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Feedback on Draft ESRS Implementation Guidance Documents

Dear Ms Slomp,

As association of German listed and capital markets-oriented companies, Deutsches Aktieninstitut represents almost 90 percent of the DAX-market capitalization. We welcome the opportunity to comment on the three draft implementation guidance (IG) documents[1] issued by EFRAG on 22 December 2023.

Companies are confronted with a high administrative burden when implementing the disclosure requirements of the Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS). Considering that approx. 50,000 companies in the European Union have to prepare sustainability reports in the near future, unambiguous, clear and meaningful clarifications in the IG documents are needed. Many new topics are introduced by the ESRS which require companies to set up new processes and/or amend existing procedures, for example as an outcome of the Disclosure Requirement E1-1. Especially first-time adopters of the CSRD/ESRS but also companies that have been practicing sustainability reporting for many years, are facing huge practical challenges when implementing the new reporting requirements. They should be equipped with simple, comprehensible and well-structured guidance.

We welcome EFRAG's commitment to a series of implementation support activities regarding the ESRS, including the issuance of its first implementation guidance documents and the launch of the EFRAG ESRS Q&A Platform. The publication of the IG documents generally offers the opportunity to clarify unresolved issues and open questions. However, inconsistencies and ambiguous requirements still exist after the publication of the three IG documents. We therefore urge for the following issues regarding the IG to be considered by EFRAG:

- The tremendous need of companies to receive implementation support is reflected in the huge amount of technical implementation questions continuously submitted via the EFRAG ESRS Q&A

[1] Draft EFRAG IG 1: Materiality assessment implementation guidance, Draft EFRAG IG 2: Value chain implementation guidance and Draft EFRAG IG 3: Detailed ESRS datapoints implementation guidance

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Platform. We urge EFRAG to swiftly provide precise responses to the submitted questions to the public.

- In light of the major importance of the IG for the ESRS implementation process of companies, a consultation period of one month only for the first three IG documents is too short. In addition to providing a longer consultation period for future IG documents, EFRAG should also initiate a close cooperation with the real economy in the development of future IG to get a better view of the implementation challenges.

Our detailed remarks on the implementation guidance documents published can be found in the annex.

We would be grateful if our comments could be considered in the future discussions on EFRAG's implementation support activities as well as the IG and remain at your disposal for any questions.
Yours sincerely

Yours faithfully

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Annex

Draft EFRAG IG 1: Materiality Assessment Implementation Guidance (MAIG)

Comments on summary:

- Page 5: “Secondly, if the impact, risk or opportunity is not covered or insufficiently covered by the ESRS, the undertaking shall provide entity-specific disclosure on the matter.” We strongly suggest to add the following clarification: This entity-specific disclosure shall complement the disclosures as required per the ESRS, however, the latter shall not be amended in terms of deviating from the relevant ESRS provisions. For example, if a certain entity deems the scope of scope 1 GHG emissions as inadequate and would deem it more appropriate to include or exclude a category to better reflect the entity-specific context, it shall nevertheless (only) report scope 1 GHG emissions as required under ESRS E1 and the GHG Protocol. In a similar vein, if a metrics only covers own operations, companies shall not include value chain information in this metrics (but consider providing additional information in the entity-specific layer). I.e. to reflect entity specifics, ESRS-defined metrics are not to be changed.
- Page 6: “When undertakings perform an assessment under the GRI Universal Standards, the GRI assessment constitutes a good basis for the assessment of impacts under the ESRS.” We strongly suggest removing this sentence – the document is about implementation guidance, not interoperability. This should at least not form part of the summary of key points. Indeed, we believe that a robust double materiality assessment under CSRD would often differ significantly from a GRI assessment at least process- and methodology-wise. In addition, implementation guidance should refrain from evaluation – „good basis“ in this context sounds like an evaluation that cannot be uniformly made across companies for different sectors and industries.
- Chapter 2.2: Figure 2 – While we appreciate that it has been added that the figure refers to an example at a granular level, it should be clarified very specifically that the impact could also be identified at topic, sub-topic or sub-sub-topic level, depending on the relevant circumstances (e.g. the more distant in the value chain, the less granular information available). In general, there is a need for full transparency regarding the possibility of identifying material IROs at various levels across sustainability topics.
- Chapter 3.6: Figure 4: The figure suggests that any combination with just one factor being assessed “High” results in severity being classified as “High” and the impact being assessed material. In light of the wording of ESRS 1.AR11, we do not consider this conclusion to be appropriate. We note the disclaimer ahead of the figure, however, we still believe that the figure risks being misleading. Figure 5: Similar concerns arise for figure 5, which suggests that a potential impact shall be considered material even if its occurrence is remote. We do not consider this appropriate in every case.

