

This paper has been prepared by the EFRAG Secretariat for discussion at a public meeting of EFRAG SR TEG. The paper forms part of an early stage of the development of a potential EFRAG position. Consequently, the paper does not represent the official views of EFRAG or any individual member of the EFRAG SRB or EFRAG SR TEG. The paper is made available to enable the public to follow the discussions in the meeting. Tentative decisions are made in public and reported in the EFRAG Update. EFRAG positions, as approved by the EFRAG SRB, are published as comment letters, discussion or position papers, or in any other form considered appropriate in the circumstances.

Log of draft explanations

Table of content

Cross-Cutting.....	2
ID 286 – Financial year different from calendar year.....	2
ID 306 – Location of MDR in the report during phase in 750 employees	3
ID 395 – Net Revenue.....	4
Governance	5
ID 417 – Convictions.....	5
ID 419 – Legal proceedings currently outstanding for late payments	6
ID 479 – Minimum Disclosure Requirements in ESRS G1.....	7
ID 510 – ESRS G1-5 – Political influence and lobbying activities	7
Environment.....	8
ID 441 – Microplastics	8

Cross-Cutting

ID 286 – Financial year different from calendar year

Question asked

Is it possible to report some metrics on a (deviating) financial year and other metrics on a calendar year basis?

ESRS reference

ESRS 1 chapter 2 Qualitative characteristics of information (paragraphs QC5 and QC9); ESRS 1 chapter 6.1 Reporting period; ESRS 1 chapter 7.2 Sources of estimation and outcome uncertainty (paragraphs 88 and 90); ESRS 2 BP-2 – Disclosures in relation to specific circumstances (paragraphs 6 and 8)

Key words

financial year different from calendar year, metrics

Background

The reporting period for the undertaking's sustainability statement shall be consistent with that of its financial statements (ESRS 1 paragraph 73). Data and assumptions used in preparing the sustainability statement shall be consistent to the extent possible with the corresponding financial data and assumptions used in the undertaking's financial statements (ESRS 1 paragraph 90).

When making estimates, the qualitative characteristics of information shall be considered (see ESRS 1 chapter 2). Faithful representation requires information to be (i) complete, (ii) neutral and (iii) accurate. Information can be accurate without being perfectly precise in all respects. Accurate information implies that the undertaking has implemented adequate processes and internal controls to avoid material errors or material misstatements. As such, estimates shall be presented with a clear emphasis on their possible limitations and associated uncertainty.

An undertaking shall disclose information to enable users to understand the most significant uncertainties affecting the quantitative metrics and monetary amounts reported in its sustainability statement (ESRS 1 paragraph 88).

Answer

Question to EFRAG SR TEG

This question refers to the possibility to deviate from the financial year for some of the metrics. The EFRAG Secretariat considers that a discussion is necessary before drafting the proposed answer.

ALTERNATIVE 1

The reporting period, as well as data and assumptions used, for the undertaking's sustainability statement shall be consistent with that of its financial statements. Accordingly, the undertaking shall refer to the assumptions adopted in the preparation of the financial statements for all the metrics.

[BASIS FOR ALTERNATIVE 1: the only instance where "undue cost and effort" is admitted is in AR 17 for developing proxies for value chain data. Beyond this, any practical consideration that would lead to deviate for a specific metric should be left to the judgement of the undertaking]

under the supervision of internal governance and under the scrutiny of the auditor and the enforcer if applicable. The Explanations should not contradict the text of the standard nor allow for more flexibility than what is explicitly stated in the standard. In addition, any flexibility accepted in the response to this question could be interpreted as allowing by analogy to use flexibility in other instances. The Explanations cannot go beyond the text of the standard nor require additional disclosure such as in case of adoption of a different basis for preparation.]

ALTERNATIVE 2

The reporting period, as well as data and assumptions used, for the undertaking's sustainability statement shall be consistent with that of its financial statements. Accordingly, the undertaking shall refer to the assumptions adopted in the preparation of the financial statements for all the metrics.

