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Carbon copy: Sven Gentner, European Commission

Revision of the European Sustainability Reporting Standards, V1.6

Dear Patrick, dear Chiara

On behalf of the Deutsches Rechnungslegungs Standards Committee (DRSC) I am writing to inform you about an issue which continues to be viewed very critically in our constituency, and which is, therefore, important for the success of the ESRS revision: the avoidance of stricter requirements and additional data points. The DRSC's Sustainability Reporting Technical Committee considers it important to share these concerns with you before the public consultation will start at the end of this month.

The DRSC notes that in the ECs letter of 1 July, EFRAG were asked to ensure that a number of points are taken into account as far as possible; with a priority on ensuring that no new data points are added to the ESRS. In recent months and weeks, the DRSC has increasingly performed outreach to preparers and other stakeholders in order to obtain insights about the key expectations of the ESRS revision. In doing so, we noted that there is a strong emphasis on the above-mentioned aspect of data requirement reduction and that the work of EFRAG and the European Commission in this regard is under close scrutiny. In other words, the success of the revised ESRSs significantly depends on preparers and other stakeholders being convinced of the simplifications while being in no doubt that the revised ESRSs do not impose new or more stringent disclosure requirements.

We have recently discussed the working status – without screening these papers in every detail – (labelled V1.6), which is publicly available on EFRAGs website, with a broader group of constituents, who have repeatedly reported a number of requirements that are perceived as adding to or tightening the requirements of the delegated acts and thus ultimately, as an additional requirement. Our Sustainability Reporting Technical Committee investigated these cases in more detail; some which could be cleared. For example, we have found that some DRs are to be moved within the ESRS from one section to another, which at first glance (when looking in isolation at the section in question) also raises concerns that these constitute new requirements. However, doubts remained in other cases.



On the basis of these doubts and the intensity with which they are expressed, we are concerned that there will be considerable pushback from many European constituents during the consultation if these doubts are not resolved. This might take on a scale that jeopardises the success of the ESRS revision. We therefore recommend that the consultation documents be accompanied by an analysis to provide clarity as to which disclosure requirements are only perceived as more tightened or additional, but are in fact not, and which requirements have actually been tightened or added.

I would like to refer you to the appendix containing examples for requirements that are perceived tightened or added according to our discussions to date. If you would like to discuss this subject further, please do not hesitate to contact me.

Yours sincerely

Georg Lanfermann

Appendix

(The headlines refer to the EFRAG Meeting papers for the SRB meeting on 15/16 July, labelled V1.6. Emphasis is added.)

1. Examples for DRs that seem to include additional data requirements

ESRS 1 AR8 → 3.3.1 Impact materiality assessment

Where the undertaking determines that its own operations or supply chain(s) are exposed to factors that give rise to heightened risk of adverse impacts related to pollution, water, biodiversity and ecosystems as well as to resource use and circular economy, it shall consider its site locations, assets, and business activities to be able to further investigate impacts that may be material in the local context. In particular, **it shall consider how its own operations and, where relevant, its supply chain affect the local context for key sites and activities**, considering: [...]

Finding:

This wording suggests that the double materiality assessment (DMA) must be carried out on a site-specific basis. We are aware of paragraph 127 of IG1 which contains a recommendation about the granularity in the DMA for groups and subsidiaries; however, we do not understand this recommendation to address a site-component for the DMA as the last sentence of this paragraph refers to the guidance of ESRS section 3.7 Level of disaggregation (i.e., level of disaggregation of the disclosures). In addition, we expect the content of the IG to remain non-authoritative, whereas the ESRS are binding.

On the level of disaggregation (ESRS 1 section 3.7), we understand the delegated act to address the level of disaggregation for reporting purposes only (i.e., level of disaggregation of the disclosures); in contrast, it does not contain a requirement to perform the DMA on site level. Compared to the ESRS Set 1 as per delegated act, this is perceived as a stricter rule since we fail to see a comparable requirement for the DMA in the Delegated Act.

