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European Commission
DG FISMA
John Berrigan and Sven Gentner

1049 Bruxelles/Brussel
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Draft delegated act on revised ESRS Set 1 – Ares(2026)4623964

Dear Mr Berrigan, dear Mr Gentner / dear Sven,

I am writing on behalf of the Deutsches Rechnungslegungs Standards Committee (DRSC) and its Sustainability Reporting Technical Committee. We would like to thank you for the opportunity to comment on the Draft Delegated Act (further referred to as DDA) for simplified European Sustainability Reporting Standards Set 1.

The DDA represents an improvement and simplification of the ESRS (the current delegated act) in many respects, for example by adapting and streamlining the structure, clarifying conceptual principles (such as fair presentation and materiality of information), reducing specific data requirements, and, in particular, incorporating significant simplifications for companies (e.g., ESRS 1.65 et seq. regarding the 'use of estimates' or ESRS 1.74 et seq. regarding 'acquisitions and disposals').

We acknowledge the EU COM's past effort in achieving far reaching interoperability with IFRS as a global standard for sustainability reporting. As a next step the acceptance of ESRS internationally is crucial as many ESRS preparers operate internationally and – in addition to ESRS – will have to apply IFRS in the jurisdiction where their subsidiaries operate. The objective should be that ESRS are seamlessly operable in those jurisdictions that are using IFRS. Therefore, both, the EU COM and the ISSB should work towards ultimately securing acceptance of ESRS. Acceptance of ESRS will help to ultimately secure the acceptance of the group

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exemption for international subsidiaries whose parent undertakings prepare ESRS sustainability reports at group level.

Another aspect to consider is the interaction between ESRS Set 1 (simplified) and the Voluntary Standard (VS) which defines the value chain cap (VCC) for ESRS Set 1 reporting. Currently, the VCC is defined as a subset of Disclosures of the basic and (for companies with more than 10 employees) of the comprehensive module. It covers disclosures defined as “necessary” by the EU COM, which, however, does not include all necessary information as defined in the VS, but only a subset. This creates a mismatch between the full application of the VS on the one side (all necessary information) and adhering to the VCC on the other side (“necessary” information as defined by the EU COM). For simplification and a better suitability of the VS reports for stakeholders that are ESRS Set 1 preparers, the VCC should be adopted to include information that the EU COM defined as “necessary, if applicable”.

In addition, the DRSC believes that certain elements of the ESRS still need to be further enhanced for conceptual as well as for practical aspects. The most critical aspects are set out below; all references to paragraphs or sections refer to the DDA unless otherwise noted.

Anticipated financial effects (AFE)

- Remove the exemption from phase-in for ESRS E1-11. This is a quantified disclosure on AFE for which the same application challenges apply as for other quantified AFE. Therefore, the phase-in should apply to all disclosures on AFE in case the requirement to quantify the AFE remains in the final delegated act.
- Remove the requirement on quantitative AFE until the conceptual and practical challenges are resolved.

Information materiality

- Further clarify the concept of information materiality by directly referring to “decision usefulness” instead of introducing the unknown concept of „informed assessment“.
- Delete „informed assessment“ (ESRS 1.23(b)).

Impact materiality assessment

- Clarify the approach to the impact materiality assessment laid out in ESRS 1.43(c) and AR 28 for para 43(c) by removing the references to an adaptation of the materiality assessment based on a potential information materiality as currently worded in the last sentence of ESRS 1.43(c) and in ESRS 1.AR 28.

Transitional provisions

- Linking requirements for the first time application of Transitional Provisions and of simplified ESRS explicitly to CSRD raises legal concerns.

Inappropriate level of disaggregation: for example,

- Reduce significantly the granularity of information for each metric by deleting ESRS 2.49(c) and (d) or limiting those requirements to metrics used in targets.
- On sensitive information: Remove requirement of ESRS E5.13(c) and AR 1 with regard to breakdown of all key materials as well as role and relevance of key materials used.

Sector-specific disclosure requirements

- Remove sector specific requirements and references from ESRS E2.

Reference to Greenhouse Gas Protocol

- Make the references to the Greenhouse Gas Protocol explicit.

