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Diese Unterlage wurde von einem Mitarbeiter des DRSC für die FA-Sitzung erstellt.

FA NB – öffentliche SITZUNGSUNTERLAGE

Sitzung:	54. Sitzung FA NB / 14.10.2026 / 09:30 – 11:45 Uhr (inkl. Pause)
TOP:	11 – ESRS-40a
Thema:	EFRAG-Konsultation zu ESRS für Drittstaatenunternehmen
Unterlage:	54_11a_FA-NB_ESRS-40a_Basis

Vorbemerkung

- **23.7.2026:** EFRAG veröffentlicht Entwurf zu ESRS für Drittstaatenunternehmen (ESRS-40a ED)
- Teilnahme an Konsultation via Online-Fragebogen
- **Aufbau**
  - Teil 1: Persönliche Angaben (Frage 1-20)
  - Teil 2: High-level Feedback (Frage 21-38)
  - Teil 3: Detailliertes Feedback (Frage 39-82)
  - Teil 4: Feedback auf Ebene einzelner DRs bzw. Datenpunkte

max. 300 Wörter

verpflichtend

optional

- **31.10.2026:** Ende Kommentierungsfrist
- Weitere Informationen & Konsultationsunterlagen
  - Projektseite
  - Website zur Konsultation

Fortsetzung ab Frage 57

Nachtrag 53. Sitzung FA NB

Vorschlag „staggered approach“: CSRD-Konformität

Instead, in order to effectively streamline the reporting process and thereby ensure the necessary buy-in and acceptance, we propose a staggered approach for the global approach. This would mean that third-country undertakings start their sustainability reporting in accordance with ESRS-40a 2 (‘General Disclosures’) together with the topical standards ESRS-40a E1 (‘Climate Change’), ESRS-40a S1 (‘Own Workforce’), and ESRS-40a G1 (‘Business Conduct’) on a global scope. Other environmental or social topics would initially not be subject to the ESRS-40a but can be phased-in at a later point in time as sustainability reporting evolves, i.e., as part of the regular review of the ESRS-40a.

To this end, we encourage EFRAG not to pre-empt the decision on further sustainability topics, if any, within the current draft standards, but rather to postpone such a decision until the completion of a later review followed by a careful post-implementation review. We argue that such a staggered approach would fully meet the requirements of Article 40a of the Accounting Directive to provide a sustainability report covering the information specified in points (a)(iii) to (a)(v), points (b) to (f) and, where appropriate, point (h) of Article 29a (2) of the Accounting Directive. At the same time, we believe that it offers a viable bridge for third-country undertakings that would be widely accepted within the international community, as it represents a conceptual and practical simplification compared to a full-scope global approach covering all sustainability topics.

Nachtrag 53. Sitzung FA NB

Vorschlag „staggered approach“: CSRD-Konformität

„[…] sustainability report covering the information specified in points (a)(iii) to (a)(v), points (b) to (f) and, where appropriate, point (h) of Article 29a(2) at the group level of that ultimate third-country parent undertaking.“

2. The information referred to in paragraph 1 shall contain:

(a) a brief description of the group's business model and strategy, including:

(i) the resilience of the group's business model and strategy in relation to risks related to sustainability matters;

(ii) the opportunities for the group related to sustainability matters;

(iii) the plans of the group, including implementing actions and related financial and investment plans, to ensure that its business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1,5 °C in line with the Paris Agreement and the objective of achieving climate neutrality by 2050 as established in Regulation (EU) 2021/1119 and where relevant, the exposure of the group to coal-, oil- and gas-related activities;

(iv) how the group's business model and strategy take account of the interests of the group's stakeholders and of the impacts of the group on sustainability matters;

(v) how the group's strategy has been implemented with regard to sustainability matters;

(b) a description of the time-bound targets related to sustainability matters set by the group, including, where appropriate, absolute greenhouse gas emission reduction targets at least for 2030 and 2050, a description of the progress the group has made towards achieving those targets, and a statement of whether the group's targets related to environmental factors are based on conclusive scientific evidence;