ESRS E1.14(a) → E1-1 Transition plan (1)

The information about the transition plan for climate change mitigation shall include: (a) a description of its key features, such as GHG emission reduction targets, the decarbonisation levers, key actions, **financial and investment planning**, the role of the administrative, management and supervisory bodies, and how the plan is embedded in and aligned with the undertaking's overall business strategy. It shall also include information on how the undertaking's strategy and business model are compatible with the limiting global warming to 1.5°C in line with the Paris Agreement and with the EU's objective of achieving climate neutrality by 2050 [...]

Finding:

According to the disclosure requirements in the Delegated Act (ESRS E1.16) the information on the undertaking's transition plan shall include an "explanation and quantification of the undertaking's **investments and funding** supporting the implementation of its transition plan". We note that the description of "financial and investment planning" in E1.14(a) (ESRS E1, V1.6) goes beyond "investments and funding" as the latter is a subset or part of the former. This is further confirmed by the wording "investment and financial planning (including the short- and medium-

term financial and investment plan)” in AR 2(c) of ESRS E1 (V1.6). The wording would, therefore, suggest an extended disclosure. Even if this does not intend any extension of the disclosure requirements the change in terminology raises questions regarding an extended substance of the requirement.

ESRS E1.AR2(c) Transition plan (2)

The relevant disclosures for this paragraph are: [...] with reference to financial resources, the disclosure of the investment and financial planning (including the short- and medium-term financial and investment plan) and financial resources supporting the implementation and strategic ambition of its transition plan for climate change mitigation, **including quantitative short- and medium-term CapEx, and/or OpEx figures, as well as anticipated long-term CapEx and/or OpEx ranges [...]**

Finding:

We compared this draft requirement with the requirements set out in the Delegated Act, ESRS E1-1 (para. 16, point c, e, f, and ESRS E1.AR 4, and we fail to see that such a breakdown (quantitative short- and medium term [...] anticipated long-term) is required in the Delegated Act. Furthermore, in light of the current discussion on quantifying anticipated financial effects we believe the requirement to disclose anticipated long-term CapEx and/or OpEx ranges counters the simplification effort the EC has got in mind.

ESRS E1.AR10 - E1-3 – Resilience in relation to climate change

When disclosing the results and implications of its resilience analysis according to paragraph 21(a), the undertaking shall **provide its assessment of its climate resilience at the reporting date**.

Finding:

The requirements in ESRS E1 of the Delegated Act addressing disclosures on an undertaking’s resilience are ESRS 2.SBM-3 including the related application requirements, and E1-9 on anticipated financial effects. As we fail to see any reference point in these sections requiring an **assessment of its climate resilience at the reporting date**, this element is also considered a datapoint which does not exist in the delegated act.

2. Examples for DRs that are moved and create uncertainties (additional requirements or not?)

ESRS 2.26(a) (IRO-1 Description of the process to identify and assess material [IROs]...)

The undertaking shall disclose the following: (a) an overview of the process, the key methodologies applied, the input parameters used and key data sources, and how it determines qualitative or quantitative thresholds [...]

Finding:

The requirement is located within the section GOV-4 of the delegated act (ESRS 1). For V1.6 it was slightly reworded and moved to the IRO-1 section of ESRS 2 (V1.6).

ESRS 2.26(e) (IRO-1 Description of the process to identify and assess material [IROs]...)

The undertaking shall disclose the following: [...] (e) how it has considered its impacts and dependencies in the identification and assessment of its risks and opportunities; ...

Finding:

The requirement is understood to address the connections of an undertaking's impacts and dependencies with the risks and opportunities that may arise from those impacts and dependencies. The delegated act contains this requirement located within the section GOV-4. For V1.6 it was significantly reworded and also moved to the IRO-1 section of ESRS 2 (V1.6).