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Joint Association Comment Letter on EFRAG's Consultation on the European Sustainability Reporting Standards for non-EU groups (ESRS-40a)

Dear Mr. Koktvedgaard,

We – associations representing financial institutions headquartered outside the EU that maintain a presence, investment footprint and long-term commitment to the EU – appreciate the opportunity to comment on EFRAG's Exposure Draft of the European Sustainability Reporting Standards for certain non-EU undertakings in accordance with Article 40a of the Accounting Directive (ESRS-40a).

We acknowledge the objective of establishing a reporting framework for third-country groups that provides transparent information on sustainability-related impacts connected to significant activity in the EU. **At the same time, ESRS-40a should reflect the distinct legal basis, policy purpose and reporting context applicable to third-country undertakings**. **In our view, the final standard should achieve transparency and accountability while remaining proportionate, operationally feasible and interoperable with existing sustainability reporting frameworks.** As part of this, it should include an appropriate basis for establishing equivalence with international standards.

Even where we continue to hold reservations regarding certain aspects of the Corporate Sustainability Reporting Directive's (CSRD) extraterritorial application scope, we welcome several aspects of the Exposure Draft, including the inclusion of the mixed approach, the preservation of reliefs and simplification measures introduced under the revised ESRS, the availability of an incorporation by reference mechanism, the retention of a location-agnostic reporting approach and the flexibility in report structuring. However, we believe that a number of important elements require further refinement to ensure that ESRS-40a delivers on its stated objective without creating unnecessary complexity, legal uncertainty or disproportionate reporting burdens:

Drafting approach

As a starting point, **the development of ESRS-40a should be founded on a holistic assessment of what would be appropriate or proportionate for third-country parent companies and should reflect decision-useful information**. Accordingly, the standard should avoid an overly legalistic approach derived from the underlying ESRS datapoints that are not appropriate for third-country parent companies, including where they refer to EU-specific principles or legislation that do not apply to the third-country parent.

While financial and impact materiality remain conceptually distinct and reporting under a financial materiality lens does not, in itself, enable an undertaking to report against impact materiality, the resulting information may overlap considerably in practice. Field testing conducted by our members indicates that reporting aligned with the standards of the International Sustainability Standards Board (ISSB) may already capture a significant share of the sustainability information produced under ESRS-40a. **EFRAG should therefore clearly identify the material information gap that incremental ESRS-40a reporting is intended to address and target additional requirements to impact information that responds to a distinct and genuine user need.** A tighter focus on the core material information needs of users of ESRS-40a reporting, who engage with the group's EU business as clients, counterparties or investors, in the drafting of the standards would lead to a more practical and pragmatic form of

reporting for third-country groups, alongside a more meaningful report for the end-user. For these users, clear information on impacts connected to that EU business is generally more relevant than information covering activities with no meaningful EU nexus. Comparability should therefore be supported through clear disclosure of the reporting boundary and methodology applied, rather than by requiring identical reporting perimeters across undertakings with different business models, value chains and geographic footprints.

Against this backdrop, we note that the provided rationale for considering global-scope reporting requirements refers to the increasing adoption of jurisdictional standards based on the ISSB Standards, suggesting that third-country groups may already be better positioned to report globally on certain sustainability matters (see paragraph 47 of EFRAG's Basis for Conclusions). If that is the case, the appropriate policy response should be to recognise existing ISSB-based reporting through interoperability or equivalence mechanisms, not to assume that it is evidence that the incremental burden associated with global impact reporting would be limited, or that it provides a basis for global ESRS-40a impact reporting.

While impact materiality and financial materiality may converge over time and can overlap in practice, as sustainability impacts can translate into financial risks and opportunities, they remain distinct concepts. While ISSB-based reporting may provide a strong foundation in certain areas, it does not by itself equip undertakings with the systems, processes and data necessary to report sustainability-related impacts to the prescriptive level required by ESRS-40a. As a result, **the existence of ISSB-aligned reporting requirements should not be viewed as evidence that the incremental burden associated with global impact reporting would be limited. W**e therefore caution against the assumption that global impact reporting requirements can be justified on the basis of existing disclosure obligations in third-country jurisdictions.

Mixed approach

We support the principle that third-country groups should be permitted to focus reporting on impacts that are meaningfully connected to the EU. Given that Article 40a applies to third-country undertakings based on their level of economic activity in the EU, the mixed approach provides an important mechanism that can support more proportionate reporting requirements. Accordingly, reporting obligations should not generally extend to activities, value chains and impacts that are entirely unrelated to the undertaking's connection to the EU, except where the standard expressly requires a global assessment or reporting approach.

At the same time, **our support for the mixed approach is conditional on targeted amendments to ensure a clear, objective and identifiable reporting boundary with a view to addressing the identified operational challenges**.

In particular, the current formulation of EU-related impacts remains too ambiguous, particularly references to products and services that "*were or can be reasonably assumed to be sold or provided in the EU market*". In our view, the reference to products or services that "*can be reasonably assumed*" to be sold or provided in the EU market risks moving the test away from the objective basis of Article 40a, which is grounded in significant EU-market activity measured by turnover. A product or service that is merely theoretically available in the EU, but has not actually been sold, provided, targeted or distributed into the EU market, should not by itself create EU-related impacts for reporting purposes.