(c) a description of the role of the administrative, management and supervisory bodies with regard to sustainability matters, and of their expertise and skills in relation to fulfilling that role or the access such bodies have to such expertise and skills;

(d) a description of the group's policies in relation to sustainability matters;

(e) information about the existence of incentive schemes linked to sustainability matters which are offered to members of the administrative, management and supervisory bodies;

(f) a description of:

(i) the due diligence process implemented by the group with regard to sustainability matters, and, where applicable, in line with Union requirements on undertakings to conduct a due diligence process;

(ii) the principal actual or potential adverse impacts connected with the group's own operations and with its value chain, including its products and services, its business relationships and its supply chain, actions taken to identify and monitor those impacts, and other adverse impacts which the parent undertaking is required to identify pursuant to other Union requirements to conduct a due diligence process;

(iii) any actions taken by the group to prevent, mitigate, remediate or bring an end to actual or potential adverse impacts, and the result of such actions;

(g) a description of the principal risks to the group related to sustainability matters, including the group's principal dependencies on those matters, and how the group manages those risks;

(h) indicators relevant to the disclosures referred to in points (a) to (g).

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

57) Do you agree with the specifications in the ESRS-40a 2 ED that provide guidance on how to apply this Standard when reporting on EU-related impacts?

( ) Yes.

( ) No.

Hintergrund

- ESRS-40a 2.GOV-1, GOV-2, GOV-3, GOV-4, SBM-1, SBM-2, usw.

Einschätzung DRSC-Mitarbeiterstab

- Vorgaben oftmals weder aus Ersteller- noch Nutzerperspektive zweckmäßig, da sie zu granular sind und nicht angemessen widerspiegeln, wie Unternehmen gesteuert werden
- **Vorschlag:** in ESRS-40a 2 ggf. auf breiter gefasste „sustainabiity topics“ abstellen statt starrer Begrenzung auf „(EU-related) impacts“

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

Disclosure Requirement GOV-1 – *The role of the administrative, management and supervisory bodies in relation to sustainability*

~~12.~~15. (ESRS 2, para. 12) The undertaking shall disclose:

~~(a)~~a) with respect to the composition of its ***administrative, management and supervisory bodies***, the percentage of ***independent board members***[1], the representation of ***employees*** and other workers, if present, and the percentage by gender and by other aspects of diversity that the undertaking takes into account;

~~(b)~~b) the expertise and skills of the administrative, management and supervisory bodies in relation to supervising and managing material ***impacts***~~***, risks*** and ***opportunities***~~ and how they determine whether appropriate skills and expertise are available or will be developed to manage or oversee strategies and other measures designed to respond to material impacts~~, risks and opportunities;~~;

AR 11 for para. 15	(New) If the undertaking has exercised the option under ESRS-40a 1, paragraph 28, the information required in paragraph 15 shall enable an understanding of the aspects of the Disclosure Requirement that concern monitoring, managing and overseeing the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

Disclosure Requirement GOV-2 – *Integration of sustainability-related performance in incentive schemes*

~~14.~~17.(ESRS 2, para. 14) If the undertaking has incentive schemes for members of the ***administrative, management and supervisory bodies*** that are linked to sustainability ***topics***, it shall disclose how members' remuneration is linked to sustainability topics, including:

~~(a)~~a) a description of the key characteristics of the incentive schemes;

~~(b)~~b) ***targets*** or ***metrics*** used if the performance is assessed against specific sustainability-related targets or metrics; and

~~(c)~~c) the proportion of variable remuneration dependent on sustainability-related targets or metrics.

