General approach to sector-specific ESRS – Consultation document

Content of this document:

This document is consulting upon the general approach adopted to draft the sector-specific ESRS and intended to be adopted as part of the future sector-specific ESRS. This document supports the collection of comments but will not be adopted as a separate ESRS in a Delegated Act. Its content will however be reflected in the respective sector-specific ESRS.

Objective

1 The objective of this document is to invite the public and specifically those undertakings that operate in sectors not covered by the first batch of ED of [Draft] ESRS sector standards and those interested in those sectors to participate in the consultation and comment on the general requirements used for sector reporting.

Role and content of Sector ESRS

2 An undertaking operating in a specific Sector ESRS shall apply the Sector ESRS in conjunction with ESRS topical and cross cutting standards.

3 The content of a sector-specific [draft] ESRS complements the content of the existing cross-cutting and topical standards in accordance with the Delegated Act supplementing Directive 2013/34 of the European Parliament and of the Council as regards sustainability reporting standards Delegated Act.

4 Sector ESRS set Disclosure Requirements for sustainability matters that are likely to be material in a specific sector and that are not covered, or not sufficiently covered, by topical standards. In addition, they also include guidance for undertakings operating in a specific sector, on how to apply sector agnostic disclosure requirements in the context of that sector. Finally, they include additional datapoints or breakdowns of Disclosure Requirements in sector agnostic standards.

Approach to materiality in sector ESRS

5 The content of a sector-specific [draft] ESRS complements the content of the existing cross-cutting and topical standards in accordance with the Delegated Act supplementing Directive 2013/34 of the European Parliament and of the Council as regards sustainability reporting standards Delegated Act.

6 The sector ESRS identifies a list of sustainability matters that are most relevant to the undertakings operating in the sector. This list shall be taken into account by the undertaking when performing its materiality assessment, in conjunction with the list of AR 16 of ESRS 1.

7 The list is developed starting from AR 16 and adding, when necessary, new sub-sub-topics (or sub-topics).

8 The additional datapoints and application requirements in Sector ESRS that are related to sector agnostic disclosure requirements follow the same materiality regime as the sector agnostic content to which they refer. Accordingly, irrespective of the outcome of its materiality assessment, the undertaking shall always disclose the information required by the Sector specifications of ESRS 2 General Disclosures (i.e. all the Disclosure Requirements and data points specified in ESRS 2) and by the Sector specification of the Disclosure Requirements (including their datapoints) in topical ESRS related to the Disclosure Requirement IRO-1 Description of the process to identify and assess material impacts, risks and opportunities, as listed in ESRS 2 Appendix C Disclosure/Application Requirements in topical ESRS that are applicable jointly with ESRS 2 General Disclosures.

9 The undertaking shall apply paragraphs 33[1], 34[2] and 35[3] of ESRS 1, when determining the information to be reported on a material sustainability matter, based on the content of the relevant Sector ESRS.

10 In addition, for metrics that are non-EU datapoints, if the undertaking omits information prescribed by either a Disclosure Requirement or a datapoint of a Disclosure Requirement in a sector ESRS, such information is considered to be implicitly reported as "not material for the undertaking".

11 Application Requirements (AR) are included in the sector ESRS, to support the assessment of the materiality of specific Disclosure Requirements (DR) in sector ESRS. These AR illustrate which facts and circumstances could justify the omission of a DR pertaining to a material sustainability matter.

Sector specifications of IRO 2

12 The undertaking shall disclose the conclusions of its materiality assessment regarding the list of sustainability matters that are most relevant to the specific Sector, providing a brief explanation, in relation to the undertaking's specific facts and circumstances, of which matters in this list been assessed to be material and which are not. Specific facts and circumstances include the undertaking's business model, its specific activities, the location of its sites, its products, its business relationships.

13 This disclosure requirement will be identified in each Sector ESRS as a sector specification to ESRS 2 IRO 2.

14 In drafting the [draft] sector ESRS, Disclosure Requirements may be aggregated in subsectors of activity. In this case, a navigation table reported at the beginning of the standard supports the understanding of which sustainability matter(s) or disclosures in the standard are applicable to a one or more subsectors.