We therefore recommend that EFRAG establish clear and objective criteria for determining when an impact arising from products or services is sufficiently connected to the EU, based wherever possible on observable activities and transactions rather than assumptions about where products or services may ultimately be sold or provided. Greater clarity is particularly important for financial institutions, whose business models often involve a large number of counterparties across multiple jurisdictions and where impacts may not map neatly to legal entities or geographic boundaries. Applying an assumption-based test across large counterparty and value chain populations may therefore be impractical to apply.

Accordingly, for the mixed approach to be usable, key targeted improvements are needed as follows:

- **Remove the condition that the option in paragraph 28 applies only where "*a meaningful identification of the EU-related impacts is possible*" and replace it with illustrative implementation guidance to ensure undertakings can reliably apply the mixed approach.** As "*meaningful identification*" is not clearly and practically defined, the condition is difficult to interpret and apply consistently, including by assurance providers, while its status as a precondition could unduly and fundamentally restrict the option to adopt the mixed approach.

  To support interpretability and auditability, "*meaningful identification*" should form part of illustrative implementation guidance to support faithful representation. The illustrative guidance should clarify that undertakings may use internal methodologies and assumptions to identify and estimate EU-related impacts in a manner aligned with how they manage their business and value chains, recognising that the business models and value chains of financial institutions differ materially from those of real-economy companies.

- **Redraft paragraph 28 to clearly define how to determine (1) the EU market connection for products and services and (2) the boundary of activities located in the EU, with a clear customer-based test and a clear location-based boundary as follows:**

  (i) **Redraft paragraph 28(a) to specify a client-based definition for products and services:** Products and services in scope should be those: (a) sold or provided to direct ("*first-tier*") clients or counterparties incorporated in the EU; and (b) sold or provided through the undertaking's EU-incorporated subsidiaries and/or branches.

  (ii) **Redraft paragraph 28(b) to specify a location-based definition for EU activities:** "*Impacts of the undertaking's activities that are located in the European Union*" should refer to the own operations and direct upstream value chain of the undertaking's EU-based or EU-incorporated subsidiaries and/or branches.

  (iii) **EU-related impact objective**. The standard should clarify that, for the purposes of paragraphs 28(a) and 28(b), the undertaking should be able to limit the materiality assessment and reported information to impacts that constitute an impact on the European Union's environment and/or on people based in the European Union.

Level of the materiality assessment under the mixed approach

With a view to operationalising the mixed approach, **we request that EFRAG clarify that ESRS-40a does not prescribe a single methodology for identifying and assessing EU-related impacts**. While the current drafting of paragraph 49 does not appear to preclude different approaches, paragraph 51 of the Basis for Conclusions states that the Exposure Draft assumes that the reporting undertaking would first identify products and services related to the EU market and then assess the associated impacts. This could be interpreted as favouring a particular sequence. However, consistent with the ESRS framework and the flexibility to adopt a top-down or bottom-up approach, undertakings should remain free to apply judgement in determining the most appropriate methodology and transparently disclose the approach taken. In particular, undertakings should be permitted either to (i) conduct a group-level materiality assessment and subsequently identify the material impacts that are EU-related, or (ii) first identify EU-related products and services and then assess the materiality of the resulting impacts. This flexibility is important given the diversity of reporting frameworks and corporate structures: where a company conducts its EU business through a dedicated EU entity, it may be most efficient to build on the materiality assessment already performed at the level of that entity. By contrast, undertakings subject to ISSB-aligned reporting requirements may already perform a group-level materiality assessment covering their global activities. For such companies, a prescriptive interpretation of the Basis for Conclusions accompanying ESRS-40a could be read as requiring a separate materiality assessment based solely on the narrower perimeter of the group's EU activities,

creating unnecessary duplication, additional administrative burdens and potential inconsistencies between reporting frameworks.

Interoperability and incorporation by reference

We strongly support interoperability with internationally recognised sustainability reporting standards, primarily the ISSB Standards, and the avoidance of duplicative reporting. Many in-scope third-country groups are reporting, or will in the near future report, under jurisdictional sustainability reporting frameworks building on internationally recognised standards such as the ISSB and Global Reporting Initiative (GRI) standards. ESRS-40a should allow these disclosures to be leveraged to the greatest extent possible and enable the use of an ISSB-compliant group-level report as a basis for ESRS-40a reporting, which would provide both proportionality and better comparability between EU and non-EU group-level reports, whilst still being consistent with the objectives of ESRS-40a.

However, field testing conducted by our members indicates that while incorporation by reference can avoid literal duplication, as it does not necessarily deliver a genuine "*report once*" outcome as granular disclosure mapping can create significant recurring implementation and assurance burdens, while small but pervasive differences between reporting frameworks can add complexity despite substantial overlap in the underlying information.