AR 12 for para. 17	(New) If the undertaking has exercised the option under ESRS-40a 1, paragraph 28, the information required in paragraph 17 shall enable an understanding of the aspects of the Disclosure Requirement that concern the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

Disclosure Requirement SBM-1 – *Strategy, business model and value chain*

~~20.~~23.(ESRS 2, para. 20) The undertaking shall disclose the following information about the key elements of its general strategy and ***business model*** that relate to, or affect, the ***topics*** associated with its ***material impacts*** ~~***, risks*** and ***opportunities***~~:

~~(a)~~a) a description of its business model, its upstream and downstream ***value chain*** and its position in that value chain;

~~(b)~~b) a description of:

i. the significant groups of products and services offered, significant markets or customer groups served, and their relevance in contributing to the undertaking`s overall sustainability-related objectives, including significant changes in the reporting period (e.g. new/removed products, services, markets or customer groups);

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

58) i. If 'No.' to the previous question, please select one or more of the specifications below with which you disagree:

[ ] GOV 1 (AR 11)

[ ] GOV 2 (AR 12)

[ ] GOV 3

[ ] GOV 4

[ ] SBM 1

[ ] SBM 2 (AR 19)

[ ] SBM 3 (AR 21)

[ ] I-1 (AR 23)

[ ] I-2 (AR 27)

[ ] GDR-P (AR 34)

[ ] GDR-A (AR 36)

[ ] GDR-M (AR 44 to AR 47)

[ ] GDR-T (AR 52)

Vorschlag DRSC-Mitarbeiterstab

- Auswahl Vorgaben, die durch Eingrenzung auf „impacts“ bzw. „EU-related impacts“ keine zweckmäßige Berichterstattung erlauben (zzgl. GDR-M)

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

60) Do you agree with the specifications in the ESRS-40a ED topical standards that provide guidance on how to apply this Standard when reporting on EU-related impacts?

( ) Yes.

( ) No.

Hintergrund

- Vorgaben in ESRS-40a E2-G1

Einschätzung DRSC-Mitarbeiterstab

- Vorgaben oftmals weder aus Ersteller- noch Nutzerperspektive zweckmäßig, da sie zu granular sind und nicht angemessen widerspiegeln, wie Unternehmen gesteuert werden
- Probleme „mixed approach option“, „customer component“, „allocation key that best supports a faithful representation of the EU-related impacts”, „no meaningful or comparable information”, usw. spiegeln sich in themenspezifischen Vorgaben wider

Teil 3: Detailliertes Feedback

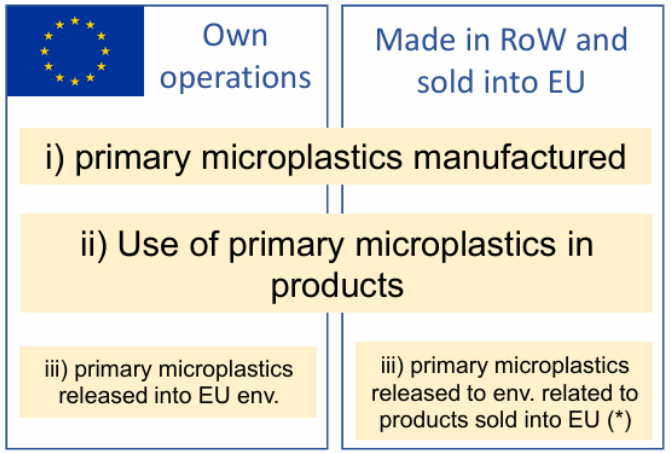
Thema 2: Mixed Approach

ESRS-40a E2 – Pollution

Disclosure Requirement E2-4 – *Pollution of air, water and soil*

16. (ESRS E2, para. 16) The undertaking shall disclose the amounts of primary ***microplastics*** manufactured or used in its products, and separately, those directly released into the environment.

AR 4 for para. 16	(New) If the undertaking has exercised the option under ESRS-40a 1, paragraph 28, when reporting in accordance with paragraph 16, the undertaking shall report the amounts of primary ***microplastics***, covering: (a) primary microplastics manufactured from own operations in the EU and those manufactured from own operations outside of the EU when they were or can be reasonably assumed to be sold or provided in the EU market; (b) the use of primary microplastics in ***products*** from own operations in the EU and in products from operations outside of the EU that were or can be reasonably assumed to be sold or provided in the EU market; and (c) primary microplastics directly released into the environment from own operations in the EU and those released from own operations outside of the EU where the direct release relates to products that were or can be reasonably assumed to be sold or provided in the EU market.



