those that have been specifically designed by the undertaking according to the provision in ESRS 1 paragraph 11 and its related Application Requirements (i.e. entity-specific disclosures).

ID 171 and ID 358 – Administrative, management and supervisory bodies

Question asked [ID 171]

Please clarify with examples what is meant by 'administrative, management and supervisory bodies' as a collective vs. 'management' & 'management-level position' vs. 'senior executive management'.

This explanation also answers question ID 358: Could you please specify clearly what **is to be included in the administrative, management and supervisory bodies? By this, I mean, it refers to only a highest body (Board of Directors) or it refers to another(s) bodies.**

ESRS Reference

ESRS 2 paragraph 22 (a) and (d)

Background

Annex II of the ESRS defines 'administrative, management and supervisory bodies' as follows:

'The governance bodies with the highest decision-making authority in the undertaking include its committees. If in the governance structure there are no members of the administrative, management or supervisory bodies of the undertaking, the CEO and, if such function exists, the deputy CEO should be included. In some jurisdictions, governance systems consist of two tiers, where supervision and management are separated. In such cases, both tiers are included under the definition of administrative, management and supervisory bodies.'

GRI is also a useful source of complementary guidance: GRI also uses 'highest governance body' in reference to the 'administrative, management and supervisory bodies'. GRI 102 requires jurisdictions with two tiers of governance bodies to consider both as 'highest governance bodies'.

ESRS does not define the term 'senior executive management'. However, GRI explicitly defines 'senior executive management' in GRI 102 as top-ranking members of the management of an organisation including a Chief Executive Officer (CEO) and individuals reporting directly to the CEO or the highest governance body. Each organisation defines which members of its management teams are senior executives.

Undertakings might report the identity of their 'management body' and 'governance body' as part of the corporate governance statement as they are key actors in the national corporate governance codes. ESRS 1 paragraph 119 allows an undertaking to incorporate in the sustainability statement information prescribed by a Disclosure Requirement of ESRS, including a specific datapoint prescribed by a Disclosure Requirement by reference to the corporate governance statement (if not part of the management report), provided that the conditions in paragraph 120 are met.

Answer

As defined in Annex II of ESRS, administrative, management and supervisory bodies as a collective have the highest decision-making authority. The governance bodies which are covered under this definition can vary from one jurisdiction to another. This is because some jurisdictions have different bodies respectively for management and supervision, whereas others have one unique body carrying out both roles. 'Senior executive management' must be understood as a higher position than 'management-level positions'.

In the description of their governance bodies and management, undertakings need to ensure consistency between the sustainability statement and the corporate governance statement or other corporate communications in general.

ID 204 – Phase-in for first-time large undertakings

Question asked

Companies that become 'large undertakings' for the first time: do they benefit from the Phase-In Requirements?

[Note by the EFRAG Secretariat: the only question marked as '1' by the submitter is answered here. The same submitter had also a second question: 'Are the ESRS requirements applicable from the year they exceed the thresholds?', which is considered to fall outside the scope and will be forwarded to the European Commission]

ESRS reference

ESRS1 paragraph 137 and Appendix C: List of phased-in Disclosures Requirements

Key terms: Phased-In Requirements

Background

ESRS 1 section 10.4 paragraph 137 states: 'Appendix C List of phased-in Disclosure Requirements in this Standard sets phase-in provisions for the Disclosure Requirements or datapoints of Disclosure Requirements in ESRS that may be omitted or that are not applicable in the first year(s) of preparation of the sustainability statement under the ESRS.'

In setting phase-ins, ESRS 1 Appendix C uses the wording '. . . for the first year (for the first 2 years/for the first 3 years) of preparation of its sustainability statement . . .'

Answer

As stated in ESRS 1 Appendix C, the phase-in requirements apply to the first year, to the first two years or to the first three years 'of preparation of its sustainability report'. Accordingly, undertakings meeting the criteria of the Accounting Directive (Directive 2013/34/EU) Article 3 of large undertakings (groups) for the first time may also benefit from the phase-in requirements listed in ESRS 1 appendix 1.

ID 78 – GHG protocol and organisational boundaries

Question asked

For GHG emissions reporting, how are organisational boundaries determined under the ESRS and how is this determination compatible with the GHG protocol?