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[1] When disclosing information on policies, actions and targets in relation to a sustainability matter that has been assessed to be material, the undertaking shall include the information prescribed by all the Disclosure Requirements and datapoints in the topical and sector-specific ESRS related to that matter and in the corresponding Minimum Disclosure Requirement on policies, actions, and targets required under ESRS 2. If the undertaking cannot disclose the information prescribed by either the Disclosure Requirements and datapoints in the topical or sector-specific ESRS, or the Minimum Disclosure Requirements in ESRS 2 on policies, actions and targets, because it has not adopted the respective policies, implemented the respective actions or set the respective targets, it shall disclose this to be the case and it may report a timeframe in which it aims to have these in place.

[2] When disclosing information on metrics for a material sustainability matter according to the Metrics and Targets section of the relevant topical ESRS, the undertaking: (a) shall include the information prescribed by a Disclosure Requirement if it assesses such information to be material; and (b) may omit the information prescribed by a datapoint of a Disclosure Requirement if it assesses such information to be not material and concludes that such information is not needed to meet the objective of the Disclosure Requirement.

[3] If the undertaking omits the information prescribed by a datapoint that derives from other EU legislation listed in Appendix B of ESRS 2, it shall explicitly state that the information in question is "not material".

15 When the undertaking omits the Disclosure Requirements in a [draft] sector ESRS that are applicable to a subsector of activity in which the undertaking does not operate, the brief explanation of paragraph 12 does not need to cover the Sustainability Matters which the omitted Disclosure Requirements refer to.

16 The undertaking shall include in the ESRS 2 IRO-2 list of Disclosure Requirements complied with following the outcome of the materiality assessment (see paragraph 56 of ESRS 2) also the Disclosure Requirements of the [draft] sector ESRS.

Reporting boundary

17 Without changing the application of the requirements in Chapter 5 of ESRS 1 Value chain, for specific disclosure requirements or datapoints of disclosure requirements, Sector ESRS may require the inclusion in the disclosure of information of sites, entities and assets under the operational control of the entity when appropriate, in addition to information of entities and assets included in the consolidated financial statements.

Level of disaggregation in Sector ESRS

18 For some sectors, current practice and other existing frameworks and standards show several disclosures disaggregated by location, at operational site level, (or at country, asset or project level), i.e. the disaggregation level. The following paragraphs present the tentative guidance that the SRB intends to follow in determining the appropriate level of disaggregation for a specific datapoint, when developing a [draft] sector ESRS.

19 A requirement to disclose information at individual site or asset level would in general be considered as appropriate when the general criteria in ESRS 1 on level of disaggregation (see paragraphs 54 - 57) would require disaggregated information. The decision whether to require a disaggregation of information at operational site level, whether to limit it to key operational sites or at a higher level of aggregation, shall reflect the relevance of the resulting information and, compatibly with this relevance, the cost/benefit profile of the disclosures.

20 Consistent with ESRS 1, appropriate factors must be considered to define the appropriate level of granularity, by keeping a focus on the necessity of the resulting information:

(a) to be relevant;

(b) not to obscure the specificity and context necessary to convey a complete understanding of the information; and

(c) not to aggregate material information items that have a different nature.

21 When developing requirements for a [draft] sector ESRS, the following three general principles are applied:

(a) <u>proportionate scope</u>: The level of disaggregation required in a [draft] sector ESRS shall be commensurate to the scope at which the sustainability impacts occur and the processes level to manage impacts. To produce relevant information, when material impacts stemming from a sustainability matter or an aspect of a sustainability matter affect a specific operational site or a specific local area, the [draft] sector standard will in principle require to disaggregate up to that specific level the information stemming from the datapoints that cover the sustainability matter concerned, or the aspect of the sustainability matter concerned .

(b) <u>material aspects affecting a specific site</u>: When specific events or aspects, which are linked to a specific operational site or specific local area, trigger material changes in the impact profile of the undertaking, the sector-specific [draft] ESRS standard will in principle require disaggregation at the level of this specific site or local area. Examples:

(i) for biodiversity, the [draft] sector ESRS will adopt, in general, the specific operational site as the appropriate level of disaggregation for operations that are located in or near nature sensitive areas and are connected with material impacts, risks and opportunities;

(ii) for mining, all the sites that are under closure and rehabilitation will have in general to be disclosed.