- Chapter “3.7 Deep dive on financial materiality: Setting thresholds” is difficult to grasp and opens new questions. The requirements of the MAIG go far beyond the risk management of the company.
- There is a lack of clarification regarding different time horizons in the financial and sustainability statement (see FAQ 3). Especially in light of the intended connectivity between financial and sustainability information, it is necessary to clarify these requirements. A consistent time horizon for risks and opportunities in the financial and sustainability statement would strengthen comparability and consistency (different in section 3.7 / 123, 124; FAQ 5 / 156).
- It should also be clarified which part of the report is referred to by the term financial statement (risk report and/or financial statement in the narrower sense).

Chapter 5 (FAQs):

- The content of “FAQ #12: Should the materiality assessment be documented/evidenced?” is not very helpful with regard to the documentation requirement (“The ESRS do not prescribe specific documentation”) as principally a review of the report is mandatory.
- For a group of affiliated companies with varying business models, the content of “FAQ 13: Doing the materiality assessment when the undertaking operates in different sectors” is difficult to implement in practice as regards the approach to the materiality analysis.
- Although there is still the sufficiently well-known interpretation gap and missing clarity among companies and auditors, there is still a lack of clarification regarding an IRO assessment from a gross or net perspective. The MAIG only contains a general reference to the application of a theoretical gross approach in the identification of environment-related IROs (FAQ 23 / 215). The net assessment of opportunities and risks and the corresponding disclosure from a net perspective is essential for increasing transparency and comparability for the addressees of the reports. Consistency and connectivity with the opportunities and risks report within the management report can only be ensured when applying a net perspective.

FAQ 23: net vs. gross risk perspective on environmental IROs

- FAQ 23 focusses exclusively on the E standards. This raises the question of whether there is, should be or must be a difference in the IRO identifications between the E, S and G topics. Even if the IROs naturally differ greatly in terms of content, the process and the underlying guidelines, assumptions and methodologies should be standardized or follow uniform principles (gross vs. net). The reference in sentence 220 in particular, that there should also be similar guidance for S and G, creates the impression that the topics should be considered differently in the practical implementation of the materiality analysis.

It would be helpful to include definitions for "gross" and "net" in the MAIG in order to create a uniform understanding in interpretation and implementation:

- The assessment of risks and opportunities from a net perspective is equivalent to an assessment considering the measures implemented (legally required and/or voluntary). Reporting would not provide any information gain for stakeholders if measures already implemented to mitigate an identified risk were not considered in the risk assessment.

