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MAIG: updated FAQ 23

1. Agenda paper 04-02 MAIG updated document and its mark up in Agenda paper 04-03 did not include the updated FAQ23.
2. The updated FAQ23 has been included below in a clean and mark up version.
3. Updated FAQ 23

FAQ 23: Are mitigation actions considered in the material assessment for environmental impacts?

223. As a general principle, environmental impacts are considered before any mitigating actions in the materiality assessment. This is linked to the objective of providing information on the management of impacts by the undertaking over time and it's mirrored in the ESRS architecture as follows for the potential impacts:

- a. the description of the impacts before taking into account the mitigation actions is the basis of the materiality assessment process and its related disclosures (namely, ESRS 2 IRO-1 and SBM-3); and
- b. the management of such impacts - including mitigation actions - forms part of the policies, actions and targets (i.e., MDR-P, MDR-A and MDR-T)

The users of the sustainability statement will obtain an understanding of the unmitigated impacts connected to the undertaking and how the undertaking is addressing those; hence, an understanding of the mitigated impacts.

224. The differentiation between actual impacts, i.e., those that have happened or are ongoing in the reporting period, and potential impacts, i.e., those that have a likelihood of occurrence in the short-, medium- or long-term future is relevant, and the illustrations below develop these concepts.

Actual impacts

225. The undertaking is expected to assess its actual impacts that have taken place in the current or previous reporting period(s). The severity of the impact, assessed for the current reporting period depends on successful mitigation that has taken place before or during the event. This is further illustrated as follows:

- a. For an accident occurred in the current year, such as an oil spill or the failure of an emission treatment facility and subsequent pollution-related impacts, the undertaking is expected to consider these events in its materiality assessment, when identifying actual impacts. Any mitigation actions (for example, remediation or rehabilitation activities) put in place after the event but in the same period is not taken into account in the materiality assessment. Likewise, mitigation actions that the undertaking may carry out in the future are not taken into account in the materiality assessment. On the contrary, mitigation activities, such as pollution

containment or immediate stop of operations that were put in place before and during the incident are considered when assessing the severity of the actual impact as they either worked or didn't work to mitigate the extent of its severity ; and

b. For material negative impacts that occurred in the past, these are expected to be considered in the materiality assessment and assessed whether still material in the current reporting period. In this example of the oil spill, the aquatic and coastal ecosystems may be materially negatively affected by the oil pollution for many years and remain in the materiality assessment for a number of years.

Potential impacts

226. The undertaking is expected to assess its potential impacts and disclose those that are material. These potential impacts relate to both existing operations and the planned operations; an example for planned operations is the construction of a new factory or a new production line in an existing factory.

227. Whilst similar concepts and questions apply to social impacts, guidance covering social may be issued in the future to better reflect specific aspects of those matters.

228. To note that for the materiality assessment of environmental risks and opportunities, these are considered gross.

4. Mark up version of FAQ 23

FAQ 23: Are mitigation actions considered in the material assessment for environmental impacts? When an undertaking has actions in place to avoid, minimise, restore or compensate environmental impacts, shall it report on the impacts before those actions?

224. As a general principle, environmental impacts are considered **gross** (i.e. before any mitigating actions) in the materiality assessment. This is linked to the objective of providing information on the management of impacts by the undertaking over time and its mirrored in the ESRS architecture as follows for the potential impacts: - Therefore, the users of the sustainability statement will receive information on the actual impacts where no distinction is made between gross and net. And, for potential impacts the following applies:

b. the description of information on the gross impacts - (i.e., before taking into account the mitigation actions is the basis of the materiality assessment process and its related disclosures (namely, ESRS 2 IRO-1 and SBM-3 hierarchy); and

c. the management of such impacts - including mitigation actions - forms part of the (i.e., policies, actions and targets (i.e., MDR-P, MDR-A and MDR-T)); and

The users of the sustainability statement will obtain an understanding of the unmitigated impacts connected to the undertaking and how the undertaking is addressing those; hence, an understanding of the mitigated impacts. the net impact (i.e., after the application of the mitigation hierarchy).

225. ~~This requires d~~ The differentiation between actual impacts, i.e., those that have happened or are ongoing in the reporting period, and potential impacts, i.e., those that have a likelihood of occurrence in the short-, medium-

or long-term future is relevant and the illustrations below develop these concepts.