If for a specific metric the data on a financial year basis are not available, practical considerations that would lead to use a different basis need to be compatible with the respect of the qualitative characteristics of information (Appendix B of ESRS 1). The different basis should be disclosed as well as the consequences in terms of accuracy.

[BASIS FOR ALTERNATIVE 2: also if not explicitly mentioned in the standard, preparers may contemplate practical expedients. Providing a framing for such practical considerations may be helpful.]

The EFRAG Secretariat supports Alternative 1 for the reasons explained above.

Do you have alternative suggestions?

Which approach do you support?

ID 306 – Location of MDR in the report during phase in 750 employees

Question asked

In the first years of the phase-in 750 employees, where should the disclosures required by Disclosure Requirement BP-2 of ESRS 2 (paragraph 17) be reported?

ESRS reference

ESRS 1 paragraph 115 ; ESRS 2 MDR paragraph 61 and 71

Key words

structure of the ESRS sustainability statement during phase in 750 employees

Background

ESRS 1 paragraph 114 states: "The undertaking shall structure its sustainability statement in four parts, in the following order: general information, environmental information, social information and governance information... When information provided in one part contains information to be reported in another part, the undertaking may refer in one part to information presented in another part, avoiding duplications. The undertaking may apply the detailed structure illustrated in Appendix F ..." of ESRS 1.

ESRS 2 paragraph 61 states in respect of policies and targets: "The minimum disclosure requirements on policies and actions 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 2 paragraph 71 states in respect of metrics and targets: “The corresponding disclosures shall be located alongside disclosures prescribed by the topical ESRS.”

Answer

The undertaking shall structure its sustainability statement in four parts as stated in paragraph 4.

The Disclosure Requirement BP-2 is part of the general information required by ESRS 2 and as such on a literal reading of ESRS 1 paragraph 114 could be disclosed as part of the general information for example together with the Disclosure Requirement SBM-3 *Material impacts, risks and opportunities and their interaction with strategy and business model*.

However, based on ESRS 1 paragraph 114 it can also be argued that environmental, social and governance related information shall be disclosed with the respective environmental, social and governance related parts of the sustainability statement. This is in line with ESRS 2 paragraph 61 on the minimum disclosure requirement on policies and actions and with ESRS 2 paragraph 71 for metrics and targets both allowing information to be located alongside disclosures prescribed by the relevant topical ESRS.

ID 395 – Net Revenue

Question asked

What does net revenue mean? How is it calculated?

ESRS Reference

All Disclosure Requirements requiring a breakdown of revenue, or an intensity metric based on net revenue. For example: ESRS 2 Disclosure requirement SBM-1 Strategy, business model and value chain, paragraph 40 (b), ESRS E1 Disclosure Requirement E5-5 Energy consumption and mix – Energy based intensity, paragraphs 40, ESRS E1 Disclosure Requirement E5-6 Gross scopes 1,2,3 and Total GHG emissions, GHG intensity based on net revenue paragraph 53, ESRS Disclosure requirement E3 Water consumption – water intensity paragraph 29.

Key terms

Net revenue, Net turnover

Background

ESRS E5-5, paragraph AR36 (e) states: “When preparing the information on energy intensity required under paragraph 40, the undertaking shall calculate the net revenue in line with the accounting standards requirements applicable for the financial statements, i.e., IFRS 15 Revenue from Contracts with Customers or local GAAP requirements”.

The delegated act specifying article 8 of the Taxonomy directive related to taxonomy disclosures uses “net turnover” and “net revenue” as synonyms.

“Net turnover” is defined in the Accounting Directive.

Answer

The undertaking shall report net revenue in line with the amount presented in the income statement of its financial statements calculated in accordance with the applicable accounting standards, i.e., IFRS 15 Revenue from Contracts with Customers or national generally accepted accounting principles (national GAAP).

For undertakings applying national GAAP, “net turnover” (which is a synonym to “net revenue”) is defined in the Accounting Directive as “*the amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover*”.