(c) <u>alternative information based on internal control</u>: In developing the required level of disaggregation, before defining a granularity at operational site level, the [draft] sector ESRS should consider whether relevant information can be obtained otherwise e.g. requiring disclosing alternative information based on the internal control evidence of the undertaking. For example, requiring whether an EMAS or ISO 14001 certification exists at site level, would provide useful information on the level of internal control in place and, as such, may replace the requirement to disclose more detailed information on governance, policies and actions on environmental impact, risk or opportunities at site level.

22 When appropriate, the [draft] sector ESRS will include a requirement for a mapping of the operational sites to a specific sustainability matter or aspect of a sustainability matter or impact, risk or opportunity related to the site(s).

Appendix B: Application Requirements

23 This appendix is an integral part of [draft] ESRS SEC 1 and has the same authority as the other parts of the [draft] Standard.

24 All references to ESRS below refer to the version published by the Delegated Act supplementing Directive 2013/34.

Example 1 – single activity

25 Assume an undertaking that has registered its activities under one single NACE-code which is also their single operational activity. For example, an undertaking A has activities described as NACE B.07.10 *Mining of iron ores* solely. In this case the undertaking shall apply the [draft] ESRS "*Mining, Quarrying and Coal*" to its operations, despite the scope of Mining, Quarrying and Coal being broader than the relevant NACE-code.

Example 2 – multiple activities in one entity

26 Assume an undertaking that has registered its activities under different NACE codes that are covered by different sector-specific ESRS. For example, undertaking A has in addition to its activities registered as NACE B.07.10 *Mining of iron ores* significant activities that are described as NACE C.24.10 *Manufacture of basic iron, steel and of ferro-alloys*. In this case the undertaking shall apply – subject to its assessment of ESRS 2 paragraph 40 (b) and AR 13 (a) and (b) (revenues above 10 per cent of the revenue of all its activities or whether it is connected to material actual or material potential negative impacts) - both the sector-specific [draft] ESRS "*Mining, Quarrying and Coal*" and "*Metal processing*", the latter as it includes NACE C.24.10 *Manufacture of basic iron, steel and ferro-alloys*.

Example 3 – vertically integrated operations

27 Assume an undertaking that is part of a group has intercompany transactions with its parent undertaking or other subsidiaries of that parent undertaking. For example, undertaking A and B are both subsidiaries of the same consolidated group C. Undertaking A has activities described as NACE B.07.10 *Mining of iron ores* but sells some of the extracted ore to undertaking B which has activities registered as NACE C.24.10 *Manufacture of basis iron, steel and of ferro-alloys* solely. Assume that undertaking A prepares ESRS sustainability statements on a stand-alone basis. At this level, undertaking A shall apply the sector-specific ESRS "*Mining, Quarrying and Coal*" to its operations. Similarly, assume that undertaking B also prepares sustainability statements on a stand-alone basis. At this level, undertaking B shall apply the sector-specific [draft] ESRS "*Metal processing*". At consolidated level, group C shall apply both [draft] ESRS "*Mining, Quarrying and Coal*" and "*Metal processing*" (absent any other activities) assuming both types of

activities fulfil the criteria mentioned in ESRS 2 paragraph 40 (b) and AR 12 (a) and (b) for significant ESRS sectors. Note: if parent undertaking C prepares consolidated sustainability statements subsidiaries A and B are exempt from sustainability reporting on a stand-alone basis.