- An assessment of impacts from a gross perspective should be equivalent to an assessment considering the legal measures implemented: For example, a company should consider the air filter installed and operated due to regulatory requirements when assessing its negative contribution to pollution. Ignoring the applicable regulatory framework and mandatory actions to be taken in the impact assessment would not reflect reality and not provide any added value for stakeholders.
- FAQ #19: We suggest to completely delete this question: While we acknowledge that following the segment approach is not generally marked as forbidden by the FAQ, we do not agree with the "negative" wording overall. Segment reporting can form a good starting point where the management approach makes sense also in the sustainability reporting context. This may clearly not always be the case, but it may often lead to better information than following a sector classification (e.g. where the segment view leads to higher granularity than the (draft) ESRS SEC 1 view. Also, the clear benefit would be consistency in the structure in financial and sustainability reporting. This may be beneficial for users also in terms of understandability, as introducing a new approach will also increase overall complexity. As this question goes beyond pure interpretation guidance and contains evaluation elements pertaining to a specific approach – which implementation guidance should generally refrain from – we suggest to completely delete this question.
- FAQ #22: The proposed answer mixes the issues of scope and disaggregation. The fact that topical ESRS partly allow for flexibility on disaggregation can and should not automatically be linked to the likely very common case in which materiality of a matter mainly stems from one subsidiary (or a group of subsidiaries) but not others. In this case, significant additional burden would arise for collecting the information also for subsidiaries that do not significantly contribute to the materiality of the matter. This would cause undue effort esp. where considering the subsidiary as in scope would in substance not change the reported metric (as the incremental increase (or decrease) would be close to nil). Such an argumentation is also in line with the general exemption rule for subsidiaries and the principle of reporting on significant differences – subsidiaries that do not significantly contribute to the materiality of a matter would also not report on this matter from a solo reporting perspective, nor would reporting on significant differences be triggered, as on Group level the respective matter / metric is disclosed. The possibility to use estimates should apply here – e.g. to assume zero for those subsidiaries for which there is robust evidence that the metric would be close to zero and/or to extrapolate for small entities of the Group based on one exemplary subsidiary for which the matter is (also) immaterial. We would therefore strongly suggest to adapt the answer accordingly, or alternatively delete it altogether, as general materiality considerations on subsidiaries contribution to reported metrics and matters anyway apply (i.e. clarification not necessarily required).
- Note: Where many subsidiaries are associated with the impact, we agree to a full scope, our response relates to where an impact stems from one or few subsidiaries, so that the majority of other subsidiaries would suffer from an unnecessary reporting burden.
- FAQ #23: We strongly recommend allowing companies to decide whether to report the effects on a gross or net basis. We agree with EFRAG that the identification of impacts should be based on a gross assessment; however, the qualitative characteristics of information as set out in Appendix B of ESRS 1 should guide the decision whether to report on a gross or a net basis. When it comes to reporting, presenting impacts on a gross basis is neither relevant nor faithful if the probability of those impacts is very low. For example, a sustainability report that contains numerous topics that are not actually

associated with any risks or impacts after considering avoidance measures might not meet the characteristic of faithful representation because it could obscure relevant information from the users of sustainability reports. Reporting would not provide any additional information for stakeholders if measures already implemented to avoid impacts were not considered when disclosing impacts or potential impacts. In addition, this is likely to lead to a high amount of boilerplate disclosures. For example, many risks (such as political stability, skill shortage or supply chain disruption risks) apply very broadly, across markets, countries and/or sectors. For users, it is decisive how those risks are dealt with in the entity-specific context and what residual risk remains.

- Section 5.7 – Link to EU Taxonomy: While we welcome the attempt to highlight some commonalities between these two legislations, we do not think that this should form part of the MAIG, except from the reference to the EU Taxonomy (and other processes) as potentially useful sources of information (see above).

Draft EFRAG IG 2: Value Chain Implementation Guidance (VCIG)

General comment on due diligence: The guidance implies that companies have already implemented consistent environmental and human rights related due diligence processes (e.g. paragraph 64). When introducing new guidance, it must be considered that the implementation of such processes is not yet required by EU legislation. Due diligence requirements are described in several international standards (so called "soft law"), such as the OECD guidelines. However, these standards are not legally binding. We strongly suggest adjusting the wording in a way to clarify this. Even though some EU Member States have already introduced related national laws (based on above mentioned soft law) which require request environmental and human rights due diligence (such as the German Supply Chain Act), a uniform and consistent approach, and therefore a level playing field, will only come with the future CSDDD.

Comment on summary:

- Paragraph 5: While we understand that additional entity-specific metrics can facilitate the understanding of an undertaking's material impacts, risks or opportunities – as also highlighted by ESRS 1 AR 2 – the wording in the guidance could be interpreted in a way that such information is required in any circumstance. It is important, however, that the applicability of such disclosures is in line with AR 2, i.e. considering also further aspects, particularly that the disclosures need to meet the qualitative characteristics of information as set out in chapter 2 Qualitative characteristics of information. As value chain data and metrics used in the materiality assessment can often be of purely internal and confidential nature, such as customer information and respective metrics, they cannot simply be made transparent to the public in all circumstances. As such, the guidance provided should avoid opening a potential 'bottomless pit' and undue effort on undertaking's side by urging to screen for all additional entity-specific metrics that could further elaborate on material impacts, risks or opportunities. We would therefore suggest to remove this point, as it does not add further guidance on entity-specific disclosures that is not already existent in ESRS 1. Please also refer to our (further) concerns regarding FAQ #6, which covers a related aspect.
- Chapter 2.3: According to ESRS 1.62, the sustainability statement shall be for the same reporting undertaking as the financial statements. Art. 22 of the Accounting Directive clearly defines what constitutes a group of undertakings consolidated by a parent undertaking. The characteristics outlined there are also understood as the financial control concept. I.e. financial control is the guiding principle for the definition of the reporting undertaking. We acknowledge that, based on the guidance stemming from the GHG Protocol, there are some exceptions from this principle in relation to ESRS E1, E2, E4 (as per Level 2); however, the ESRS do not provide for such exemptions in relation to other ESRS, including the S ESRS. In summary, we have strong concerns as to whether the content of par. 45 and 47 is consistent with the ESRS. We therefore urge to clarify in the VCIG that operational control is relevant for the aforementioned ESRS only, but not the S ESRS. An expansion of this concept to other ESRS can only be achieved by amending the ESRS themselves.
- Paragraph 35: While we fully support the general direction of the guidance that elimination of internal transactions following the financial accounting consolidation procedures is not analogously applicable for sustainability reporting, the connotation that it is not applicable at all is misleading in our opinion. The assessment of material IROs needs to follow a general Group view, as also