ESRS reference

ESRS 1 paragraph 62 to paragraph 67

ESRS E1 paragraph 46 and paragraph 50 (b), ESRS E1 paragraphs AR 39, AR40, AR46(h)

Key terms: GHG protocol, reporting undertaking, value chain

Background

ESRS 1 paragraph 62 provides that the sustainability statement shall be prepared for the same reporting undertaking as the financial statements (financial control).

ESRS 1 paragraphs 63 through 67 provide that the sustainability statement information shall be extended to include information related to material impacts, risks and opportunities connected to the undertaking's upstream and downstream value chain.

For GHG emissions accounting, ESRS E1 paragraph 46 adds a topical specification to ESRS 1 paragraph 63. It requires to include GHG emissions of 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) , to the extent of the operational control that the reporting undertaking exercises over them. of

ESRS E1 paragraph 50(b) clarifies that this reporting is to happen in a disaggregated form, clearly separating the consolidated accounting group (the parent and the subsidiaries defined by the financial control approach) from the investees on which the reporting undertaking has operational control - such as associates, joint ventures, or unconsolidated subsidiaries that are not fully consolidated in the financial statements of the consolidated accounting group, as well as contractual arrangements that are joint arrangements not structured through an entity (i.e., jointly controlled operations and assets). .

ESRS E1 paragraphs AR40 and AR46(h) further clarify the conditions under which the reporting undertaking should include GHG emissions of 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) in reporting Scope 1, 2 and 3 GHG emissions.

Answer

For GHG accounting, ESRS E1 requires the inclusion of information pertaining to impacts, risks and opportunities connected to the parent company and the subsidiaries in the financial consolidation scope, for entities, sites and assets that are under operational control of the parent company and its consolidated subsidiaries.

This aligns with the GHG Protocol whereby undertakings may elect one of the two control approaches to determine their emissions. For further information, please refer to Chapter 2.3 of the Value Chain Implementation Guidance.

ID 206 – Climate related targets

Question asked

Is it an absolute requirement in paragraph 30 that 90-95% of GHG emission reduction needs to be performed before giving the option to work with GHG Removals?

ESRS reference

ESRS E1 paragraphs 30, 34 and 60

ESRS Annex II (Glossary): GHG removal and storage - (Anthropogenic) removals refer to the withdrawal of GHGs from the atmosphere as a result of deliberate human activities. These include enhancing biological anthropogenic sinks of CO2 and using chemical engineering to achieve long-term removal and storage. Carbon capture and storage (CCS) from industrial and energy-related sources, which alone does not remove CO2 from the atmosphere, can remove atmospheric CO2 if it is combined with bioenergy production (Bioenergy with Carbon Capture & Storage - BECCS). Removals can be subject to reversals, which are any movement of stored GHG out of the intended storage that re-enters the atmosphere. For example, if a forest that was grown to remove a specific amount of CO2 is subject to a wildfire, the emissions captured in the trees are reversed.

ESRS Annex II (Glossary): Carbon credit - A transferable or tradable instrument that represents one metric tonne of CO2eq emission reduction or removal and is issued and verified according to recognised quality standards.

Background

ESRS E1-4 paragraph 30 refers to 'Targets related to climate change mitigation and adaptation'. ESRS E1 paragraph 34(b) specifically requires GHG emission reduction targets to be gross targets and not to include GHG removals, carbon credits or avoided emissions as a means of achieving the reduction targets.

ESRS E1-7 'GHG removals and GHG mitigation projects financed through carbon credits' paragraph 60 requires transparency related to targets that intend to achieve net-zero GHG emissions. It states that if the undertaking discloses a net-zero target in addition to the gross GHG emission reduction targets (Disclosure Requirement E1-4), it shall explain the scope, methodologies and framework applied and how the residual GHG emissions (after approximately 90-95% of GHG emission reduction) are intended to be neutralised.

Answer

The E1 standard does not mandate the undertakings to work, or prevent them from working, with GHG removals. While the utilisation and extent of use of carbon removals remains the undertaking's decision, the E1 standard aims at ensuring transparency. It requires to differentiate between:

- the established GHG emissions reduction targets (that shall not include carbon removals – E1-4);
- targets related to net-zero (E1-7 paragraph 60, which requires GHG emission reductions of approximately 90-95%); and
- the climate neutrality claims involving carbon credits (E1-7 paragraph 61).

Undertakings can work with GHG removals before achieving 90-95% GHG emission reductions near the point of net-zero. If they claim to have set a net-zero target, however, they need to explain how they will neutralise the outstanding residual emissions after a 90-95% of GHG emissions reduction has been achieved.