Pre-determining the undertakings considerations and the materiality analysis

- Remove the statement in ESRS E2.AR 3 on how an undertaking shall consider the transfer of water pollutants to external treatment plants.
- Remove the statement in ESRS E4.AR 5 that stipulates that an undertaking's activities can be related to material negative impacts on a biodiversity-sensitive area if the undertaking operates a site in or near this biodiversity-sensitive area.

Inappropriate reference to the ILO-Principles on adequate wages

- Remove the requirement to refer to ILO principles for estimating a living wage, in order to retain the simplicity in the current delegated act.

Please see the appendix to this letter for detailed explanations on these issues as well as for further remarks on other aspects of the Draft delegated act.

Georg Lanfermann

President

APPENDIX

Most critical aspects of the Draft delegated act

Anticipated financial effects

Suggestion: Remove the exemption from phase-in for ESRS E1-11, retain phase-in for all disclosures on anticipated financial effects (AFE) in case the requirement to quantify the AFE remains in the final delegated act.

ESRS 1.125 provides transitional provisions that exempt “wave-one-undertakings” from reporting AFE until 2027 and from quantifying AFE until 2030. It also includes specific exemptions for “Other undertakings” (exempted from reporting AFE for their first financial year of reporting, and from quantifying AFE for their first three financial years of reporting).

However, certain disclosures governed in ESRS E1-11 Anticipated financial effects from material physical and transition risks and potential climate-related opportunities are explicitly excluded from this phase-in because they “relate to carrying amounts recognised on the balance sheet at the reporting date, subject to forward looking events” as EFRAG had stated in the Basis for conclusions on its Technical Advice of December 2025 (see para 321). The DRSC believes this is neither appropriate nor reasonable as these are nevertheless forward-looking events which need to be analysed and which therefore result in the practical and conceptual challenges mentioned below. Due to these challenges, we are generally very critical of the requirement to quantify AFE. We further note that, in the current Delegated Act on ESRS 1 transitional reliefs are consistently granted for all AFE disclosures without exclusions.

Suggestion: Remove the requirement on quantitative AFE until the conceptual and practical challenges are resolved.

ESRS 2.SBM-3 governs the provisions on AFE. The DRSC does not support the requirement to disclose quantifications of AFE, for conceptual, and for practical reasons. However, these problems must be resolved for corporate reporting in general, i.e., with a holistic view of the requirements on financial as well as on sustainability reporting. As there is currently no common understanding of AFE and their quantification the DRSC strongly recommends deleting the requirement on quantitative AFE.

Conceptual problem

First, it should be noted that even the explanations of the term ‘anticipated financial effects’ contained in the DDA do not provide a clear concept of AFE. Economic transactions recorded in the line items of the financial statements in the form of book values (or carrying amounts)

always reflect – albeit not exclusively – financial events that occur after the balance sheet date. For example, the carrying amount of an asset tested for impairment is measured by taking into account cashflows that are expected – or anticipated – to be received by the undertaking in future periods. In other words, AFE are reflected in current statement of financial position. If an impairment is recorded, such expected future effects are therefore reflected in the statement of financial performance.

Furthermore, the notes are an integral part of the financial statements, like the statement of financial position, the statement of financial performance, the statement of changes in equity, and the cashflow statement. As the notes provide a comprehensive set of complementary information, they contain information about such anticipated effects if these constitute key assumptions for the measurement of the carrying amounts recorded in the statement of financial position. In addition, IFRS Accounting Standards require disclosures on AFE in the notes. More precisely and as an example, IAS 37 distinguishes between provisions and contingent liabilities. Contingent liabilities are either possible obligations whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity, or present obligations for which either an outflow of resources is not possible, or the amount of that obligation cannot be measured with sufficient reliability. Contingent liabilities are, therefore, not recognised in the statement of financial position. However, in accordance with IAS 37.86, disclosures about contingent liabilities are required in the notes unless the probability of an outflow of resources is remote (these disclosures include, for example, an estimate of their expected financial effects.)