Supporting material

Directive 2013/34/EU (Accounting directive) Article 2 paragraph (5) states:

“‘net turnover’ means the amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover; however, for insurance undertakings referred to in point (a) of the first subparagraph of Article 1(3) of this Directive, ‘net turnover’ shall be defined in accordance with Article 35 and point 2 of Article 66 of Council Directive 91/674/EEC; for credit institutions referred to in point (b) of the first subparagraph of Article 1(3) of this Directive, ‘net turnover’ shall be defined in accordance with point (c) of Article 43(2) of Council Directive 86/635/EEC; and for undertakings falling under the scope of Article 40a(1) of this Directive, ‘net turnover’ means the revenue as defined by or within the meaning of the financial reporting framework on the basis of which the financial statements of the undertaking are prepared”;

Delegated act (EU) 2021/2178 supplementing Regulation (EU) 2020/852 specifying the content and presentation to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities and specifying the methodology to comply with that disclosure obligation, Annex I paragraph 1.1.1 (Delegated act specifying article 8 of the Taxonomy Directive) states:

“...net turnover (denominator) as defined in Article 2, point (5), of Directive 2013/34/EU. The turnover shall cover the revenue recognised pursuant to International Accounting Standard (IAS) 1, paragraph 82(a), as adopted by Commission Regulation (EC) 1126/20081”.

Governance

ID 417 – Convictions

Question asked

What is the definition to be used for "convictions"? It could be different things: Number of convictions of proceeding that are still open? Or started in the reporting year? Closed in the reporting year? Appeal concluded? Not subject to appeal anymore?

ESRS Reference

ESRS G1 paragraph 24a

Key terms

Convictions

Background

Based on EU Law and on the European Criminal Records Information System (ECRIS), the term conviction is defined as *“any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent that the decision is entered in the criminal records of the convicting Member State”*.

Answer

ESRS G1 uses the definition of ‘convictions’ derived from European Law. Based on EU Law and on the European Criminal Records Information System (ECRIS), the term conviction is defined as *“any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent that the decision is entered in the criminal records of the convicting Member State”*.

Therefore, the disclosure requirement applies to the number of convictions that fulfil the definition of a final decision of a criminal court. This is understood in the general sense of the term, i.e. that of the court of the first instance. This approach has the advantage of including all the convictions in the reporting, while waiting for the outcome of a possible appeal. The reporting undertaking may provide additional information if an appeal is considered or have been lodged or were successful as this would be relevant information to users.

Supporting material

n/a

ID 419 – Legal proceedings currently outstanding for late payments

Question asked

Regarding the number of legal proceedings currently outstanding for late payments, are you referring to "currently outstanding" that remained opened in the reporting year? Or also closed in the reporting year?

ESRS Reference

ESRS G1 paragraph 33c

Key terms

Legal proceedings; late payments.

Background

ESRS G1 paragraph 33c refers to “number of legal proceedings currently outstanding for late payments”.

Answer

The Disclosure Requirement refers specifically to those legal proceedings that have not been legally resolved. Any further information, or additional remarks regarding closed legal proceedings related to late payments may be disclosed under ESRS G1 paragraph 33 d which states that the undertaking shall disclose “complementary information necessary to provide sufficient context”.

Supporting material

n/a

ID 479 – Minimum Disclosure Requirements in ESRS G1

Question asked

Do MDRs have to be applied for matters that are to be reported following the topical standard G1?

ESRS Reference

ESRS G1

Key terms

Minimum Disclosure Requirements, policies actions and targets

Background

ESRS 2, section 4.2, paragraph 60 mentions that Minimum Disclosure Requirements (MDR) should *“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 material sustainability matters). They shall be applied together with the Disclosure Requirements, including Application Requirements, provided in the relevant topical and sector specific ESRS.”*

ESRS 2, section 4.2, paragraph 70 establishes that Minimum Disclosure Requirements *“shall be included when the undertaking discloses information on its metrics and targets related to each material sustainability matter. They shall be applied together with the Disclosure Requirements, including Application Requirements, provided in the relevant topical ESRS.”*

All the MDRs, including those affecting Policies, Actions, Targets and Metrics, that shall be read in conjunction with the relevant topical ESRS are established in paragraphs 63 to 81 of ESRS 2.