Social

ID 31 – Breakdown of temporary, permanent, non-guaranteed hours employees

Question asked

Is this a three-way split or is non-guaranteed hours employees part of temporary/permanent employees?

ESRS Reference

ESRS S1 paragraph 50(b); ESRS S1 paragraph AR55, ESRS S1 paragraph AR56

Key terms: Temporary, permanent, non-guaranteed hours employees; FTE

Background

ESRS S1 paragraph 50(b) requires the disclosure of 'the total number by head count or full-time equivalent (FTE) of

i) permanent employees, and breakdown by gender;

ii) temporary employees, and breakdown by gender; and

iii) non-guaranteed hours employees, and breakdown by gender.'

Further information on how to present this information can be found in Table 3 and Table 4 in ESRS S1 paragraph AR 55, while ESRS S1 paragraph AR56 also provides a definition of non-guaranteed hours employees: 'Non-guaranteed hours employees are employed by the undertaking without a guarantee of a minimum or fixed number of working hours. The employee may need to make themselves available for work as required, but the undertaking is not contractually obliged to offer the employee a minimum or fixed number of working hours per day, week, or month. Casual employees, employees with zero-hour contracts, and on-call employees are examples that fall under this category.'

Answer

ESRS S1 paragraph 50(b) requires a three-way split of employees as the text distinguishes between three datapoints, *(i)* permanent, *(ii)* temporary and *(iii)* non-guaranteed hours employees, and it specifies that a breakdown by gender is required for the three datapoints. In addition, ESRS S1 paragraph AR55, Table 3 and Table 4 offer further guidance by providing the template for presenting information on employees by contract type.

ESRS S1 paragraph AR56 specifies that 'the definitions of permanent, temporary, non-guaranteed hours . . . employees differ between countries . . .' and it also provides a definition of non-guaranteed hours employees. While permanent and temporary employment relationships define the duration of a contract, a non-guaranteed hours contract refers mainly to the expected working time. The defining characteristic of non-guaranteed hours contracts is that they do not guarantee a minimum or fixed number of working hours (examples are casual employees, employees with zero-hour contracts and on-call employees).

In some countries, non-guaranteed hours contracts may be further classified as either permanent or temporary contracts according to national legislation. Hence, in these countries the undertaking reports those non-guaranteed hours employees under paragraph 50(b)(iii) and also under paragraph 50(b)(i) or (ii). The provision of contextual information in ESRS S1 paragraph 50(e) requires explaining how the information is reported; for example, the undertaking would describe if non-guaranteed hours employees are also included within the permanent and temporary datapoints.

ID 38 – Structure of the sustainability statement

Question asked

Separating HR policies (S1-1), action plans (S1-4), targets (S1-5) and metrics (S1-9 to S1-17) is not efficient for the understanding of the users. Can we put into one chapter, for each material issue (e.g. Health and safety), the policy with the targets, the action plan and the metrics?

ESRS reference

ESRS S1 paragraph 11, ESRS 1 Chapter 8, ESRS 1 Appendix F

Key terms: Structure of sustainability statement

Background

ESRS 1 Chapter 8 provides the basis for the presentation of the information about sustainability matters prepared in compliance with Articles 19a and 29a of Directive 2013/34/EU (i.e., the sustainability statement) within the undertaking's management report.

ESRS 2 paragraph 49 states that 'The undertaking may disclose the descriptive information required in paragraph 46 – SBM 3 – alongside the disclosures provided under the corresponding topical ESRS, in which case it shall still present a statement of its material impacts, risks and opportunities alongside its disclosures prepared under this chapter of ESRS 2.'

ESRS S1 paragraph 11 specifies that the ESRS 2 General disclosures in topical standards shall be presented alongside the disclosures required by ESRS 2 except for ESRS 2 SBM-3 *Material impacts, risks and opportunities and their interaction with strategy and business model*, for which the undertaking may, in accordance with ESRS 2 paragraph 49, present the disclosures alongside the topical disclosure.

Answer

In relation to the presentation of information required by a topical standard that has a number of disclosure requirements, flexibility is provided to the undertaking as there are no specific requirements defining how an undertaking shall present the reported information related to a specific topic required by a given topical standard.