The question of identifying and differentiating AFE for purposes of sustainability reporting becomes even more prevalent in the EU: In accordance with EU legislation governing the entities' annual financial reporting in the EU, in the management report – as one specific element of corporate reporting governed by that legislation – entities already provide disclosures to ensure an understanding of the entity's likely future development, and material opportunities and risks associated with this development.

According to German Accounting Standard 20 *Management reporting* (GAS 20), information on an entity's likely future development comprises, for example, disclosures on the continuation of significant investment projects as part of the disclosures on capital expenditures. In addition, if an entity considers capital expenditures as being relevant financial key performance indicators for the management, those KPIs are required to be forecasted in the context of the disclosures on the entity's likely future developments. Furthermore, the information on material risks and opportunities associated with an entity's likely future development are typical information disclosed in the so-called risk report, a section of the management report addressing

risks that the entity faces. The main source for the underlying information from which disclosures on the entity's likely future development are derived are the entity's internal financial planning and the internal risk management which comprise both, quantitative and qualitative forward-looking elements. These disclosures also provide information on financial effects that are "anticipated" effects.

To summarise, the conceptual challenges are due to the fact that it is so far unclear how AFE for the sustainability report are to be distinguished from AFE already reported in the context of financial reporting including both, financial statements and management report.

Practical problem: Separate identifiability not possible in the very most cases

ESRS 2.28 contains a relief from providing quantified disclosures on current and AFE in case the effects are not separately identifiable. Although this simplification appears reasonable at first glance, in most cases known to us, it results in undertakings not providing quantitative information. Practice shows that even if certain financial effects can be quantified for short term forecasts, it is hardly possible to clearly assign them to the issue of sustainability or even to individual sustainability aspects. This is because although many undertakings also draw up their internal financial planning in a fully integrated and holistic manner, thereby drafting future statements of financial position, statements of financial performance and statements of cash-flows, they do not allocate the planned financial effects to financial or sustainability aspects as this is not possible in the very most cases. For example, planned investment projects are – in most cases – motivated by both sustainability aspects and other aspects.

Information materiality

Suggestion:

Further clarify the concept of information materiality by directly referring to "decision usefulness" instead of introducing the unknown concept of „informed assessment“.

Delete „informed assessment“ (ESRS 1.23(b)).

To address concerns raised with regard to the currently unknown and undefined concept of "informed assessment" the DDA in ESRS 1 AR8 for para. 23(b) clarifies that "informed assessment" ultimately serves the sole purpose of informing decisions by users, i.e. it is also intended to result in "decision useful" information. This is understood as clarifying that in the end the threshold for determining information materiality for both groups of users is identical, namely decision useful information. Nevertheless, the introduction of AR 8 explaining the concept of "informed assessment" still raises the question of how this concept of "decision usefulness" in ESRS 1.23(b) differs from what is mentioned as decision usefulness in ESRS 1.23(a). If there

is no difference (i.e., decision usefulness for both user groups), the term “informed assessment” is superfluous. If there is an intended difference, it is unclear what this difference is meant to be, and it can also be doubted whether such a difference should exist. Therefore, the DRSC strongly recommends deleting the reference to the concept of “informed assessment”.

Impact materiality assessment

Suggestion: Clarify the approach to the impact materiality assessment laid out in ESRS 1.43(c) and AR 28 by removing the references to an adaptation of the materiality assessment based on a potential information materiality as currently worded in the last sentence of ESRS 1.43(c) and in ESRS 1.AR 28.

The DRSC supports the intention of ESRS 1.43(c) to include in the sustainability reporting those impacts that are inherent for the business model of an undertaking and to report on how these are managed. However, the current wording links back to the DMA of the undertakings, which can be understood as asking undertakings to adjust the undertaking-specific DMA to include information that “may be decision-useful to users”. This implies that “materiality of information” will inform the materiality assessment of an undertaking. This, however, is not in line with the concept of how the DMA is to be conducted. Only after the DMA is finalized will “materiality of information” be considered for determining the information to be reported. The current wording could be misunderstood to ask undertakings to include in the reporting any information that any user group potentially finds decision useful. However, it is crucial to establish the clear understanding that the determination of materiality is subject to the undertaking’s specific DMA. This DMA process is independent of information materiality.

