ESRS: Incorporation by reference
Issues Paper

Objective

1 The objective of this paper is to summarise the preliminary feedback received on the incorporation by reference in general, but also specifically with reference to the governance requirements in ESRS G1 Governance, risk management and internal control.

Background

2 ESRS 1 General principles in paragraphs 135 and 136 (reproduced in Appendix 1) allows incorporation by reference of information included in the management report.

3 Since publication of the exposure drafts, the EFRAG Secretariat has been considering whether and how to allow the inclusion of references to the financial statements to foster closer connectivity of financial and sustainability information.

Feedback from the use test

4 Article 20(2)(b) of the Accounting Directive states that Member States may permit the information for the corporate governance statement to be published in a document on the undertaking's website to which reference is made in the management report (extract available in Appendix 1).

5 During the session on the governance module, participants pointed out that publication of a separate report is current practice in Italy. Respondents pointed out that as that this is permitted by the Accounting Directive, this should also be allowed by ESRS 1 and the EFRAG Secretariat agrees.

6 Others also argued that incorporation by reference will allow for some of the benefits of integrated reporting which is important as "[M]oving away from integrated reporting would be a major step backwards".

Feedback from consultation process

7 While the analysis of comment received from the consultation process is still ongoing, the Secretariat has seen at least one comment that G1-1 "should be fully aligned to the other EU rules and regulations like the Basel [sic] and Solvency rules".

8 The feedback from a number of companies and business associations, as well as from security regulations, suggests broadening the scope of incorporation by reference to include:

(a) the corporate governance report might sit outside the management report, as allowed by Art. 20 of the Accounting Directive;

(b) the remuneration report;

(c) regulatory information required for banks and insurances in relation to ESG risks (Pillar 3);

9 Respondents also recommend that any possibilities of cross-referencing should not impair the digital consumption of the sustainability reporting and the cross-referred information.

10 French companies have suggested the incorporation by reference in the Universal Registration Documents, which is common practice.

11 A number of respondents from the civil society have observed that the information incorporate by reference should have the same quality.

Proposal for re-drafting

12 Having considered the preliminary feedback above, the EFRAG Secretariat suggests broadening the scope of incorporation by reference to include:

(a) other sections of the management report;

(b) other sections of the financial statements;

(c) the corporate governance report might sit outside the management report, as allowed by Art. 20 of the Accounting Directive;

(d) the remuneration report;

(e) regulatory information required for banks and insurances in relation to ESG risks (Pillar 3).

13 Having considered the preliminary feedback above, the EFRAG Secretariat suggests including the following conditions for the incorporation by reference:

(a) such disclosures constitute a separate element of information clearly identified in the other section of the document where it is located as addressing the relevant disclosure requirement (or the relevant specific datapoint mandated by a disclosure requirement);

(b) such disclosures are subject to at least the same level of assurance as the sustainability standard;

(c) the incorporation by reference should not impair the digital consumption of the sustainability reporting and the cross-referred information.

14 The rest of the requirements in ESRS 1 would continue to be valid (i.e., without the incorporation by reference the report is incomplete; a list of the DRs or datapoints incorporate by reference shall be disclosed).

Questions for EFRAG SR TEG

15 Do EFRAG SR TEG members agree with the EFRAG Secretariat's proposal? Please explain.

Appendix 1: Excepts from the ESRS drafts/EU Legislation

1 ESRS 1 paragraphs 135 and 136 on incorporation by reference:

"*135. Elements of information mandated by a disclosure requirement of an ESRS (including a specific datapoint mandated by a disclosure requirement) may be incorporated by reference in the sustainability statements to another section of the management report, provided that such disclosures constitute a separate element of information clearly identified in the other section of the management report as addressing the relevant disclosure requirement (or the relevant specific datapoint mandated by a disclosure requirement). Without the information incorporated by reference, the sustainability statements are incomplete. Incorporation by reference in the sustainability statements from reports other than the management report is not allowed.*

136. When the undertaking uses incorporation by reference, it has to disclose a list of the disclosure requirements of the ESRS (or the specific datapoints mandated by a disclosure requirement) that have been incorporated by reference."

2 Extract from Article 20 of the Accounting Directive:

"2. Member States may permit the information required by paragraph 1 of this Article to be set out in:

(a) a separate report published together with the management report in the manner set out in Article 30; or

(b) a document publicly available on the undertaking's website, to which reference is made in the management report.

That separate report or that document referred to in points (a) and (b), respectively, may cross-refer to the management report, where the information required by point (d) of paragraph 1 of this Article is made available in that management report."