Therefore, for a given material matter (for example, health and safety) the undertaking may present the applicable disclosures on policies, actions, targets and metrics altogether and does not have to follow the structure of the disclosure requirements within the topical standard, such as ESRS S1 Own workforce.

Regarding the overall sustainability reporting, ESRS 1 paragraph 115 clarifies that the sustainability statement has to be structured in four parts: "general information, environmental information, social information and governance information". A particular treatment is foreseen for ESRS 2 General disclosures required by topical standards, that can either be presented alongside the other ESRS 2 General disclosures, or alongside the respective topical disclosures (environmental, social and governance). In case the ESRS 2 General disclosures required by topical standards are presented alongside other topical disclosures, the undertaking has still to present a statement of its material impacts, risks and opportunities alongside its disclosures prepared under ESRS 2 SBM-3. Appendix F of ESRS 1 provides a non-binding structure for a sustainability statement.

ID 132 – Gender pay gap

Question asked

Can you please specify if for the below indicators: a) the gender pay gap, defined as the difference of average pay levels between female and male employees, expressed as percentage of the average pay level of male employees; should we include variable components of salary or only gross wage?

ESRS reference

ESRS S1-16 paragraph 95, paragraph 97, paragraph 98

Key terms: Gender pay gap, gross wage, variable components of salary

Background

The ESRS Annex II 'Acronyms and Glossary of Terms' states the following:

'PAY: the ordinary basic or minimum wage or salary and any other remuneration, whether in cash or in kind which the worker receives directly or indirectly ("complementary or variable components"), in respect of his/her employment from his/her employer. "Pay level" means gross annual pay and the corresponding gross hourly pay. "Median pay level" means the pay of the employee that would have half of the employees earn more and half less than they do'.

Disclosure Requirement S1-16 includes the following paragraphs on remuneration metrics (pay gap and total remuneration):

'95. The undertaking shall disclose the percentage gap in pay between its female and male employees and the ratio between the remuneration of its highest paid individual and the median remuneration for its employees.'

'97. The disclosure required by paragraph 95 shall include: (a) the gender pay gap, defined as the difference of average pay levels between female and male employees, expressed as percentage of the average pay level of male employees . . .'

'98. The undertaking may disclose a breakdown of the gender pay gap as defined in paragraph 97(a) by employee category and/or by country/segment. The undertaking may also disclose the gender pay gap between employees by categories of employees broken down by ordinary basic salary and complementary or variable components'.

ESRS S1 paragraph 95 includes additional information in a footnote as follows: 'The gender pay gap information supports the information needs of: financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #12 in Table I of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ("Unadjusted gender pay gap"); and benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator "Weighted average gender pay gap" in section 1 and 2 of Annex II.'

Answer

ESRS S1-16 AR 98 describes the methodology to follow when calculating the gender pay gap required by ESRS S1-16 paragraph 97(a). The value to be used in the ratio is the gross hourly pay level.

The Glossary defines 'pay' as the salary and other remuneration in cash or in-kind that the employee receives directly or indirectly in respect of his/her employment. Therefore, complementary and variable components of the employee's remuneration package form part of the calculation.

ID 214 – Resources to manage material impacts

Question asked

When mentioning 'material impacts' in paragraph 43 of S1-4, it is unclear if you mean 'all' material impacts, or 'Own Workforce' material impacts.

The question has been reworded as follows to be clearer:

In para. 43 of S1 *(the undertaking shall disclose what resources are allocated to the management of its material impacts, with information that allows users to gain an understanding of how the **material impacts** are managed)* it is unclear if "material impacts" is meant to cover all the material impacts or only "own workforce" material impacts.

ESRS reference

ESRS S1-4 paragraph 43; ESRS S1 paragraph AR48; ESRS S1 paragraph 1; ESRS 2 paragraph 60, 61; ESRS 2 paragraph 69; ESRS 2 paragraph AR23

Key terms: Actions; Resources to manage material impacts

Background

ESRS S1-4 paragraph 43 states: 'The undertaking shall disclose what resources are allocated to the management of its material impacts, with information that allows users to gain an understanding of how the material impacts are managed.'

ESRS S1 paragraph AR48 further explains: 'When disclosing the resources allocated to the management of material impacts, the undertaking may explain which internal functions are involved in managing the impacts and what types of action they take to address negative, and advance positive, impacts.'