To clarify this concept of the impact materiality assessment (rather than mixing up “impact materiality” and “information materiality”) it would be an important step forward to delete the last sentence of ESRS 1.43(c) as well as the AR 28 which is misleading as it currently requires that an “undertaking shall adapt its approach to the materiality assessment”.

This would still result in undertakings disclosing information on those potential negative impacts that are inherent to the business model but have been successfully addressed by the management through policies and (ongoing) actions.

Transitional provisions

Suggestion: Linking requirements for the first time application of Transitional Provisions and of simplified ESRS explicitly to CSRD raises legal concerns.

Including in the ESRS the specific timing for transitional provisions being relevant irrespective of the transposition of the level 1 by the member states is highly unusual and can be

acknowledged only in the light of the intention to create a level playing field. We nevertheless question whether the wording in ESRS 1.122 does not raise legal concerns.

Inappropriate level of disaggregation

Suggestion, for example:

Reduce significantly the granularity of information for each metric by deleting ESRS 2.49(c) and (d) or limiting those requirements to metrics used in targets.

On sensitive information: Remove requirement of ESRS E5.13(c) and AR 1 with regard to breakdown of all key materials as well as role and relevance of key materials used.

The set of mandatory disclosures to each metric has been significantly expanded by ESRS 2.49(c) and (d) requiring contextual information about the metric and information about significant changes in performance including the progress made in achieving the targets. The DRSC does not consider this level of granularity as justified, especially since most requirements on metrics are allocated to specific disclosure blocks, for which the context is clear. Multiplying this information for each metric does not provide additional value in most cases. Only few metrics disclosed in the sustainability statement are linked to a target. The DRSC therefore suggests to either delete the requirement on ESRS 2.49(c) or to limit this requirement to metrics used in targets.

ESRS E5 contains the requirement to disclose a “breakdown of each key material, expressed in weight or as a percentage of the total weight of all key materials” (ESRS E5.13(c)) as well as its “role and relevance in the context of the undertaking’s operations” (ESRS E5.AR 1). This requirement constitutes an extension of the requirements in the current Delegated Act of ESRS E5.28 to E5.32 and E5.AR 21 to E5.AR 25, because these paragraphs do not contain such requirements. However, given that the aim of the ESRS revision is to reduce the number of datapoints, such an extension is not appropriate.

Furthermore, the DRSC believes the aforementioned requirement is much too granular and, in addition, often related to sensitive and anti-trust-relevant data. It will force undertakings to use the relief from making sensitive information public. Although such information may be omitted in accordance with ESRS 1, section 7.7, ESRS 1 further requires the undertaking to disclose the fact that it has used this exemption for each datapoint omitted. This information also constitutes sensitive information in many cases. Therefore, this requirement, i.e. “breakdown of each key material ...” and “role and relevance ...” as mentioned above, should be deleted.

The DRSC further believes, that instead of providing a breakdown of each key material the disclosure requirement should focus on the breakdown in technical and biological materials as

already indirectly required by the current Delegated act (see ESRS E5.31) which turned out to be a metric that is relevant for users, in particular investors.

Sector-specific disclosure requirements

Suggestion: Remove sector specific requirements and references.

ESRS E2.18 and AR4 require disclosures on substances of concern and on substances of very high concern to be made by undertakings operating in the chemical sector as defined by reference to the NACE regulation (e.g. NACE Rev.2.1 C20, C21, NACE Rev.2.1 C20.3, C20.4, C20.5 and others). The introduction of sector-specific requirements in ESRS Set 1 is conceptually inconsistent as Set 1 has been labelled as a “sector agnostic” set of requirements from the very beginning. Second, we understand recital 20 of the Omnibus-1-Directive (Directive (EU) 2026/470) not only to mean that there should be no sector-specific standards, but also that there should be no sector-specific requirements in the ESRS, in general.

Even though the DRSC assumes that the rationale behind this proposal is to avoid extending reporting requirements to certain undertakings, we nevertheless see this as inconsistent with the revision of the Accounting Directive, from which – as we understand – sector-specific reporting requirements are being removed.