We therefore welcome the introduction of the incorporation by reference mechanism, provided that targeted amendments are introduced to ensure that the mechanism is operationally feasible and the conditions for incorporation by reference are not restrictive to the point where they prevent companies from effectively leveraging existing sustainability reporting, including where parent undertakings report on a voluntary basis in accordance with internationally recognised standards. In particular, ESRS-40a should enable an "*ISSB+*" approach, whereby companies can first apply the ISSB Standards as issued by the ISSB to report on their sustainability-related risks and opportunities, without reconciliation or adjustments to requirements set out for ESRS-40a where they provide substantively equivalent information, and supplement this only with incremental information on impacts identified as material under ESRS-40a, including additional topics and information that would otherwise be omitted. Explicit identification or mapping of non-ESRS-40a information should not be required. Additionally, where a third-country group has one or more EU subsidiaries already in scope for CSRD reporting, the parent entity should be able to use and incorporate their ESRS-aligned sustainability statements by reference.

Additionally, it is recommended that ESRS-40a 1 (General Requirements) include a new paragraph 126 to clarify that, for ESRS-40a E1 (Climate Change) – in particular for E1 Targets and Metrics – undertakings can incorporate by reference to / use existing published climate disclosures that have been implemented in the jurisdictions in which the group operates (e.g., those of the Task Force on Climate-related Financial Disclosures (TCFD), ISSB and jurisdictional standards such as those of the Australian Accounting Standards Board (AASB) and the Turkish Sustainability Reporting Standards (TSRS), as well as other sustainability disclosures) without adding ESRS-40a datapoints. Global groups already publish decision-useful climate information for their stakeholders through established processes, controls, frameworks, and/or regulatory regimes. The case for additional ESRS-40a datapoints should be anchored to the information needs of report users. It is not clear what decision-useful gap is being filled beyond existing targets and metrics disclosures, and who the incremental users are. ESRS-40a would be more workable and more useful if it supports cross-referencing to existing public climate disclosures without adding incremental datapoints that effectively require global groups to build a parallel reporting system, which will not serve the information needs of the undertaking's report users.

To further facilitate the interoperability of the ESRS-40a with internationally recognised reporting standards and avoid uncertainty around the ability to obtain assurance, EFRAG and the ISSB should jointly develop an interoperability mapping, identifying which ESRS-40a requirements can be met through ISSB disclosures. This would allow preparers and auditors to rely on an authoritative mapping,

reducing duplication and uncertainty around assurability. For requirements going beyond the ISSB Standards, EFRAG should provide clear guidance on the incremental disclosures needed, ideally through an Appendix to ESRS-40a, and explain the distinct user need it addresses and why the additional information is material and decision-useful. Reflecting the inherently closer conceptual alignment given their impact materiality focus, the interoperability between GRI standards and ESRS-40a should similarly be formally recognised to enable companies reporting under GRI to rely on existing disclosures.

In this context, **we also encourage EFRAG and the Commission to further explore mechanisms that recognise sustainability reporting already performed at group or subsidiary level as well as combinations of existing sustainability reporting disclosures with the forthcoming ESRS-40a to meet the requirements of the CSRD's subsidiary exemption mechanism**. Even when applying the mixed approach, there is still a significant reporting burden for those already reporting in line with jurisdictional sustainability disclosure requirements; maximising interoperability is therefore key.

Assurance requirements

While we recognise that assurance requirements are established at Level 1 and that EFRAG's ability to address this point through ESRS-40a may therefore be limited, we nevertheless consider it important to note that assurance requirements would place a significant additional cost and operational burden on firms that are not required by their home jurisdiction to obtain assurance over ISSB-aligned or other sustainability reporting.

Furthermore, **the assurance requirement for information incorporated by reference in the ESRS-40a report also presents a challenge to the original intent of this provision**, which is to leverage other disclosures, including ISSB-aligned reports and disclosures prepared under third-country regimes, which may be subject to different assurance requirements. Requiring the same level of assurance as the ESRS-40a report for information incorporated by reference creates additional complexity and costs, and may reduce the interoperability with international reporting frameworks. **Instead, for information incorporated by reference, the source document and its assurance status should be clearly disclosed and users should be able to assess the reliability of the information**. The focus should be on transparent disclosure of the assurance status, rather than a uniform assurance requirement that undermines the burden-reduction objective of the mechanism. If mandatory assurance of information incorporated by reference is deemed necessary, it should be focused only on genuinely material incremental disclosures required specifically under ESRS-40a, rather than to the underlying disclosures.

References to concepts derived from EU legislation

Under the Exposure Draft, third-country groups would have to apply detailed EU-derived definitions and classifications across operations located entirely outside the EU, including in jurisdictions with different legal frameworks, market structures and terminology. **While references to EU legislation can provide useful guidance and context, the current requirements are often too detailed and technical to be applied meaningfully outside the EU market. Applying them across global operations may therefore be burdensome, impractical and, in some cases, poorly suited to local circumstances**. This is illustrated by ESRS-40a E1-1, which retains EU-specific references and disclosure concepts for transition plans, including the EU's climate-neutrality objective and locked-in emissions. While third-country parent companies may already have transition plans in place, these may not cover or disclose the elements derived from EU legislation. Requiring them to do so would therefore create additional reporting burdens despite substantive alignment with the underlying objective.