* Requires an allocation mechanisms

Bsp. 53. Sitzung FA NB

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

ESRS-40a S1 – Own Workforce

Objective

8. (New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, its ***own workforce*** is understood to comprise:

   (a) ***employees*** and ***non-employees*** who are employed by, provide labour to or are provided to the undertaking's own operations located in the EU; and

   (b) those employees and non-employees who are employed by, provide labour to or are provided to the undertaking's own operations located outside the EU and who are involved in the production of the ***products*** or services that were or can be reasonably assumed to be sold or provided on the EU market.

AR 1 for para. 8(b) **(Employees and non-employees outside the EU)**	(New) If the undertaking exercises the option under paragraph 28 of ESRS-40a 1 *General Requirements* it shall include all ***employees*** and ***non-employees*** that work on or for any of the undertaking's ***sites*** that produce ***products*** or services that were or can be reasonably assumed to be sold or provided in the EU market. The undertaking may deviate from this rule if it has reasonable and supportable evidence that another allocation basis is more appropriate for faithfully representing ***EU-related impacts***. Employees involved in the production of products or services for the EU market also include those in supporting functions such as procurement or marketing.

Disclosure Requirement S1-5 – *Characteristics of the undertaking's employees*

21. (ESRS S1, para. 20) The undertaking shall disclose:

   a) the total number of ***employees*** by headcount, with a breakdown by gender;

   b) the number of employees by headcount for each of the countries in which it has 50 or more employees and that are the ten largest countries in terms of employee numbers;

   c) the total number by headcount or full time equivalent (FTE) of:

      i. permanent employees with a breakdown by gender;

      ii. temporary employees with a breakdown by gender;

      iii. non-guaranteed hours employees;

   d) the rate of turnover of permanent employees in the reporting period; and

   e) a qualitative explanation in case there is an inconsistency between information reported under point (a) above and the most representative number reported in the financial statements.

Disclosure Requirement S1-6 – *Characteristics of non-employees in the undertaking's own workforce*

23. (ESRS S1, para. 22) The undertaking shall disclose the total number of ***non-employees*** in the undertaking's ***own workforce***.

Bsp. 53. Sitzung FA NB

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

ESRS-40a S1 – Own Workforce
Disclosure Requirement S1-8 – *Gender diversity in top management*
28. (ESRS S1, para. 27) The undertaking shall disclose the gender distribution in number (headcount) and percentage at top management level.

AR 20 for para. 28 **('Top management' definition for EU-related impacts)**	(New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, 'top management level' refers to the management level that is responsible for ***EU-related impacts*** (for example top management for the EU segment or the EU subsidiaries).

Bsp. 53. Sitzung FA NB

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

ESRS-40a G1 – Business Conduct

Disclosure Requirement G1-5 – *Metrics related to political influence, including lobbying activities*

14. (ESRS G1, para. 14) The undertaking shall disclose the total monetary value of financial and in-kind political contributions made directly and indirectly by the undertaking during the reporting period, disaggregated by country or geographical area where relevant, as well as the type of recipient/beneficiary.

15. (ESRS G1, para. 15) The undertaking shall disclose the main issues covered by its ***lobbying activities*** and the main positions taken, including explanations of how its lobbying activities interact with its material ***impacts***.

AR 11 for paras. 14 and 15	(New) Unless another allocation key better supports a faithful representation of the ***EU-related impacts***, if the undertaking has exercised the option under ESRS-40a 1, paragraph 28, when reporting in accordance with paragraph 14 and 15, the information to be disclosed refers to the aggregation of activities of political influence, including ***lobbying***, performed: (a) by EU subsidiaries or branches; or otherwise linked to the undertakings' EU activities; and (b) in relation to products and services that were and can be reasonably assumed to be sold or provided in the EU market, regardless of where and how such activities are performed.

Bsp. 53. Sitzung FA NB

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

61) i. If 'No.' to the previous question, please select the specifications below with which you disagree.