Actual impacts

226. The undertaking is expected to assess its actual impacts that have taken place in the current or previous reporting period(s). The severity of the impact, assessed for the current reporting period, ~~will depend~~s on successful mitigation that has taken place before or during the event. This is further illustrated as follows:

b. For an accident occurred in the current year, such as an oil spill or the failure of an emission treatment facility and subsequent pollution-related impacts, the undertaking is expected to consider these events in its materiality assessment, when identifying actual impacts. Any mitigation actions (for example, remediation or rehabilitation activities) put in place after the event but in the same period is not taken into account in the materiality assessment. Likewise, mitigation actions that the undertaking may carry out in the future are not taken into account in the materiality assessment. On the contrary, mitigation activities, such as pollution containment or immediate stop of operations that were put in place before ~~and the~~ during the incident are considered when assessing the severity of the actual impact as they either worked or didn't work to mitigate its severity; and

c. For ~~material~~ severe negative impacts ~~that occurred~~ in the past, these are expected to be considered in the materiality assessment and assessed whether still material in the current reporting period. In this example of the oil spill, the aquatic and coastal ecosystems may be materially negatively affected by the oil pollution for many years and remain in the materiality assessment for a number of years.

226.

Potential impacts

229. The undertaking is expected to assess its potential impacts and disclose those that are ~~material~~ material. These potential impacts relate to both the materiality assessment of potential impacts can also consider the effect of technical or other management measures for avoiding or mitigating impacts in the future the existing operations and the planned operations; an example for planned operations is the construction of a new factory or a new production line in an existing factory.

~~The materiality assessment of potential impacts can also consider the effect of technical or other management measures for avoiding or mitigating impacts in the future. However, in order to consider the effect of such measures in the materiality assessment, the assumptions related to the adoption of the measures have to be (i) technically feasible; (ii) economically viable and (iii) accurately described in the report (see ESRS 2 – Annex B: Qualitative characteristics of information). For this to be the case, there should be managerial decisions already taken at the appropriate level of responsibility (e.g. individual or body responsible for authorising the expense for a certain monetary amount) and the effective implementation of the mitigation activities should not depend on third parties' decisions. As an example, if a public authority has to authorise a certain project, the corresponding mitigation activity can be considered only after the authorisation. For example:-~~

- a. ~~If a chemical producer plans to introduce a new production process using a hazardous substance without any available wastewater treatment technique, it cannot assume in its materiality assessment that such a technique will be available in the future and neglect the potential impact. However, if a treatment technique is available and the undertaking plans to install it, it may disclose this as part of its management of the material impact but cannot be taken into account in the materiality assessment. If the development of the treatment technique is subject to significant uncertainties, the undertaking may explain the hazards related to the use of the substance and the prospects for the treatment technique to be available in the future; and-~~
- b. ~~In the case of an ocean oil spill affecting an ecological sensitive area or a failure of an emission treatment facility, the undertaking does not consider its emergency response protocols when assessing the severity and likelihood of potential impacts but shall describe its mitigation actions for material potential impacts.~~

232. ~~Examples of avoidance, minimisation, restoration, and compensation are included below:~~

- a. ~~**Avoidance:** A mining undertaking plans to develop a new mine in a biodiversity sensitive area. Through careful site selection and project planning, it identifies an alternative location that is less ecologically sensitive. By choosing this less sensitive site, the undertaking avoids disrupting critical habitats and species.~~
- b. ~~**Minimisation:** The construction of a new highway will impact a nearby river and its ecosystem. The environmental impact assessment has identified a series of measures that if implemented, will minimize the impact of the highway on the river. These include measures like erosion control, sedimentation ponds, and careful construction scheduling to reduce water pollution during construction. These measures seek to limit the extent and severity of impacts on the river ecosystem.~~
- c. ~~**Remediation or Restoration:** An oil spill occurs in a coastal area, harming marine life and the shoreline. In response, the responsible undertaking starts efforts to remediate the damage using oil-absorbing materials, deploying booms to contain the spill, and cleaning up the shoreline to restore it.~~
- d. ~~**Compensation:** A real estate developer plans to urbanize a parcel of land that includes a wetland. Despite efforts to avoid and minimise impacts, impacts to the wetland are unavoidable. To compensate for this impact, the developer agrees to create a new wetland nearby (of equal or greater ecological value). This created wetland compensates for the loss of the original wetland and provides additional positive environmental impacts.~~

230. Whilst similar concepts and questions apply to social [impacts matters](#), guidance covering social may be issued in the future to better reflect specific aspects of those matters.

231. To note that for the materiality assessment of environmental risks and opportunities, these are considered gross.