This challenge is fundamentally greater for third-country groups than for EU-based reporters because most of their operations are typically located outside the EU. **We therefore call for a more proportionate and flexible approach that simplifies EU legal references and expressly permits the use of internationally recognised or relevant local concepts**. It is also recommended to clarify that ESRS-40a only include terms and concepts in EU law for reference purposes and does not impose these

EU laws on non-EU groups.

Value chain cap

The Omnibus I simplification package introduced the value chain cap to protect smaller counterparties from disproportionate information requests. **The absence of an equivalent safeguard for third-country groups means that both EU and non-EU SMEs become subject to extensive and potentially burdensome information requests, effectively reversing the co-legislators' intention to shield smaller counterparties from disproportionate reporting demands** arising from CSRD-related disclosure obligations.

We therefore urge the Commission to consider how value chain proportionality can be achieved for third-country groups and EFRAG, within its scope of mandate, to make full use of the available mechanisms to limit disproportionate value chain information requirements under ESRS-40a. Such an approach would also be consistent with other proportionality measures in ESRS-40a, including the use of "*reasonable and supportable information available without undue cost or effort*".

Implementation timeline

The implementation timeline remains critical. The development of governance arrangements, data infrastructure, internal controls and reporting processes across large international groups will require substantial preparation and an adequate transition period that is proportionate to the complexity, scale, and reporting maturity of the undertakings involved. **We therefore welcome indications that adoption may take place in mid-2027, but urge the Commission and EFRAG to ensure there is sufficient time between the finalisation of the standards and mandatory application**. At a minimum, particularly if there are delays in the adoption of the standards, third-country groups should benefit from an implementation period equivalent to that afforded to EU undertakings under the revised ESRS framework.

In addition, the ESRS-40a timeline may be misaligned with national implementation timelines for sustainability reporting requirements in the home jurisdictions of third-country parent undertakings, particularly where these requirements are being phased in over time, such as for topics beyond climate. This misalignment could reduce the practical benefit of incorporation by reference, as non-EU undertakings may be required to prepare an ESRS-40a sustainability report before comparable sustainability-related disclosures are required in their home jurisdictions. To maximise the benefit of incorporation by reference and reduce unnecessary duplication, EFRAG and the Commission should consider further transitional relief, so that disclosure is not required on such requirements before the later of: (i) the date on which comparable disclosures are required in the relevant third-country jurisdiction; and (ii) a final date specified in ESRS-40a. This would better align the application of ESRS-40a with the phased implementation of sustainability reporting requirements in third-country jurisdictions.

To conclude, the undersigned associations stand ready to discuss the recommendations set out in this comment letter, which are reflected in and further complemented by our answers to EFRAG's online questionnaire, with EFRAG and the Commission with a view to ensuring the practicality and proportionality of ESRS-40a while ensuring meaningful disclosures.

List of signatories:

Swiss Finance Council

International Regulatory Strategy Group

Bank Policy Institute

UK Finance

Japanese Bankers Association

The Investment Association

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INTRODUCTION

Welcome to the EFRAG Survey on the "ESRS regarding certain non-EU undertakings in accordance with Article 40a of the Accounting Directive", Exposure Draft Standards (ESRS-40a ED). Please submit your answers by ***31 October 2026 at 18:00 CET*** by clicking on the 'Submit' button at the bottom of the survey.

You can save a draft of the survey and return to it at a later time, by clicking the 'Save and continue later' button in the top right corner of the page. EFRAG will only consider surveys for which the 'Submit' button has been used.

For any technical queries about the survey, please contact **esrs-40a@efrag.org**

This questionnaire is open to all interested parties and stakeholder categories, including preparers, users and other interested stakeholders from both EU and non-EU jurisdictions.

The survey can be downloaded as a PDF **here** for convenience, but only online submissions will be considered.

ABOUT the ESRS-40a ED

The ESRS-40a ED has been developed to implement the provisions of Directive 2013/34/EU of the European Parliament and of the Council (the Accounting Directive), as amended by Directive (EU) 2022/2464 (the CSRD) and Directive (EU) 2026/470 (the Omnibus I Directive). The Accounting Directive specifies the characteristics and content of the standardised Disclosure Requirements in ESRS-40a ED by distinguishing it from those applicable to large undertakings under ESRS. Notably, ESRS-40a ED content is aligned with revised ESRS (the European Commission adopted the Delegated Act on revised ESRS for EU undertakings on 3 July 2026), but it excludes reporting related to risks, opportunities, resilience and dependencies from the scope of ESRS-40a ED. Therefore, ESRS-40a ED focuses on impacts in line with Article 40a of the Accounting Directive.

The policy objectives of ESRS-40a reporting are to ensure a level playing field for companies operating in the EU market and to enhance the accountability and transparency of non-EU companies with significant business on the EU Single Market for their impacts on people and the environment.

ESRS-40a ED has the same structure as ESRS (12 standards) and the same articulation in the reporting areas (strategy; governance; impact management through policies and actions; metrics and targets). They have the same content as a starting point, with selected exclusions described in detail in this questionnaire. In particular:

a) disclosures on risks, opportunities, resilience and dependencies have been deleted as per Article 40a of the Accounting Directive, resulting in the deletion of certain datapoints and the amendment of other datapoints to reflect the target reporting objective;

b) other selected adjustments, such as the deletion of datapoints related to the EU taxonomy, which is not applicable to non-EU companies falling under the scope of Article 40a.