[ ] ESRS-40a E2 AR 4 (primary microplastics)

[ ] ESRS-40a E2 AR 9 and 10 (SoC and SVHC)

[ ] No specifications in ESRS-40a E3 (specification in GDR-M applies)

[ ] No specifications in ESRS-40a E4 (specification in GDR-M applies)

[ ] No specifications in ESRS-40a E5 (specification in GDR-M applies)

[ ] ESRS-40a S1 (paragraph 8, AR 1, AR 2, AR 20, AR 39)

[ ] ESRS-40a S2 (paragraph 8)

[ ] ESRS-40a S3 (paragraph 7)

[ ] ESRS-40a S4 (paragraph 7)

[ ] ESRS-

40a G1 (paragraph AR 7 metric for corruption and bribery)

[ ] ESRS-40a G1 (paragraph AR 7 11 metric for political influence)

[ ] ESRS-40a G1 (paragraph AR 7 13 metric for payment practices)

Vorschlag DRSC-Mitarbeiterstab

- Auswahl aller Vorgaben aufgrund Probleme „mixed approach option“, „customer component“, „allocation key that best supports a faithful representation of the EU-related impacts”, „no meaningful or comparable information”, usw.

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

62) ii. Per each item selected, please explain why and, if applicable, provide suggestions for improvement.

Vorschlag DRSC-Mitarbeiterstab

- Exemplarische Begründung anhand **einer Vorgabe** mit Problemen „mixed approach option“, „customer component“, „allocation key that best supports a faithful representation of the EU-related impacts”, „no meaningful or comparable information”, usw.
- Verweis bei Begründung zu **anderen Vorgaben**

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

63) Breakdown for own workforce. Do you think it would be useful for users of sustainability reports if companies that opt for the mixed approach were required to disaggregate the quantitative metrics in Disclosure Requirements S1-6 to S1-16 – e.g. health and safety metrics such as number and rate of work accidents – by workforce inside and outside the EU? (A company's workforce includes employees and non-employees.)

( ) Yes.

( ) No.

Hintergrund

- Vorgaben in ESRS-40a S1-6 bis S1-16

Einschätzung DRSC-Mitarbeiterstab

- Probleme bei der Auswahl „allocation key that best supports a faithful representation of the EU-related impacts" würden sich auch in quantitativen Metriken widerspiegeln
- Zusätzliche Komplexität und Berichtslast, ggf. ohne aussagekräftige oder vergleichbare Informationen zu liefern

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

Disclosure Requirement S1-13 – *Health and safety metrics*

~~37.~~38. (ESRS S1, para. 37) The undertaking shall disclose the following information for the reporting period:

~~(a)~~a) the percentage of people in its ***own workforce*** who are covered by the undertaking's ***occupational safety and health management system*** based on legal requirements and/or on recognised standards or guidelines[3];

~~(b)~~b) subject to legal restrictions, the sum of:

i. the number of fatalities from ***recordable work-related accidents*** among all people in the undertaking's own workforce as well as workers who work on the undertaking's ***sites,*** but are not part of its own workforce; and

ii. the number of fatalities from ***recordable work-related ill health*** among its ***employees***;

~~(c)~~c) the number and rate of recordable work-related accidents among its own workforce;[4]

~~(d)~~d) with regard to the undertaking's employees, the number of cases of recordable work-related ill health, subject to legal restrictions on the collection of data; and

~~(e)~~e) with regard to the undertaking's employees, the number of days lost to recordable work-related accidents and recordable work-related ill health.[5]

Teil 3: Detailliertes Feedback

Thema 3: Interoperability, presentation and incorporation by reference

66) Questions

Do you agree with the presentation requirements in ESRS-40a ED?

( ) Yes.

( ) No.

Hintergrund

- ESRS-40a 1.107-114 (Kapitel 8)
- „[…] presentation requirements in ESRS-40a ED are **carried forward from ESRS without modifications**."