Example 4 – insignificant activities

28 Subsidiary D delivers IT-solutions to its parent undertaking C and the other subsidiaries of the group. These IT solutions can be described as activities in accordance with NACE code J.62 *Computer programming, consultancy and related activities*. For the consolidated group C, the IT activities can be considered not significant as IT revenues are below 10 percent of all revenues (including both sales to external customers and intersegment sales or transfers) and no material impacts are identified related to these activities thereby not meeting the criteria for significant ESRS sectors of ESRS 2 paragraph 40 (b) and AR 13 (a) and (b). As a result, group C is not required to apply the [draft] ESRS *Information technology*. However, in case IT activities were to be considered significant, due to the 10 percent or due to the impacts of IT activities on people and the environment, the group C shall apply the standard [draft] ESRS *Information technology.*

Example 5 – Groups operating in different sectors

29 Assume an undertaking that operates a banking business [NACE 64.92 *Other credit granting*]. As part of its lending business, the group has financed the construction by a chemical company [NACE 20.30 *Manufacture of paints, varnishes and similar coatings, printing ink and mastic*] of a factory that transforms hazardous substances. Following the credit deterioration of the client, the company is forced to acquire the financial control of the chemical company and to exercise the operational control over the company.

30 Assume that there is no foreseeable perspective for a disposal of the factory. Accordingly, the banking group estimates to be active in the chemical sector until the complete recovery of the initial investment. The factory produces revenues that are below 10 percent of total group revenues; however, the group may be connected with material environmental impacts through the activities of the chemical company (see ESRS 2 paragraph 40 (b) and AR 12 (a) and (b)). If so, the banking group shall report also according to [draft] ESRS *Chemical sector*.

31 This example also illustrates the application of ESRS 1, paragraph 102: when there are significant differences between material impacts, risks or opportunities at group level and at level of one or more of its subsidiaries, the undertaking shall provide an adequate description of all these impacts, risks and opportunities.

Example 6 – transport

32 Assume an undertaking active in retail sales [NACE 47.19 Other non-specialised retail sale]. The undertaking has a fleet of trucks that ensures daily deliveries of goods from the distribution centre to the individual stores. The undertaking shall - in addition to its core activities (retail sales) - evaluate whether [draft] ESRS *Road transportation* applies based on its assessment related to ESRS 2 paragraph 40 (b) and AR 13 (a) and (b) for its road transport activities.

Example 7 – Credit institution having a mortgage loan portfolio

33 Assume a credit institution that grants mortgages to retail clients [NACE 64.19 *Other monetary intermediation*] and is thereby financing the acquisition of real estate by its clients [NACE 68.10 *Buying and selling of own real estate*]. That credit institution applies the [draft] ESRS *Credit institutions*. The credit institution shall not apply the [draft] ESRS *Real estate* as it has no financial or operational control over these activities. The credit institution shall consider if there are material impacts, risks and opportunities connected through its value chain that it should report upon [paragraph 63 of ESRS 1].

Example 8 – Credit institution controlling real estate through investment funds

34 Assume a credit institution that provides financial service activities to retail clients [NACE 64.92 *Other credit granting*] and also has real estate activities through funds which it consolidates. Assume the following scenarios:

(a) the real estate fund controls through ownership a number of buildings. Subject to the ESRS 2 paragraph 40 (b) and AR 13 (a) and (b) significance of the activities the credit institution shall apply [draft] ESRS *Real estate* to the activities related to these buildings; or

(b) the real estate fund has bought a number of shares in a real estate company giving the fund significant influence over the real estate company and the buildings in its portfolio. The credit institution shall consider whether the real estate activities of the real estate company i.e. the associate (significant influence) are part of the credit institutions value chain (see ESRS 1 paragraph 67) but should not apply [draft] ESRS *Real estate*.

Example 9 – Consolidated reporting and subsidiary exemption

35 Retailer A has concentrated its real estate activities in one subsidiary B. B manages, owns and leases property (retail stores) from third parties and sub-leases them exclusively to subsidiaries of the group.

36 B has decided to use the subsidiary exemption and therefore does not prepare sustainability statements for its activities (ESRS 1 Chapter 7.6 *Consolidated reporting and subsidiary exemption*). Retailer A evaluates based on [ESRS 2 paragraph 40 (b) and AR 13 (a) and (b) whether it must report according to [draft] ESRS *Real estate* for the retail stores it owns and manages. B's finance lease activities to other group subsidiaries fall under NACE code K.64.91 *Financial leasing*. However, Retailer A concludes that it does not need to report under the related [draft] ESRS *Credit institutions* for the leasing activities as the finance-leases are exclusively intra-group and they do not result in additional impacts, risks or opportunities for the group.