Reference to Greenhouse Gas Protocol

Suggestion: Make the references to the Greenhouse Gas Protocol explicit to avoid dynamic references.

For preparing the information on Greenhouse Gas Emissions according to ESRS E1-8 *Gross scope 1, 2, 3 GHG emissions* para. AR 20 states that the undertaking “shall consider the GHG Protocol Corporate Accounting and Reporting Standard (2004)”. ESRS 1.18 provides an explanation what the term “shall consider” means: “ARs use the term ‘shall consider’ to indicate issues, resources or methodologies that the undertaking is expected to take into account or to use in the preparation of a given disclosure.”

In January 2026 the Greenhouse Gas Protocol (GHGP) published the new “[Land Sector and Removals Standard](#)” (LSR). On the interaction of this standard with the current GHGP framework the GHGP clarifies on its website ([FaQ](#)) that any undertaking with significant land-sector activities in its operations or value chain must apply the LSR to conform with the GHGP’s framework. More specifically and in the context with the GHG Protocol Corporate Accounting and Reporting Standard (2004), the LSR is required for all undertakings with land sector activities in their operations or value chain when preparing inventory reports as the report according to the GHG Protocol Corporate Accounting and Reporting Standard (2004). In conclusion, an

undertaking meets the requirement to consider the GHG Protocol Corporate Accounting and Reporting Standard (2004) only if the LSR standard is also complied with.

In our view, dynamic references pose legal problems; furthermore, we do not believe that the EU COM intends to incorporate such references into EU law. Nevertheless, legal uncertainties remain, and these should be addressed. For example, the reference to the GHG Protocol Corporate Accounting and Reporting Standard (2004) should specify more precisely which sources are exactly covered by the reference and which are not.

Pre-determining the undertaking's considerations and materiality analysis

Suggestion: Remove the statement in ESRS E2.AR 3 on how an undertaking shall consider the transfer of water pollutants to external treatment plants.

ESRS E2.AR 3 explains that the transfer of water pollutants to external treatment plants qualify as pollution in the undertaking's value chain. The paragraph sets out further that, when material, those transfers are expected to be reported as entity-specific disclosures. This is not appropriate, because whether a particular aspect is entity-specific depends on the individual conclusions of the undertaking as per ESRS 1.11 and shall, therefore, not be pre-determined by the standard.

Furthermore, we don't believe the observation made in the first sentence of AR 3 is appropriate. The transfer of water pollutants to such service providers is generally carried out to avoid pollution, since the service provider has the necessary capacity for wastewater treatment and proper disposal. Pollution in the value chain can only be assumed if the service provider does not adequately fulfil its obligations, pollutants are actually released, and this is related to the activities of the undertaking.

Suggestion: Remove the statement in ESRS E4.AR 5 that stipulates that an undertaking's activities can be related to material negative impacts on a biodiversity-sensitive area if the undertaking operates a site in or near this biodiversity-sensitive area.

The EU COM proposes to clarify in ESRS E4.AR 5 that an undertaking's activities can be related to material negative impacts on a biodiversity-sensitive area if the undertaking operates a site in or near this biodiversity-sensitive area. The DRSC understands this sentence to pre-determine the results of the materiality analysis as it suggests that such a site can only have negative effects, if any. As the materiality analysis is considered the main prerequisite of ESRS disclosures, we believe that ESRS should not contain a provision like this. On the other hand, if this sentence is not intended to predetermine the materiality analysis, the question remains whether this statement is needed at all.

Inappropriate reference to the ILO-Principles on adequate wages

Suggestion: Remove the requirement to refer to ILO principles for estimating a living wage, in order to retain the flexibility available in the current delegated act.

Contrary to the simplification requests of the EU COM ([letter](#) of 27 March 2025 and [letter](#) of 1 July 2025), ESRS S1 introduces the new concept of living wage estimates in accordance with the [ILO principles on estimating a living wage](#) as a new benchmark to assess whether or not an undertaking's employees outside the EU are paid an adequate wage. In particular, the EU COM stated in its letter of 1 July 2025 that "new concepts [...] should only be considered if they indeed lead to simpler and clearer standards. The advantage of introducing any new terms and concepts should always be weighed against the possible adjustment costs for companies that are already reporting against the existing ESRS."