Einschätzung DRSC-Mitarbeiterstab

- Keine Notwendigkeit für Anpassungen identifiziert

Teil 3: Detailliertes Feedback

Thema 3: Interoperability, presentation and incorporation by reference

69) Do you agree with the provisions in Chapter 9.3 on incorporation by reference, including as a possible way to achieve efficient reporting and to deal with double reporting when the group prepares a sustainability report in accordance with jurisdictional requirements based on IFRS S1 and IFRS S2, or in accordance with IFRS S1 and IFRS S2?

( ) Yes.

( ) No.

Hintergrund

- ESRS-40a 1.120-125 (Kapitel 9.3)
- Forderungen aus Drittstaaten, z.B. Verweise auf (freiwillige) GRI/IFRS-Berichte

Einschätzung DRSC-Mitarbeiterstab

- Grds. Zustimmung, aber ggf. Verweis auf (freiwillige) GRI/IFRS-Berichte ermöglichen (inkl. Prüfungspflicht)

Teil 3: Detailliertes Feedback

Thema 3: Interoperability, presentation and incorporation by reference

120. (ESRS 1, para 117) Provided that the conditions in paragraph 121 are met, information or a specific datapoint prescribed by a DR may be incorporated in the ***ESRS-40a sustainability report*** under Article 40(a) by cross-reference to other information reported pursuant to a requirement in applicable laws or regulations, which is made available to ***users*** of the financial reports on the same date as the ESRS-40a sustainability report, whether before or at the same time. Examples include:

a) another section of the management report or of a similar document prepared in accordance with to laws and regulations of the third country applicable to the reporting undertaking;

b) the financial statements;

c) the corporate governance statement (if not part of the management report);

d) the remuneration report required by Directive 2007/36/EC (Shareholder Rights Directive – SRD)[6] or a similar document prepared according to laws and regulations of the third country applicable to the reporting undertaking; and

e) public disclosures by the reporting undertaking under local regulations covering topics similar to those in Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)[7] (Pillar 3 disclosures). If the reporting boundaries in such documents are different from the ones that the reporting undertaking uses for the ESRS-40a sustainability report, the undertaking shall ensure that the information matches the reporting boundaries used for the ESRS-40a sustainability report by complementing the incorporated information with additional elements as necessary.

Teil 3: Detailliertes Feedback

Thema 3: Interoperability, presentation and incorporation by reference

121. (ESRS 1, para 118) The undertaking may incorporate information by reference to the documents, or part of the documents, described in paragraph 120, provided that the information incorporated by reference:

a) constitutes a separate element of information clearly identified in the source document as addressing the relevant ESRS-40a DR or datapoint;

b) is published before or at the same time as the ***ESRS-40a sustainability report*** under Article 40(a);

c) is prepared in one of the official languages of the European Union or translated into such a language;

d) is subject to at least the same level of assurance as the rest of the ESRS-40a sustainability report. In this case, it is not required that the entire document containing the information be subject to assurance; and

e) allows the same technical digitalisation requirements as other information in the ESRS-40a sustainability report.

Teil 3: Detailliertes Feedback

Thema 3: Interoperability, presentation and incorporation by reference

122. (ESRS 1, para 119) Provided that the conditions established in paragraph 121 are met, information prescribed by a DR or datapoint may be incorporated in the ***ESRS-40a sustainability report*** by reference to the undertaking's report prepared in accordance with the EU Eco-Management and Audit Scheme Regulation (EU) No 1221/2009. In this case, the undertaking shall ensure that the information incorporated by reference is produced using the same basis for preparation of ESRS-40a information, including scope of consolidation and treatment of upstream and downstream ***value chain*** information.

123. (ESRS 1, para 120) The undertaking shall consider the overall cohesiveness of the reported information and ensure that the incorporation by reference does not impair the readability of the ***ESRS-40a sustainability report***.

124. (New) Without prejudice to the requirement in paragraph 123, the undertaking may incorporate by reference a substantial part of the ESRS-40a reported information.