highlighted in the first sentence of the guidance, and not the consolidation view. However, we would still regard the consolidation view as an important layer also for sustainability reporting. Specifically, when it comes to financial materiality aspects, internal transactions need to be considered appropriately in order to adequately assess risks and opportunities on Group level. In addition, internal transaction further needs to be screened in order to avoid double counting and consequently double reporting on identical impacts, risks and opportunities on Group level. We therefore suggest to delete that part on the financial accounting consolidation procedures. Also, we do not see concerns with the ESRS that would require clarification – for example, if an internal service company that only provides services to Group entities has human rights breaches, we do not see where the ESRS would give room for not considering these breaches.

FAQ #1:

- Paragraph 72 (a): Going beyond the first tier of the reporting undertaking's upstream value chain or supply chain as a general principle is too far reaching. It should be specified that this only makes sense where the upstream value chain or supply chain really extends as far and there remains a direct link to the reporting undertaking (which needs to be assessed separately in each context). For manufacturers with multiple tier supply chains, this kind of general concept might be feasible. However, for financial undertakings, services are generally created only in-house with the supply chain not even covering actual inputs/raw materials, but the mere infrastructure to be able to operate. It is absolutely critical to add that for certain sectors/business models, few(er) tiers will commonly be relevant – such as for FIs. Please note that this is consistent with the previous discussions at EFRAG-level that KPIs for financials would relate to tier 1.
- It should also be considered that the draft CSDDD uses the term 'established business relationship', which is meant to be a business relationship, whether direct or indirect, which is, or which is expected to be lasting, in view of its intensity or duration and which does not represent a negligible or merely ancillary part of the value chain. This shows that the future CSDDD aims to limit the due diligence obligations to relationships where a certain connection is given and does not foresee a general principle to go beyond tier 1 business partners.
- Paragraph 74: The considerations outlined for assessing risks and opportunities falsely only address the aspect of dependencies. While dependencies are particularly relevant for the risk and opportunities assessment of non-financial undertakings, they are of relatively less importance for financial undertakings, particularly when it comes to value chain aspects. Here, the business model itself, e.g. insurance of climate-related hazards, is the main risk driver, which is not directly related to dependencies. This aspect should be incorporated in the guidance, as the wording currently completely neglects such considerations.

FAQ #6:

- We strongly disagree with the statement made in paragraph 122. The FAQ states that an undertaking is required to provide entity-specific value chain metrics or to integrate value chain data into their metrics when, according to the outcome of its materiality assessment, this is necessary from an entity-specific perspective. To support this statement, reference is made to ESRS 1.11, ESRS 1.AR 1 to 5 and to ESRS 1.65. We do not agree that this conclusion can be drawn

from the ESRS. The first part of the statement is true – the ESRS require the provision of additional entity-specific information, incl. metrics, if needed and if the qualitative information are fulfilled, which can include value chain information and/or metrics. However, we see no requirement to a) include value chain information in metrics defined by the ESRS as applying to own operations nor to b) include value chain information in the value chain metrics defined by the ESRS beyond what is prescribed by the underlying methodology. The entity-specific disclosure shall complement the disclosures as required per the ESRS, however, the latter shall not be changed. For example, if a certain entity deems the scope of scope 3 (value chain) GHG emissions as inadequate and would deem it more appropriate to include or exclude a category to better reflect the entity-specific context, it shall nevertheless (only) report scope 3 GHG emissions as required under ESRS E1 and the GHG Protocol, i.e. to reflect entity specifics, ESRS metrics are not to be changed. Otherwise, the qualitative characteristic of comparability is violated. An expansion of the concept of entity-specific information to (inclusion into) prescribed metrics can only be achieved by amending the standards themselves. This part should be deleted from the FAQ, also to be aligned with the summary and e.g. paragraph 21(d).