ESRS S1-9 requires undertakings to disclose whether its employees are paid an adequate wage and to disclose the benchmarks it uses to determine adequate wages with country-level context. If employees are not paid an adequate wage, the undertaking shall disclose the countries and the percentage of employees concerned (ESRS S1.29). To do this, the undertaking shall calculate a benchmark for what constitutes an adequate wage in a country or at sub-national level. The undertaking must then compare its lowest wage with this benchmark separately for each country in which the undertaking has operations. Such requirements are already part of the current delegated act.

However, the problem arises due to the requirement proposed on the benchmark to be used. The benchmark used for comparison with the lowest wage for countries outside of the EU shall not be lower than the adequate minimum wage (established by legislation or collective bargaining) or any living wage estimate. Both, the adequate minimum wage or the living wage estimate shall be in line with the ILO principles on estimating a living wage (ESRS S1.AR 20, see page 68 of EFRAGs [comparative table](#) for the detailed amendments). The ILO principles on estimating a living wage were issued in March 2024 ([BfC.476](#) of EFRAGs technical advice), whereas ESRS Set 1 was already adopted by the EU COM in July 2023 and Delegated Regulation (EU) 2023/2772 was published in the Official Journal of the European Union in December 2023. Therefore, ESRS S1 (current delegated act) does not contain a reference to the ILO principles on estimating a living wage, and the introduction of these ILO principles represents a new concept.

According to EFRAG, the method for assessing the wage adequacy was changed to improve comparability, verifiability and understandability ([BfC.476](#) of EFRAGs technical advice). In the public consultation of the technical advice, overall, a third of respondents agreed with the

proposed amendments, a third partially agreed and a third disagreed which demonstrates the split views for the amended Reporting Requirement S1-9. Specific concerns included the ILO principles. Most preparers requested a publicly available database to ensure the feasibility of this disclosure. Such databases are currently made available by certain data providers (BfC.478 of EFRAGs technical advice).

The DRSC has performed several outreaches with preparers and other stakeholders. We received the feedback that the introduction of the new concept of living wage estimates in accordance with the ILO principles on estimating a living wage will probably increase uncertainty and might result in extensive discussions with auditors about the calculation of the benchmark. The DRSC concedes that ILO is the globally recognised organisation for labour and social standards, however, we understand the ILO principles on estimating a living wage were not primarily designed for reporting purposes. Most of our constituents, therefore, perceive these amendments of ESRS S1-9 as an increase in burden for preparers as compared to the current delegated act and not as a simplification. This increase in burden is due, on the one hand, to high (one-time) costs associated with implementing the ILO principles and, on the other hand, to high (recurring) costs for the use of databases required to meet the requirements of the ILO principles.

To summarise, the DRSC thinks the inclusion of living wage estimates in accordance with the ILO principles on estimating a living wage is not in line with the objectives of the EU COM's omnibus project. Should the EU COM maintain the requirement, EFRAG or ILO should at least ensure that a public database is made available.

Other critical aspects of the Draft delegated act

ESRS 1.AR 17 referring to the “risks and rewards of ownership”

Suggestion: Avoid introduction of new, undefined legal terms.

ESRS 1.AR 17 is introduced to address the materiality assessment for undertakings managing investments at certain conditions by referring to the concept of “risks or rewards of ownership”. While we appreciate addressing this aspect of sustainability reporting we believe that the introduction of new, undefined legal terms such as the risks or (and) rewards concept should be avoided.

Address the matter of Resilience-Analysis as topic agnostic

Suggestion: Redesign the Disclosure Requirement in ESRS E1 on resilience and resilience analysis as a topical agnostic requirement and move it to ESRS 2.

ESRS E1 provides guidance on an undertaking's resilience to changes in environmental conditions and changes resulting from transitional/political/legislative measures, particularly in relation to climate change and measures to mitigate climate change (ESRS E1.18 to AR 10). The DRSC is of the opinion that, in general, topic-specific resilience analysis is not yet sufficiently developed in practice to justify topic-specific reporting requirements. However, we acknowledge that such disclosures are particularly useful for investors and other capital providers when making sustainability-related investment decisions. The DRSC therefore proposes that the relevant provisions in the ESRS should not be topic-specific but topic-agnostic. In addition, these provisions should be moved to ESRS 2 General disclosures and, at the same time, deleted from ESRS E1.