125. (New) If the undertaking prepares a sustainability statement based on sustainability reporting standards enacted in the third-country jurisdiction where it operates, and if a substantial part of the ESRS-40a reported information is incorporated by reference from such a statement, it shall support the understandability of the ***ESRS-40a sustainability report*** by including a table of contents pointing to the location of the information incorporated by reference (i.e. page number and/or paragraph number).

Teil 3: Detailliertes Feedback

Thema 3: Interoperability, presentation and incorporation by reference

76) Do you find the requirements for incorporation by reference sufficient to lead to an understandable and auditable report?

( ) Yes.

( ) No.

Hintergrund

- ESRS-40a 1.120-125 (Kapitel 9.3)

Teil 3: Detailliertes Feedback

Thema 4: References to EU laws and regulations and their feasibility

80) ESRS-40a 2 ED BP-1, paragraph 7, requires undertakings to disclose, where EU-derived concepts are applied to third-country operations using approximations or estimations, which disclosures are affected, how the information was prepared, what limitations arise, and which parts of the reporting boundary are concerned. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of how the undertaking treats differences between EU-derived concepts and other third-country concepts?

( ) Yes.

( ) No.

Hintergrund

- ESRS-40a 2.BP-1, para. 7
- „ESRS-40a ED approach relies on references to terms and concepts in EU laws and regulations, reflecting the **expectation that third-country undertakings with significant EU activities have sufficient knowledge of those terms and concepts at group level. Accordingly, EU regulatory references are carried forward from ESRS** […].“
- „[…] ESRS-40a ED only references certain terms and concepts in EU law for reporting purposes and **does not impose these laws on non-EU groups**.“

Teil 3: Detailliertes Feedback

Thema 4: References to EU laws and regulations and their feasibility

BC66. ESRS include terms and concepts aligned with those in EU laws and regulations. During the development of ESRS-40a it was discussed whether the use of such terms and concepts in the preparation of ESRS-40a reporting would be appropriate outside the perimeter of their legal application.

BC68. In developing the ED, EFRAG considered whether requiring the use of terms and concepts referenced to EU laws and regulations would impose a disproportionate effort to third-country groups. It was considered whether an option should be granted for their operations outside the EU, to adopt the terms and concepts from international references or, when those were missing, those deriving from applicable jurisdictional laws and regulations covering the same matters. EFRAG noted that the practical challenges arising from the use of terms and concepts referenced in EU laws and regulations to operations located in jurisdictions where those laws and regulations do not apply, are not different from the challenges encountered by EU groups in the scope of the CSRD in preparing their ESRS sustainability report. Such groups also have significant operations outside the EU and still they use the terms and concepts referenced in EU laws and regulations for all the operations of the group.

Teil 3: Detailliertes Feedback

Thema 4: References to EU laws and regulations and their feasibility

Disclosure Requirement BP-1 – *Basis for preparation of the ESRS-40a sustainability report*

7. (New) Where the application of a specific term or concept derived from those laws and regulations to operations outside the scope of EU laws and regulations has resulted in the use of approximations or estimations, the undertaking shall identify the specific disclosures affected and explain the approach used to the preparation of the disclosures; to the limitations on the reported information resulting from the fact that parts of the boundary are outside the scope of application of those specific terms and concepts derived from EU laws and regulations; and to the parts of the reporting boundary to which those limitations apply.

Teil 3: Detailliertes Feedback

Thema 5: Any other comment

82) Please provide any other comments or suggested improvements on ESRS-40a ED not covered in the questions above.

Backup

Rückfrage zur 53. Sitzung FA NB am 17.09.2026

Teil 3: Detailliertes Feedback

Thema 2: Mixed Approach

43) Under the ED, companies can limit the disclosure to EU-related impacts without considering whether the impacts can be geographically contained (both in terms of where the impacts occur and where their effects are experienced). Do you agree with this approach? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)

( ) Yes.

( ) No.

44) Please explain, also with reference to the specific circumstances you have in mind.

Hintergrund

- ESRS-40a 1.28, Annex II (Definition „EU-related impacts“)
- BC54, BC56-58 (Bsp. „pollutants“, Definition „(EU-related) impacts“)