FAQ #7:

- Paragraph 130: While we acknowledge the proportional principle of applying effort when obtaining information of value chain components, the statement that not all direct suppliers need to be queried can potentially be misinterpreted, i.e. it could imply that in any case – and irrespective of the severity of materiality of the supply chain for the reporting undertaking – certain suppliers need to be queried. This on our opinion is not only reaching beyond any of the requirements set forth in the ESRS, it is also unrealistic given the magnitude of supplier relationships, especially for international corporations. We would therefore suggest to delete this paragraph, as following a best effort approach in obtaining VC information is anyway applicable and there is no need to further elaborate on this aspect.
- Paragraph 132: The example described here is very far reaching. It does not suggest to use estimates when coming up with a materiality indication for the potential adverse material impact of the customer (or a group of customers as a whole), but suggests a significantly higher level of granularity, where estimates would be used for individual parameters per customer to calculate an overall estimate of the impact, which would then need to be translated into materiality from the perspective of the reporting entity, also considering attribution, as the impact has not been caused by the reporting entity itself. This also seems inconsistent with, on the other hand, references to country-level or sector-level proxies. We strongly recommend to delete this example or complement it with a simple example of how to come to a materiality indication for a certain customer group, to clarify it does not always have to be a complex calculation with numerous estimates.

FAQ #9:

- We consider the guidance as helpful, in particular the examples of external sources mentioned in the green box on p. 28. We observe that the process of identifying and selecting such sources currently has to be carried out by each undertaking itself, which results in very high efforts for the economy as

a whole. A comprehensive list of data sources at a central point might significantly reduce the search costs for undertakings and would certainly contribute to an improvement in reporting. This would also allow for higher consistency across entities, e.g. when categorizing countries for human rights risks or assessing what an "adequate wage" is in a particular country. In our view, the VCIG would be a suitable place for this.

"Operational Control": This concept of scope of consolidation should clearly remain the exception in the ESRS and should not be extended any further in order to meet the requirements in ESRS 1 and 2 to confirm that companies apply the same scope of consolidation as for financial reporting. Even with the prescribed exceptions (individual disclosure requirements on climate, pollution and biodiversity), this concept poses major definitional challenges for most companies, as it is not a widely used concept for determining reporting boundaries (outside the oil and gas industry).

Risk-based reporting in the supply chain after applying risk filters such as country, product and industry risk instead of a holistic value chain reporting (and the requirement to collect data from all first tiers and up to Tier N): A holistic approach would not only overburden users and be disproportionate (effort vs. achieved risk minimization), but would also place a massive burden on suppliers in particular. We would therefore like to emphasize the key role of industry initiatives with a focus on high-risk value chains.

Comments regarding the disclaimer:

- It is very helpful to emphasize that the ESRS Delegated Regulation always takes precedence over the VCIG.
- However, EFRAG should avoid any contradiction between the VCIG and the legal texts. In the case that contradictions are identified, they should be eliminated before publication of the final VCIG.

Paragraph 15:

- The VCIG should reference both the legal texts of the CSRD and the ESRS Delegated Regulation with the correct number as set out in the EU Official Journal.

Paragraph 19:

- Paragraph 19 should be rephrased or deleted completely. The first sentence of the paragraph "Not all the Disclosure Requirements (DRs) and datapoints in sector agnostic ESRS require the inclusion of information about the undertaking's upstream and downstream value chain" seems to indicate that for a considerable number of DRs and datapoints value chain (VC) information is required. However, paragraph 5 and paragraph 119 clearly state that DRs related to metrics cover only own operations except for entity-specific disclosures where the undertaking determines whether VC information is required. The exception being the DRs highlighted in paragraph 119 where value chain information is required directly by the DRs.