ESRS S1 paragraph 1 clarifies the objective of ESRS S1, specifying that disclosure requirements in this topical standard will 'enable users of the sustainability statement to understand the undertaking's material impacts on its own workforce.'

How to report on minimum disclosure requirements to be included when the undertaking discloses information on its policies and actions is laid out in ESRS 2 paragraph 60 and 61: 'this section sets out minimum disclosure requirements to be included when the undertaking discloses information on its policies and actions to prevent, mitigate and remediate actual and potential material impacts, to address material risks and/or to pursue material opportunities (collectively, to "manage material sustainability matters"). They shall be applied together with the Disclosure Requirements, including Application Requirements, provided in the relevant topical and sector-specific ESRS. They shall also be applied when the undertaking prepares entity-specific disclosures.' And 'The corresponding disclosures shall be located alongside disclosures prescribed by the relevant ESRS. When a single policy or same actions address several interconnected sustainability matters, the undertaking may disclose the required information in its reporting under one topical ESRS and cross reference to it in its reporting under other topical ESRS.'

ESRS S1-4 paragraph 43 stems from ESRS 2 paragraph 69, which states: 'where the implementation of an action plan requires significant operational expenditures (Opex) and/or capital expenditures (Capex) the undertaking shall:

(a) describe the type of current and future financial and other resources allocated to the action plan, including, if applicable, the relevant terms of sustainable finance instruments, such as green bonds, social bonds and green loans, the environmental or social objectives, and whether the ability to implement the actions or action plan depends on specific preconditions, e.g., granting of financial support or public policy and market developments;

(b) provide the amount of current financial resources and explain how they relate to the most relevant amounts presented in the financial statements; and

(c) provide the amount of future financial resources.'

Additionally, ESRS 2 paragraph AR23 specifies: 'Information on resource allocation may be presented in the form of a table and broken down between capital expenditure and operating expenditure, and across the relevant time horizons, and between resources applied in the current reporting year and the planned allocation of resources over specific time horizons.'

Answer

As paragraph 43 of S1-4 is part of the topical standard on "Own workforce", the reference to "material impacts" in that paragraph is intended to be specific to material impacts on Own workforce.

Therefore, "resources allocated to the management of material impacts", refer only to disclosure of resources allocated to the management of material matters pertaining to the topic "own workforce".

The same is valid also for the other topical standards.

ID 215 – Social dialogue global percentage

Question asked

Can you clarify the 'global percentage, reported at the country level' in paragraph 63?

ESRS reference

ESRS S1 paragraph 63; ESRS S1 paragraph AR 69, ESRS S1 paragraph AR 70

Key terms: Social dialogue; global percentage; significant employment

Background

ESRS S1 paragraph 63 states: 'The undertaking shall disclose the following information in relation to social dialogue: *(a)* the global percentage of employees covered by workers' representatives, reported at the country level for each EEA country in which the undertaking has significant employment . . .'

ESRS S1 paragraph AR 69 specifies that, 'for calculating the information required by paragraph 63(a), the undertaking shall identify in which EEA countries it has significant employment (i.e., at least 50 employees representing at least 10% of its total employees). For these countries it shall report the percentage of employees in that country which are employed in establishments in which employees are represented by workers' representatives.'

ESRS S1 paragraph AR 70 provides a template for reporting on collective bargaining coverage and social dialogue, specifying that it applies to 'EEA countries only.'

Answer

The term 'global' refers to the total or overall percentage of employees in a specific EEA country, working in establishments (e.g. factories, branches) with workplace representation, based on the ILO definition of workers' representatives. Workplace representation enables social dialogue at the establishment level, which is distinct from social dialogue at the group, sectoral, national, or EU level. As an undertaking may have several establishments in one country, the aim of this metric is to obtain the overall percentage of employees with workplace representation for each EEA country where the undertaking has significant employment (i.e., at least 50 employees representing at least 10% of its total employees).

ESRS S1 paragraph AR70 provides a template to present this information in. The column with the heading "Social dialogue" provides an example of how an undertaking with significant employment in two EEA countries (country A and country B) can report this data point.

ID 243 – Reference to financial statements

Question asked

Can you explain and give more context to the datapoint in ESRS S1 paragraph 50(f)?

ESRS reference

ESRS S1-6 paragraph 50(f)

Key terms: Financial Statement; Number of employees

Background

ESRS S1-6 paragraph 50(f) requires undertakings to disclose 'a cross-reference of the information reported under (a) above to the most representative number in the financial statements.'