In addition, the following new elements have been included:

a) new paragraphs have been added to reflect important provisions in the Accounting Directive and to facilitate understandability;

b) option to limit disclosures for impacts other than climate to EU-related impacts only when certain conditions are met ('mixed approach') and consequential transparency;

c) transparency in the application of concepts and terms derived from EU laws and regulations to operations that are not in scope of those laws and regulations; and

d) flexibility in the application of incorporation by reference from reports issued in accordance with applicable laws or regulations, acknowledging that a substantial part of ESRS-40a disclosures (e.g. general disclosures and information about impacts) may be common with sustainability reports prepared in accordance with applicable jurisdictional sustainability reporting standards.

Regarding point (b), the European Commission (EC) requested EFRAG to explicitly consult on this option, which has been extensively discussed by EFRAG Sustainability Reporting Technical Expert Group (SR TEG) and the EFRAG Sustainability Reporting Board (SRB), and it has triggered a number of concerns described in the Basis for Conclusions, in the section dedicated to EFRAG SR TEG and the EFRAG SRB vote on the ESRS-40a ED.

INTRODUCTION TO THE QUESTIONNAIRE

Purpose of this consultation

EFRAG is performing the ESRS-40a ED exercise following a specific mandate from the EC described in the Accounting Directive (Directive 2013/34/EU), in particular Articles 40a–40d, as amended by Directive (EU) 2022/2464 (the CSRD) and as recently amended by the Omnibus I Directive. In addition, EFRAG is consulting on the mixed approach upon request from the EC.

ESRS are the basis for ESRS-40a ED. The purpose of this public consultation is not to reassess the content of ESRS, which are applicable to companies in scope of the CSRD and are used as a basis for ESRS-40a ED. The consultation focuses on the following aspects, which differentiate the ESRS-40a ED from ESRS:

a) the deletion of disclosures about risks, opportunities, resilience and dependencies. The exclusion of these elements does not imply the exclusion of all types of financial information from the standards, as financial information is also needed for a proper understanding of impacts;
b) challenges, if any, and resulting transparency arising from the application of terms and concepts from EU laws and regulations to operations that are not in scope of those laws and regulations;
c) application challenges and relevance of reporting under a global approach or a 'mixed approach'; and
d) interoperability, i.e. how to avoid double reporting when the undertaking also prepares a sustainability report in accordance with applicable jurisdictional sustainability reporting standards.

Comments that go beyond the EFRAG ESRS-40a ED mandate, such as questioning the content of the CSRD or requesting modifications to the ESRS-40a ED that are not compatible with the ESRS-40a ED mandate, will not be considered.
In preparing feedback to this questionnaire, the undertaking may refer to the ESRS-40a ED and the Basis for Conclusions for the ESRS-40a ED.

List of useful documents

- **ESRS-40a ED**
- **Basis for Conclusions for the ESRS-40a ED.** This document explains the reasoning behind the content of the ED. It provides an overview of the methodological approach taken, the main content of the ED and the key aspects discussed by the EFRAG SRB and EFRAG SR TEG in preparing the standards. The Basis for Conclusions is also accompanied by a comparison of the ESRS-40a ED and revised ESRS.
- **Attachment 1:** Articles 40a–40d, as amended by Directive (EU) 2022/2464 (the CSRD)
- **Attachment 2:** List of Mixed-approach-related paragraphs.

Structure of the questionnaire and consent to publication

This invitation to comment includes 23 main questions across four sections, in addition to those necessary to capture the profile of the respondent.

The questionnaire is structured as follows:

Part 1 – Profile of the respondent (fields marked with * are mandatory)
Part 2 – High-level feedback (fields marked with * are mandatory)

Topic 1 – Revised ESRS as the basis for the ESRS-40a ED and approach to removing datapoints, or reformulating or adding paragraphs as required by the CSRD

Topic 2 – Disclosure of perimeter: Global or Mixed approach

Part 3 – Detailed feedback (optional)

Topic 1 - Revised ESRS as the basis for the ESRS-40a ED and approach to removing datapoints, or reformulating or adding paragraphs as required by the CSRD
Topic 2 – Mixed approach

Topic 3 – Interoperability, presentation and incorporation by reference

Topic 4 – References to EU laws and regulations

Topic 5 – Any other comment

Part 4 – Feedback at the level of DR [or paragraph of the ED] (optional).

Parts 1 and 2 contain questions about respondent information and high-level questions; these parts are mandatory. **Parts 3 and 4** are optional; respondents are encouraged to complete them also where possible.

You may complete **Part 3** of the questionnaire if you have detailed comments on the following topics: Mixed approach; Interoperability, presentation and incorporation by reference; References to EU law and regulations; Any other comment.

You may complete **Part 4** if you wish to comment on specific Disclosure Requirements (DRs) or [paragraphs] of a standard. Completing Part 4 becomes mandatory if you answer "no" to the first question in Topic 1, Part 2. This scenario is explained again below. In this case, you will be asked to submit an XLS file with your comments, specifying the paragraph of the standard to which they relate. To do so, you will need to download the Excel file, complete it, and then upload the document.