Paragraph 38:

- The distinction between VC and the scope of consolidation for joint ventures and associated companies is described in great detail but is rather complicated. "Associates [...] which are not

consolidated in the financial statements are treated [...] i.e. as actors in the value chain.": this statement is contradictory and not helpful in differentiating between the scope of consolidation and VC. Joint ventures and associated companies are included in the scope of consolidation (in accordance with IFRS 10) by means of at-equity accounting and not as part of full consolidation. This raises the question of how the above quote can be used for the assessment at all, as its content is incorrect. Paragraph 38 also points out once again that associated companies and joint ventures can also be part of the VC; for our company this is regularly the case. In fact, the transition between VC and scope of consolidation is fluent in practice.

- If the accounting method of this business relationship is not meaningful for inclusion in non-financial reporting, the IG does not answer which guidelines should be used to make a distinction instead. The reference to "operational control" suggests a case-by-case decision as to whether the company belongs to the VC or to the scope of consolidation. However, this is hardly manageable for large groups of companies and may not only lead to unequal treatment between the associated companies themselves, but also between financial and non-financial reporting. Furthermore, paragraph 39 again refers to the fact that the focus is on environmental topics. Conversely, this raises the question of whether the same business relationships should be treated differently, e.g. the CO_2 emissions of a joint venture count in full, but the employees do not count at all. This also leads to a skewed reporting.

Paragraphs 54b) and 66:

- Please provide further guidance on how to determine the need to provide entity-specific information on the value chain - specifically regarding disclosures that were previously reported.

Paragraph 117:

- “Please refer to paragraph (b) above.” Here, it is not clear which paragraph is referred to.

Paragraphs 119 / 122:

- Paragraph 119 set out that “DRs related to metrics cover only own operations except for entity-specific disclosures where the undertaking determines whether VC information is required”.
- Paragraph 122 outlines that the undertaking should provide additional VC information metrics or integrate VC data into their metrics, when according to the outcome of its materiality assessment, this is necessary from an entity-specific perspective. To support this statement, reference is made to ESRS 1.11, ESRS 1.AR 1 to 5 and to ESRS 1.65. ESRS 1 does not draw an explicit connection to both pieces of the standard. Therefore, the ESRS requirements are not clear on this question. We agree that a clarification is needed but it should be addressed by an amendment to the ESRS rather than non-authoritative implementation guidance.
- The criteria to determine the need to integrate VC data into metrics that, according to the ESRS, only cover own operations (paragraph 122), should be specified.
- Paragraph 122 only states examples for possible additional entity-specific metrics. Please provide further guidance on how to determine the need to provide entity-specific information on the value chain. Clear criteria for the determination are more useful than specific examples.

Paragraph 145:

- Paragraph 145 states that ESRS do not require the use of fee-based external sources but list some fee-based sources examples. We would strongly recommend only using sources that are publicly available and not reverting to sources that are actually not requested by the ESRS.

VC coverage map of Set 1 ESRS

Number 7:

- It should be checked if “E5-5” or rather “E5-4” is meant.

Number 9:

- The definition of “qualitative datapoints” should be specified. The difference between PAT disclosures and “qualitative datapoints” should be clarified.

Even if the agreement on the Corporate Sustainability Due Diligence Directive (CSDDD) was not yet finalized when the IG 2 was published, there is no reference to the Directive in the IG. It is essential to ensure that the VC definition in the CSDDD is the same as in the CSRD.

Draft EFRAG IG 3: List of ESRS Data Points

It is positive to emphasize that the list now contains the cross-reference to the corresponding application requirements (AR) and the phase-in for each data point. This makes it easier for the user to fill them with content. There is still no clear assignment of the data points to the sub-topics and to the four pillars described in ESRS 2: "Governance", "Strategy", "IRO" and "Metrics and Targets". In addition, it would be desirable for the future that interoperability with GRI, IFRS S etc. is also included in a separate column in the data points list so that different publications do not have to be placed on top of each other.

Furthermore, EFRAG should ensure that the format of the draft XBRL tagging, which is yet to be published, can be easily transferred to the data points list or that both overviews are summarized. Given the large number of data points and tags, the reconciliation between the data points list and the tag is a major source of errors and involves a great deal of administrative effort on the part of the companies.

Generally, we consider IG 3 to be useful. Unfortunately, it has been published too late in the process. There are minor errors in the referencing. For example, the allocation of paragraphs in ESRS E1 is not correct (instead of 44 it should be 45). These technical errors should be corrected.