Answer

The MDRs from paragraphs 63 to 81 of ESRS 2 shall be applied with respect to Policies, Actions and Targets in G1, irrespective of the fact that there is no cross-reference in the topical standard.

ID 510 – ESRS G1-5 – Political influence and lobbying activities

Question asked

In ESRS G1-5, what is the dividing line between 'indirect political contributions' whose financial or in-kind amounts must be disclosed according to para 29(b)(i) and AR 10, and 'lobbying activities' whose financial or in-kind amounts may be disclosed as per AR 12?

Reference

ESRS G1-5 paragraph 29 (b), ESRS G1 AR 10, ESRS G1 AR 12

Key terms

Political contributions, lobbying activities, financial contributions, in-kind contributions

Background

The concept of 'political contributions' is defined in AR 9 of ESRS G1-Business Conduct. This paragraph states that political contributions refer to support provided directly to political parties, their elected representatives or persons seeking political office.

The concept 'indirect political contributions' is defined in AR 10 of ESRS G1-Business Conduct. This paragraph states that these refer to *"those political contributions made through an intermediary organisation such as a lobbyist or charity, or support given to an organisation such as a think tank or trade association linked to or supporting particular political parties or causes."*

GRI, in its standard 415: *Public Policy* defines 'indirect political contributions' as *"financial or in-kind support to political parties, their representatives, or candidates for office made through an intermediary organization such as a lobbyist or charity, or support given to an organization such as a think tank or trade association linked to or supporting particular political parties or causes."*

The ESRS and GRI refer to 'indirect political contributions' as contributions linked to political parties and political causes.

On the other hand, 'lobbying activities' as defined in Annex II of ESRS refer to *"activities carried out with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of governments, governmental institutions, regulators, European Union institutions, bodies, offices and agencies or standard setters."*

Answer

Based on the definitions given in ESRS, the recipients of 'indirect political contributions' are political parties, their elected representatives or persons seeking political office. The contributions support a political cause.

'Indirect political contributions' are 'political contributions' provided to political parties, their elected representatives or persons seeking political office. The recipient of the support is the same for direct and indirect political contributions. However, the definition in AR 10 goes beyond the definition in AR 9, highlighting that indirect political contributions are made through an intermediary organisation rather than directly by the reporting undertaking.

This differs significantly to lobbying activities that may be disclosed under AR 12 when the activities carried out by the undertaking have the objective of influencing the implementation or formulation of policies or legislation and decision-making processes.

Environment

ID 441 – Microplastics

Question asked

Is the undertaking required to report on microplastics within the facility ("generated or used")?

ESRS reference

Disclosure Requirement E2-4 paragraph 28 (b); Disclosure Requirement E2-4 paragraph AR 20

Key terms

Microplastics; scope

Background

Disclosure Requirement E2-4 paragraph 28(b): “The undertaking shall disclose the **amounts** of [...] **microplastics** generated or used by the undertaking”.

Disclosure Requirement E2-4 paragraph AR 20: “The information to be provided on microplastics under paragraph 28(b) shall include microplastics that have been generated or used during production processes or that are procured, and that leave the undertaking’s facilities as emissions, as products, or as part of products or services. Microplastics may be unintentionally produced when larger pieces of plastics like car tires or synthetic textiles wear and tear or may be deliberately manufactured and added to products for specific purposes (e.g., exfoliating beads in facial or body scrubs)”.

Answer

As a minimum requirement, an undertaking is to provide information on the microplastics amounts that it generates or uses. These refer to intentional or unintentional generations or uses, both through production processes and procurement. For reporting, microplastics leaving the facilities of the undertaking in the form of products, parts of products or services, or emissions are to be considered. Microplastics that stay within the facilities, are used in production processes, and that represent stocks of material used for business processes, do not need to be reported, as they do not leave the facilities. However, microplastics that are within the facilities, but that represent a form of (soil) pollution (emissions) that is likely to be transferred in an uncontrolled manner to outside the facilities, are to be reported.

The legislation on the matter of microplastics is currently evolving, hence, more defined requirements may be expected in the future.