Please do not repeat the same comment in two or more parts/questions.

Comments to each question are limited to 300 words.

You will receive an email confirming receipt of your response upon submission. Please check your spam folder if you do not see the confirmation email.

Do you provide your consent to publish your responses? Please select 'No' below if you do not want your responses to be made public; in this case, your feedback will be treated anonymously.*

(X) Yes

( ) No

PART 1 – SURVEY PARTICIPANT INFORMATION

1) First Name:*

2) Last Name:*

3) Name of the organisation:*

4) Country of headquarters:*

5) Sector: [more detailed information about sector classification] - *It is possible to select multiple sectors.**

[ ] Accommodation and food service activities

[ ] Activities of extraterritorial organisations and bodies

[ ] Administrative and support service activities

[ ] Agriculture, forestry and fishing

[ ] Arts, sports and recreation

[ ] Construction

[ ] Electricity, gas, steam and air conditioning supply

[X] Financial and insurance activities

[ ] Human health and social work activities

[ ] Manufacturing

[ ] Mining and quarrying

[ ] Other service activities

[ ] Professional, scientific and technical activities

[ ] Publishing, broadcasting, and content

[ ] Real estate activities

[ ] Transportation and storage

[ ] Telecommunication, computer programming, consulting, computing infrastructure and other information service activities

[ ] Water supply; sewerage; waste management and remediation activities

[ ] Wholesale and retail trade

6) Please enter your email.*

7) Which of the following stakeholder types do you represent?*

Company (Preparers)

( ) Preparer (financial or non-financial undertaking)

( ) Business association (financial or non-financial institution)

Users

( ) Investor

( ) National supervisory authority or regulator

( ) User (analyst, data provider, rating agency, etc.)

( ) User Association

Financial institutions

( ) Bank

( ) Asset manager/Investor

( ) Insurance

(X) Association of financial institutions

Other stakeholders

( ) Consultant (including software vendor)

( ) Assurance provider

( ) (National/Jurisdictional) standard setter, regulator or supervisory authority

( ) NGO

( ) Trade unions

( ) Academia

( ) Other - Write In: _____

8) For preparers, are you:*

(i) a European company in scope of Articles 19a or 29a of the Accounting Directive that is a subsidiary of a third-country parent group in scope of Article 40a of the same Directive;

(ii) an EU branch or a European company not in scope of Articles 19a or 29a of the Accounting Directive that is a subsidiary of a third-country parent group in scope of Article 40a of the same Directive;

(iii) a third-country parent group with significant activity in the EU and with a subsidiary or branch in scope of Article 40a of the Accounting Directive;

(iv) an EU company or group that is not a subsidiary of a third-country parent group in scope of Article 40a, but is in scope of ESRS reporting;

(v) an EU company or group that is not a subsidiary of a third-country parent group in scope of Article 40a, but is not in scope of ESRS reporting;

(vi) none of the above

9) If none of the above, please specify.*

10) Please specify the country of headquarters of the ultimate parent company.*

11) i. Please specify the country of headquarters.*

12) ii. If you have selected point (iii) to the question for preparers above, please provide your feedback, if possible, on (these questions apply only to undertakings in scope of Article 40a of the Accounting Directive):

How many subsidiaries in your group are in scope of Articles 19a or 29a of the Accounting Directive?*

13) iii. Please provide the location of your subsidiaries *

14) iv. Please list the subsidiaries that are already reporting under Articles 19a or 29a of the Accounting Directive.*

15) v. If you have selected point (iii) to the question for preparers above, do you plan to report according to ESRS (as enacted by the EC in July 2026) for the whole group (double materiality)?*

( ) Yes.

( ) We are considering it/ we have not yet decided.

( ) No.

16) vi. Please select one or more of the reasons listed below for planning to report according to the ESRS (as enacted by the EC in July 2026) for the whole group (double materiality).*

[ ] To qualify for the subsidiary exemption (benefits of applying full ESRS: if the third-country ultimate parent company applies full ESRS, the subsidiaries of that third-country company falling under Articles 19a or 29a could benefit from subsidiary exemption, but only if the third-country parent company applies full ESRS (double materiality));

[ ] For strategic or managerial reasons.

[ ] Other, please specify.: _____

17) Do you/does your (or will by FY2028) ultimate parent group report in accordance with jurisdictional standards based on ISSB standards on a group level?*

( ) Yes.

( ) No.

18) Because you answered "Yes" to the previous question, please indicate if you report on:

( ) Climate only, in accordance with jurisdictional standards based on ISSB Standards

( ) Climate and other topics, in accordance with jurisdictional standards based on ISSB standards

( ) In accordance with other standards (Please specify)_____

19) Do you/does your (or will by FY2028) ultimate parent group report voluntarily on a group level? *

( ) Yes.

( ) No.