ESRS E2: Duplication of reporting requirements & alignment with EU legislation

Suggestion: Delete ESRS E2.19 and AR 7 with regard to the publication of an exhaustive REACH list (in order to avoid duplication).

ESRS E2.19 requires an undertaking to disclose the names of the substances of very high concern that are present in a concentration above 0.1% weight by weight, as per Article 33 of REACH (Regulation (EC) No 1907/2006). The information may refer to information the undertaking is already required to report under other legislation according to ESRS E2.AR 8, including the Industrial Emissions Directive (IED, Directive 2010/75/EU) and the European Pollutant Release and Transfer Register (E-PRTR, Regulation (EC) No 166/2006).

On an editorial/technical note, the meaning of ESRS E2.AR 7 remains unclear. At a first glance, it suggests allowing incorporating by reference the information required by the IED and other legal acts; however, chapter 9.3 of ESRS 1 contains a conclusive list of public information an undertaking may refer to when it incorporates information by reference.

Moreover, the requirement proposed in ESRS E2.19 and AR 7 constitute significant extension of reporting requirements as compared to the current Delegated act, as ESRS E2-5 does not contain a requirement to disclose the exhaustive REACH lists. In addition, reporting requirements for the management report should not result in disclosures that are available to the public from other sources. The DRSC recommends the EU COM to consider the information publicly available from ECHA CHEM database, launched in 2024. Furthermore, the aforementioned disclosure requirements should be amended in order to avoid double reporting by undertakings. The same issue arises with the disclosure requirement ESRS E2-4 as the disclosures might be provided in alignment with the E-PRTR (Regulation (EC) 166/2006) and the Industry Emissions Regulation (IEPR, Regulation (EU) 2024/1244). However, these legal acts contain reporting requirements for an undertaking or "operator of an installation", as referred

to in the IEPR, that result in information publicly available from in the European Pollutant Release and Transfer Register (E-PRTR) or – in future – the Industrial Emissions Portal (IEP).

Suggestion: Enhance alignment with other EU legislation (ESRS E1 and ESRS E2).

ESRS E1.35 requires disclosures in the case where the undertaking has made public claims of GHG neutrality that involve the use of carbon credits. We recommend reviewing whether this requirement is consistent with other EU legislation. For example, according to the EmpCo-Directive (Directive (EU) 2024/825) such statements and similar ones are not allowed in the context of product labelling (see Recital 12 [EmpCo-Directive](#)).

ESRS E2-4 contains the requirement to disclose an undertaking's emissions of pollutants to air, water and soil, and of its manufacturing, use, and release into the environment of micro-plastics. According to ESRS E2.AR 2, the undertaking may use as an input for the disclosures the pollutants listed in Annex II of the E-PRTR and the Industry Emissions Regulation, IEPR. For assessing the materiality of pollutants the undertaking shall, however, only refer to Annex II of the IEPR.

Firstly, it should be noted that, pursuant to Article 20 of the IEPR, the IEPR will replace the E-PRTR with effect from 1 January 2028. Therefore, it is questionable that for assessing the materiality of pollutants the standard refers to the IEPR only.

Secondly, the reporting obligation for an undertaking (or the “operator of an installation”) pursuant to Article 5 of the E-PRTR and Article 6 of the IEPR does not only apply to those pollutants for which the thresholds specified in Annex II of the E-PRTR and Annex II or the IEPR are exceeded. The activities and capacity thresholds for facilities and installations specified in Annex I of both legal acts are also relevant for the reporting requirement. However, there is no such reference in ESRS E2. As a result, undertakings subject to ESRS reporting requirements would face a significant additional burden in determining the data, as they cannot rely on the procedure regulated by the E-PRTR, and, in future by the IEPR. For example, for the sustainability reporting in accordance with ESRS E2, all operating facilities/installations that are not subject to reporting requirements under the E-PRTR, or the IEPR, must also be analysed. To better align the reporting requirements under ESRS and the other EU legal framework, ESRS E2 should be amended accordingly. Specifically, the disclosure requirement under ESRS E2-4 should also be based on the activities and capacity thresholds for operating facilities or installations specified in the E-PRTR and IEPR.