ESRS S1-6 paragraph 50(a) requests the 'total number of employees by head count, and breakdowns by gender and by country for countries in which the undertaking has 50 or more employees representing at least 10% of its total number of employees.'

ESRS 1 paragraph 124 addresses the matter of connectivity with financial statements and states: 'when the sustainability statement includes monetary amounts or other quantitative data points that exceed a threshold of materiality and that are presented in the financial statements (direct connectivity between information disclosed in sustainability statements and information disclosed in financial statements), the undertaking shall include a reference to the relevant paragraph of its financial statements where the corresponding information can be found.'

Directive 2013/34/EU, Article 16 describes the 'Content of the notes to the financial statements relating to all undertakings' and requires the disclosure of (1)(h) 'the average number of employees during the financial year.'

Answer

This data point requirement is based on the principle of connectivity between the sustainability statement and the financial statement, which is described in ESRS 1 Chapter 9.2. In paragraphs 124 and 125 of this chapter, a distinction is made between direct connectivity (paragraph 124) and indirect connectivity (paragraph 125). In both cases, the principle is that monetary or quantitative amounts that exceed the threshold of materiality shall be cross-referenced from the sustainability statement to the financial statements; for indirect connectivity, this means explaining how these amounts relate to the most relevant amounts presented in the financial statements. Where appropriate, a reconciliation may be provided, and it may be presented in tabular form.

On this basis, the objective of ESRS 1 S1-6 paragraph 50(f) is to cross-check the number of employees required by paragraph 50(a) against the most appropriate amount disclosed in the financial statements. This includes the average number of employees during the year, disclosed according to Article 16 of the Directive 2013/34/EU, and other relevant data if they are disclosed in the financial statements.

Given that ESRS S1-6 provides some flexibility in terms of methodology for calculating the headcount number of employees (i.e., average or at the end of the year), the undertaking is required to disclose the methodology used as per paragraph 50(d)(ii). If an undertaking uses a different methodology for calculating the head count between the note to the financial statements and this datapoint in ESRS S1-6 (e.g. average for the former, end of the year for the latter), it shall explain the difference in the basis following the principle of connectivity defined in ESRS 1.

Other

ID 217 – Prudential consolidation

Question asked

Should an undertaking prepare its ESRS consolidated sustainability statement following the requirements relating to prudential consolidation laid down in Part One, Title II, Chapter 2 of the Capital Requirements Regulation (EU) 575/2013?

ESRS reference

ESRS 1 paragraph 62

Background

ESRS 1 paragraph 62 states: 'The sustainability statement shall be for the same reporting undertaking as the financial statements. For example, if the reporting undertaking is a parent company required to prepare consolidated financial statements, the sustainability statement will be for the group.'

In its answer to ID 2013-310 for Regulation (EU) No 575/2013 (CRR), the European Banking Authority states the following:

'Article 18(1) of Regulation (EU) No. 575/2013 (CRR) requires institutions to carry out a full consolidation of all institutions and financial institutions which are its subsidiaries for the application of prudential requirements on a consolidated basis.

Undertakings, other than institutions and financial institutions which neither acquire holdings nor pursue any of the activities listed in points 2 to 12 and point 15 of Annex I to Directive 2013/36/EU (CRD), are excluded from the scope of prudential consolidation irrespective of whether or not these undertakings are directly or indirectly held by the parent entity. As a result:

- Non-financial subsidiaries are excluded from the scope of prudential consolidation regardless of whether these subsidiaries are fully held by a holding company. On the other hand, the holding company is included for prudential consolidation purposes;
- Conversely, any holding company needs consolidating even when it holds no participation in a financial subsidiary. However, all its participations are excluded for prudential consolidation purposes.'

Answer

In accordance with ESRS 1 paragraph 62, sustainability statements shall be prepared for the consolidated group; therefore, they shall not be grounded in a consolidation based on prudential requirements. The reported information shall meet the qualitative characteristics of information and the requirements in ESRS 1 paragraphs 54/57 on level of disaggregation: on this basis, if applicable and helpful to produce a more understandable and relevant reporting, the undertaking could disaggregate the information between those related to the scope of financial consolidation and the scope of prudential consolidation. This is in particular relevant if the undertaking uses the option to incorporate by reference information presented in its Pillar 3 reports (ESRS 1 paragraphs 119/122).