20) Because you answered "Yes" to the previous question, please indicate if you report on:*

( ) Climate only, in accordance with ISSB Standards

( ) Climate and other topics, in accordance with ISSB Standards

( ) In accordance with GRI

( ) In accordance with other standards (please specify which standard):

_____

PART 2 – SURVEY QUESTIONS – HIGH LEVEL FEEDBACK

TOPIC 1: Revised ESRS as basis for ESRS-40a ED; approach to deleting datapoints or reformulating paragraphs as required by CSRD

Background and context

EFRAG has developed the ESRS-40a ED in accordance with the EC's mandate and guidance, with a focus on transparency regarding impacts of third-country groups with significant activities in the EU. The use of the revised ESRS text as the basis for the ESRS-40a ED was identified as the most appropriate way to implement the provisions of the CSRD, as well as a pragmatic solution, enabling consistency and supporting a level playing field between EU and non-EU companies providing products and services to EU customers.

For all the standards in the ESRS-40a ED (other than the Standard ESRS-40a 1 ED), an analysis of all datapoints in revised ESRS was performed to determine whether:

a. the datapoint covers an aspect pertaining to areas that should be excluded from the ESRS-40a ED, i.e. risks, opportunities, resilience and dependencies (RORD) and financial effects;
b. the datapoint covers an aspect to be included as it relates to impacts;
c. the datapoint covers aspects – including financial information – maintained in the text as they provide useful contextual information to understand the impacts and how they are managed; and
d. the datapoint covers impacts, risks and opportunities and should be reformulated so that only information related to impacts are included in the ESRS-40a ED.

Questions

21) Do you agree with the way EFRAG has implemented the provisions of the Accounting Directive (Articles 40a–40d), particularly in deleting RORD-related disclosures and financial effects, as well as maintaining financial information that provides useful contextual information to understand impacts and how they are managed?*

( ) Yes.

(X) No.

22) i. If no, would you retain any disclosure requirements that have been removed?*

( ) Yes.

( ) No.

Because you answered "Yes." in the previous question, answering in Excel in Part 4 of this questionnaire is required. [FEEDBACK AT DR/DATAPOINT LEVEL] .

23) ii. Do you have comments on added (i.e. not in revised ESRS) or amended paragraphs?*

( ) Yes.

( ) No.

Because you answered "Yes." in the previous question, answering in Excel in Part 4 of this questionnaire is required. [FEEDBACK AT DR/DATAPOINT LEVEL] .

24) i. If yes, Please specify why*

TOPIC 2 – Mixed approach: option to limit the ESRS-40a sustainability report transparency to EU-related impacts only (paragraphs 28–30 of the ESRS-40a 1 ED)

As an alternative to reporting on a global scope for all material sustainability topics, undertakings have the option to limit their disclosures on topics other than climate to EU-related impacts only. In this case, they apply the 'mixed approach', i.e. they report on a global scope for climate, and they report on their EU-related impacts for one or more topics other than climate.

According to EFRAG's proposal, EU-related impacts are those arising from one or both of the following:

(a) products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties (downstream value chain actors such as distributors and traders). This component of the EU-related impacts is referred to as the 'customer component';

(b) impacts of the undertaking's EU activities, if not already included in point (a). This component of the EU-related impacts is referred to as the 'location-based component'.

Impacts captured in point (a) and impacts captured in point (b) above are all to be covered as EU-related impacts.

The definition of impacts is not limited to impacts of own operations but also includes upstream and downstream value chain impacts, wherever they arise (i.e. inside or outside the EU).

The option allows the undertaking to apply this 'EU-related impacts' scope at different levels of granularity: topic, sub-topic, or a group of impacts that are within a topic or sub-topic. However, companies may only apply the mixed approach under the following condition:

Paragraph 29 of the ESRS-40a 1 ED states:

'[...] only where a meaningful identification of the ***EU-related impacts*** enabling a faithful representation of those ***impacts*** for the purpose of the ESRS-40a ED reporting, aligned with:

(a) how the undertaking's own operations, its products and its service offering are structured or managed; and
(b) how its upstream and downstream value chain or chains are structured and operate.'

The mixed approach was introduced into the ESRS-40a ED at the request of the EC. Its introduction in the ESRS-40a ED was extensively discussed during the standard-setting process. Members expressed broadly shared reservations about the mixed approach, as it may weaken the level playing field for European companies, it may limit relevance and completeness of the information, it may reduce comparability, and

it raises implementation challenges. These concerns are described in the Basis for Conclusions (Section Approval of the ESRS-40a Exposure Draft). While concerns were identified, seeking stakeholder feedback is an important first step before reaching conclusions.

Questions

25) Do you support the inclusion of a 'mixed approach' option in the ESRS-40a ED, which allows limiting disclosures to EU-related impacts only for some topics?*

(X) Yes.

( ) No.

26) i. Please select from this list of reasons (choose one or more):*

[X] It captures impacts that have a link with the EU.

[X] It provides a proportionate approach to third-country groups without imposing excessive costs connected to global reporting for all topics.

[ ] It provides relevant information thanks to the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED).

[X] It does not impair comparability and auditability of sustainability reporting.

[ ] Other reasons (please specify): _____

27) i. Please select from this list of reasons (choose one or more):*

[ ] It fails to secure level-playing field for EU companies.

[ ] Despite the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED), it does not result in relevant and complete information, or it conflicts with faithful representation of impacts.