ESRS S1: Actions connected to impacts

Suggestion: Keep the wording of the EFRAG technical advice.

ESRS S1.AR 4 clarifies the link between actions and effects. It refers to "causation, contribution, **other connection**." In contrast, the EFRAG technical advice included the following clarification: "causation, contribution, **direct linkage**." The meaning of "other connection" remains unclear and is potentially broader than "direct linkage," which is why the wording of the technical advice should be maintained.

ESRS S1: Country-specific information for ESRS S1-5

Suggestion: The clear wording around the restriction on "50 or more employees representing at least 10% of its total number of employees" in ESRS S1.AR 9 should be included in ESRS S1.20(b).

ESRS S1.AR 9, Table 2 limits country-specific disclosures to countries in which the undertaking has 50 or more employees **representing at least 10% of its total number of employees**. The DRSC welcomes this restriction. However, the current wording in ESRS S1.20(b) is misleading and seems to be contradictory to AR 9. Therefore, to clarify the disclosure requirement, ESRS S1.20(b) should also refer to the 10% restriction accordingly. Alternatively, the 10% restriction could be omitted from ESRS S1.AR 9, as it would still be clear how the provision is to be interpreted because the 10% restriction would be in ESRS S1.20(b). Either way, the wording in S1.20(b) and AR 9 need to be aligned.

ESRS S1: Country-specific information for ESRS S1-9

Suggestion: Keep the wording of the EFRAG technical advice.

The undertaking shall disclose whether its employees are paid an adequate wage and the benchmark or benchmarks it uses to determine adequate wages **with an indication of the countries for which a given benchmark is used** (ESRS S1.29). EFRAG's technical advice, on the other hand, only required **country-specific context**. To prevent an (unintended) broadening of this reporting requirement, the wording of the technical advice should be maintained. Otherwise, we see a risk that the wording could result in a country-specific list rather than a general statement.

ESRS S1: Number of recorded fatalities from recordable work-related ill health

Suggestion: This datapoint should be deleted.

ESRS S1.37(b)(ii): the barriers in terms of data protection are high and undertakings only have limited information available. The EU COM appears to be aware of this fact, as it places particular emphasis on "legal restrictions". In addition to these legal restrictions, the medical link between ill health and fatalities may not be clear, which further undermines the preparation

and validity of this data point. Therefore, it can only be reported what is known and the data-point might not be meaningful or decision useful.

ESRS S1, S2, S3, S4, glossary of terms defined in ESRS: Substantiated instances/ ongoing judicial and non-judicial proceedings

Suggestion: Refer to "severe incidents" and (first-instance) rulings instead to "substantiated instances" and "ongoing judicial and non-judicial proceedings."

According to the explanatory memorandum of the DDA, the new text clarifies that only "substantiated" instances are to be reported, and that not all instances are necessarily substantiated instances. It also refers to "ongoing" judicial and non-judicial proceedings rather than to proceedings that have been "initiated." The introduction of the new term "substantiated" has given rise to new uncertainty about what exactly is meant by it. Furthermore, there may be a very large number of "ongoing judicial and non-judicial proceedings" that need to be reported on. The EU COM has sought to limit reporting requirements by providing further guidance in the Ars and the glossary. However, we see this as potentially leading to a time-consuming documentation process and lengthy discussions with the auditors of the sustainability report.

In our view, the following simplification would suffice: information should only be required for "severe incidents" rather than "substantiated incidents" (in line with ESRS S1.AR 38, S2.AR 7, S3.AR 9, S4.AR 6 and SFDR reporting requirements according to annex I, table 3 #14 Delegated Regulation (EU) 2022/1288). Furthermore, information should only be required once a (first-instance) ruling has been handed down instead of "ongoing judicial and non-judicial proceedings."

Under no circumstances should information be required for every single incident, as this would result in a considerable burden.