Explanatory note, Appendix B: paragraph 11 / paragraph 12:

- The tables below 11 and 12 are swapped. A possible solution would be: Table under 11 needs to be switched to 12 and table under 12 needs to be switched to 11.

ESRS 2

- ESRS 2 BP-2 11 b) ii) and ESRS 2 BP-2 12 – These two DRs should be separated, as BP2-12 refers to a ‘may’ DR, which should be highlighted as such.
- ESRS 2 BP-2 13 b) – As comparative figures relate to quantitative information, this DR should be quantitative, not narrative.
- ESRS 2 GOV-1 21 d) – We see two below percentage figures/KPI as per the requirements laid out in 21 d). The current short description does not reflect this separation clearly (current version is too ambiguous).
    - AMS bodies: Percentage by gender. The board’s gender diversity shall be calculated as an average ratio of female to male board members.
    - AMS bodies: Percentage by other aspects of diversity that the undertaking considers.
- ESRS 2 SBM-1 40 a) iii) – Description is misleading – DR requests headcount of employees by geographical area (not just (total) number of employees).
- ESRS 2 SBM-1 40 b) – Description is misleading – revenue is to be disclosed for each significant ESRS sector, not for each ESRS sector (i.e. significant is missing).
- ESRS 2 SBM-3 48 c) ii) – Only speaks of impacts, however this DR is only relevant for material impacts.
- ESRS 2 SBM-3 48 c) iii) – Only speaks of impacts, however this DR is only relevant for material impacts.
- ESRS 2 MDR-A 69 a) – It should be specified that the DR only refers to Capex and Opex, not in general to future financial and other resources allocated to the action plan.
- ESRS 2 AR 21 is missing in the related AR column of MDR-P disclosures and should be added.

There are a multiple datapoints where the degree of detail could be improved. We appreciate the challenge of making the names of the datapoints concise without losing some context. In general, this challenge was overcome. However, there are some cases where we argue that the degree of detail could be improved. This is often the case when a paragraph is only applicable under specific circumstances. Or if it is just not clear from the EFRAG table what the datapoint refers to. An example would be the datapoint stemming from ESRS 2 40 in row 76.

In some cases, the chosen names are misleading. For example, ESRS 2 paragraph 40 a iii asks for the number of employees by geographical area – however, the information about the split by geographical area is missing in the EFRAG table (row 78).

Apart from that, there are datapoints that appear to be missing. An example would be ESRS 2 AR 3.

In other cases, there are “datapoints” that arguably are no datapoints but are more adequately understood as headlines. An example of that would be ESRS 2 paragraph 22 in row 48. The datapoints are arguably derived from 22 a, b, c and d and not 22 itself.

ESRS E1

- E1 tab – some lines are marked in red but in the color legend in the first tab, there are no instructions what red colored rows shall mean.
- E1-4 34 b) (excel rows 65, 68, 74) – requires "GHG emission reduction targets shall be disclosed for Scope 1, 2, and 3 GHG emissions, either separately or combined."; suggesting combined targets is generally fine, but the datapoint file indicates separate targets only.
- E1-5 AR 34 (excel rows 93, 99) – states "may be presented using the table"; the listed percentage is part of this table and should therefore be a voluntary datapoint only.
- E1-5 38 a) (excel file rows 94-98) – these are required only for undertakings with operations in high climate impact sectors and not all undertakings.
- E1-6 AR 50 (excel row 112) – there are alternative options; should not be listed separately.
- E1-6 AR 42 c) (excel row 126) – should not be listed as a datapoint, as it only applies to special situations for undertakings with a different reporting period.

Redundancies are observed in the datapoint list, indicating a need for streamlining. We have listed redundancies observed below:

- Row 56: Narrative datapoint would already be addressed under row 55
- Row 119: Total GHG emissions are already disclosed under rows 120 and 121. Total GHG emissions will either be location based or market based.
- Rows 122/123: Duplications with rows 116 and 117.
- Row 130: Duplication with row 128.
- Row 143: Already covered by row 142. No separate datapoint.
- Rows 148/149: No separate datapoint as it covered by row 151.
- Row 170: Duplication with rows 168/169.
- Row 172: Duplication with row 162.

There are cases of missing datapoints in the table. One example is the absence of differentiation between current and future financial resources allocated to the action plan in rows 10/11. Two additional rows for future financial resources would need to be added in accordance with ESRS E1-3 and ESRS 2 MDR-A.

