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Fair presentation: ultimate steps needed for a meaningful implementation in the revised ESRS

On behalf of the Deutsches Rechnungslegungs Standards Committee (DRSC) I am writing to emphasise again the position of the DRSC on critical aspects of EFRAG's strategic direction, namely the reference to "fair presentation" and the design of the "materiality of information" threshold. We have followed the intense debate on these aspects in the past weeks and suggest a timely clarification of these essential underlying concepts of sustainability reporting.

The fair presentation concept is a well-established concept in financial reporting. Preparers, auditors, enforcers, and users of financial information alike have established a common understanding of the application of this concept and acknowledge its contribution to high quality reporting. Fundamental features of fair presentation have been inherent in ESRS early on. Nevertheless, the current debate calls for clarifications.

We would first like to take a step back as we believe it is crucial to discuss the underlying understanding of "user" of sustainability information as it determines the addressee for which sustainability information are to be "fairly presented". The current wording of ED-ESRS 1 (paras 4 and 21) suggest a very broad understanding of users of sustainability statements. In fact, it does not provide any boundaries to users of sustainability statements which in turn makes it difficult if not impossible for undertakings to assess conclusively that their sustainability statement fairly presents sustainability information in line with the needs of "users". As the reference to "users" (in ED-ESRS 1.4 and .21) does not in any way limit the users, a reporting obligation can be triggered by any user according to ED-ESRS 1.21(b). The intended threshold of "materiality of information" becomes void. Evidence of being in line with the materiality of information concept and therefore with a fair presentation would be difficult to present as – due to the lack of boundaries – the undertaking would not be able to confirm that sufficient information has been reported for all other users to understand the material IROs.

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Therefore, we urge that ESRS specify the users whose information needs determine whether an information is material or not (ED-ESRS 1.21). That being said it is crucial to acknowledge that the need for a focus on “users” with respect to information materiality does not disregard the overarching principle of incorporating interests of all relevant stakeholders in the undertaking’s determination of material IROs and would still acknowledge the need to include the views of all relevant stakeholders in the impact materiality assessment.

Nevertheless, to allow a clear boundary for the implementation of a fair presentation view, it is crucial to focus, at the level of the materiality of information, on a primary user of sustainability reporting. In the absence of a clearly defined primary user for sustainability information the materiality concept cannot provide the boundaries to sustainability reporting which are necessary to conclude fair presentation.

We therefore suggest rephrasing ED-ESRS 1.4 to address *primary users* and to rephrase ED-ESRS 1.21(b) to assess the materiality of information based on the information being *decision-useful* for *primary users* of sustainability reporting. This aligns ED-ESRS 1.21(b) with the corresponding wording in par. 21(a). The focus are primary users having a reasonable knowledge of the business, sustainability and economic activities and who review and analyse the information diligently. The focus on primary users is subject to management considerations. As laid out by EFRAG in the BfC for the consultation of the ED-ESRS changes have been made to ESRS to better reflect the managerial approach (BfC par. 53). We fully support this stronger reflection of the undertaking’s approach, management’s processes and expertise, not only with regard to the relation of IROs and topics to be reported, but also on the level of “materiality of information”.

To be clear, we welcome the explicit reference to fair presentation. Nevertheless, we acknowledge the issues raised by various stakeholders and have come to conclude that a focus on primary users which determine the materiality of information is essential to successfully establish a fair presentation concept. In addition, ESRS need to provide a better understanding of fair presentation and connect it to the features of fair presentation that are inherent in the ESRS. These are not limited to the materiality principles but include the important aspect of entity-specific information and the qualitative characteristics of sustainability information. It could also be discussed to define an overriding concept, to be fully aligned with the established fair presentation concept in financial reporting although this has proven to be a theoretical discussion rather than a practical element of reporting. The overriding concept would provide for undertakings to deviate in rare circumstances from ESRS requirements that do not result in a fair presentation of IROs and, instead, replace them with other disclosures that are meaningful to the specific circumstances of the undertaking and the IROs associated with it.

If you would like to discuss our comments further, please do not hesitate to contact me.

Yours sincerely

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