Some areas would benefit from further details needed for an E1 Gap Analysis, such as those concerning the MDR requirements found in rows 45, 48, and 59.
Datapoints related to E1-7 would benefit from a clear distinction between requirements applicable to carbon credits in own operations/value chain and those outside of it, as demonstrated by row 157.

The text includes misleading formulations, which suggest mandatory breakdowns where an option to choose or a requirement to only disclose datapoints applicable exists. Examples can be found in rows 61-76 or 111/112.

Certain references in the standard are found to be inapplicable or irrelevant. Examples can be found in rows 55 or 109.

Shall-requirements, for instance in rows 113 or 165, are incorrectly stated and should instead be presented as may-requirements or the reference would need to be changed.

Certain requirements, such as those in rows 157 and 165, are not found in the standard.

The datapoint type on row 102 should be marked as intensity.

Phasing is not set correctly, as some qualitative data points are meaningless without quantitative disclosure, as shown in row 220 and 221. Reconciliation of monetary amounts is not possible without quantification.

ESRS E2-E5

- E2-E5 anticipated financial effects reporting area – not all data points are marked in column I (in excel) as subject to phasing-in provisions.

ESRS E4

- Data points E4-SBM3-16 a) ii) (excel row 5) and E4 – IRO 1-19 a) (excel row 23) – outcome of both data points is the same; more clarity on data point wording is required.
- Data points E4-SBM3-16 a) 1 (excel row 4) – and E4-IRO 1-19 a) (excel row 24) – outcome of both data points is extremely similar.
- Data points on systemic risks – the original text from the DA does not lead to two separate data points differentiating between own business and society; recommendation to phrase it as one single data point, in line with the wording used for the data point on physical and transition risks, because systemic risk is only one more type of risks.

E4 IRO-1 17 d AR 9 Disclosure of whether and how systemic risks to own business model have been considered

E4 IRO-1 17 d AR 9 Disclosure of whether and how systemic risks to society have been considered in assessment of biodiversity and ecosystems-related risks

ESRS E5

- E5-5-metrics: All data points under waste shall be marked in blue and presented as table for better/easy to read overview of the waste generated (proposal for improvement, not a deviation from regulation).
- E5 IRO 1-AR 7 a-f) (excel rows 5 to 10) – the regulation states that the materiality outcome shall consider the points in AR 7, however, the excel proposes six extra data points to disclose on this (which in other ESRS does not lead to separate data points to be disclosed). All these data points related to AR 7 should be deleted as the considerations are part of the methodology or process, but do not lead to separate data points.

ESRS S1

- S1-6-50a AR 57 – average Employees is presented in the EFRAG list as a disclosure in addition to the absolute number Total employees – however, following par. 50 a) and AR 57, disclosing Total Employees is sufficient, thus, Average Employees should be marked as voluntary or an alternative, not an additional data point.

ESRS G1

- G1-1- 7 – wrong wording: “Policies in place to manage its material impacts, risks and opportunities related to climate change mitigation and adaptation [see ESRS 2 MDR-P]” à should be “business conduct matters”.
- G1-4 – wrong wording: Action plans and resources to manage its material impacts, risks, and opportunities related to consumers and end-users [see ESRS 2 - MDR-A] à should be “business conduct matters”.
- Moreover, the disclosure of PAT should not only refer to G1-1 and G1-4, but to all of G1.

What is missing is the reference to G1-6: IRO 1 - Description of the processes to identify and assess material impacts, risks and opportunities in relation to business conduct matters.

- G1-4 24 b) – any actions taken to address breaches in procedures and standards of anticorruption and anti-bribery – missing from EFRAG document.

The draft list of ESRS G1 datapoint list presents several issues that require attention. Please find below a summary of the points observed.

We observed cases which are clear mistakes. For example, the sheet for G1 includes the following line that is evidently not true for G1: “Action plans and resources to manage its material impacts, risks, and opportunities related to consumers and end-users [see ESRS 2 - MDR-A]” in row 32.

There are a multiple datapoints where the degree of detail could be improved. This is often the case when a paragraph is only applicable under specific circumstances. Or if it is just not clear from the EFRAG table what the datapoint contains. For example, the datapoint in ESRS G1 10f in row 15 is missing information that would come after the word “including”. However, this information is crucial to understand the datapoint as it relates to minimum information to be disclosed under the paragraph.