[ ] It results in mixed scopes in the same report (global for climate, EU-related for one or more groups of impacts/sub-topics/topics), making it difficult for users to understand and use the information;

[ ] The condition in AR 6 for paragraph 29 (ESRS-40a 1 ED) is too narrow and will have narrow application.

[ ] The flexibility in paragraph 30 (ESRS-40a 1 ED) is too broad, as impacts are managed consistently at topical level.

[ ] The flexibility in paragraph 30 (ESRS-40a 1) is too broad, and it will result in lack of comparability across companies.

[ ] Reporting on EU-related impacts raises significant practical challenges.

[ ] Other reasons (please specify): _____

28) ii. Please explain your reasoning behind selecting *'It captures impacts that have a link with EU'* and, if applicable, provide suggested improvements. *

We support the mixed approach because it reflects the principle that third-country groups should be permitted to focus reporting on impacts that have a meaningful connection to the EU, thereby providing a basis for a more proportionate reporting perimeter reflecting the nature and extent of an undertaking's link to the EU market.

A level playing field should not be interpreted as requiring identical worldwide reporting obligations for undertakings with materially different legal connections to the EU. Given that Article 40a applies to third-country undertakings based on their level of EU economic activity, reporting obligations should not generally extend to activities, value chains and impacts that are unrelated to the undertaking's connection to the EU, except where the standard expressly requires a global approach.

The approach should be supported by illustrative implementation guidance enabling undertakings to use reasonable methodologies and assumptions to identify and estimate EU-related impacts, faithfully represent them and transparently explain the reporting boundary applied.

Within the mixed approach, climate remains reportable globally, given its inherently global nature, preserving completeness and comparability for users. The mixed approach is therefore not a general dilution of the reporting framework; rather, it distinguishes between climate, where global reporting is necessary, and other topics where a targeted EU-related impacts perimeter may be proportionate.

On that basis, the mixed approach can be justified as a proportionate and targeted mechanism to ensure accountability for EU-market impacts while reducing extraterritoriality risk, unnecessary burden and potential restructuring incentives that could otherwise undermine the availability of sustainability information in the EU market, while preserving global transparency on the most critical sustainability topic, climate.

That said, our support for the mixed approach is conditional on the existence of a clear, objective and identifiable reporting boundary and addressing the identified implementation challenges (see our responses to Q32 & 52).

Please explain your reasoning behind selecting *'It provides a proportionate approach to third-country groups without imposing excessive costs connected to global reporting for all topics*' and, if applicable, provide suggested improvements. *

Building on our response to Q27, we consider that the mixed approach has the potential to provide a proportionate and targeted mechanism to ensure accountability for EU-market impacts, reflecting the nature and extent of an undertaking's connection to the EU.

Accordingly, our support for the mixed approach is not only driven by concerns about potentially excessive costs imposed on third-country groups that operate complex international value chains, but it is also a matter of a potentially undue extraterritorial reach of EU legislation. Requiring reporting on all impacts globally would risk bringing activities and value chains that are entirely outside the EU, and unrelated to EU business, within the reporting boundary. This would not only further increase implementation costs but could also create tensions

and overlap between different legal and regulatory frameworks.

The mixed approach can address these concerns by allowing reporting efforts to be focused on impacts that are meaningfully connected to the EU. This is consistent with the proportionality principle underpinning Article 40a of the Accounting Directive: third-country undertakings are brought within scope because of their significant activity in the EU market, rather than their global footprint as such.

Please explain your reasoning behind selecting "*It does not impair comparability and auditability of sustainability reporting*" and, if applicable, provide suggested improvements. *

In our view, the mixed approach need not impair comparability or the ability to obtain assurance relative to global reporting – provided Paragraph 28 more clearly defines (1) the market connection for products and services and (2) the boundary of activities located in the EU (see Q32).

Comparability across undertakings does not require all reporters to apply an identical reporting boundary. Rather, it requires users to be able to understand the boundary applied and to assess reported information on a consistent basis. Even where undertakings apply the same reporting boundary, reported information may not be fully comparable in practice, for example where emissions reporting is based on different scopes, methodologies, data sources, or estimation techniques, or where undertakings classify activities, exposure or asset classes differently. The mixed approach should therefore be assessed by reference to whether it provides clear and standardised transparency on the reporting boundary applied, rather than on the assumption that identical boundaries necessarily produce identical or fully comparable disclosures.

The proposed approach supports this objective through transparency obligations that require disclosure, for each topic, sub-topic or group of impacts, of whether a global or EU-related scope has been applied. This provides users with a consistent basis for understanding the reporting boundary and interpreting divergences between different business models of reporters. Any such appropriate transparency should remain proportionate and not require extensive additional disclosure or reconciliation of alternative reporting perimeters.

The ability to obtain assurance can likewise be maintained under the mixed approach, provided a clear and identifiable basis for verification is included in the standard.

29) ii. Please explain your reasoning and, if applicable, provide suggested improvements. *

30) iii. Please specify why and which challenges you anticipate.*

AR 6 for paragraph 29 (Meaningful identification of EU-related impacts)	**(New)** When assessing whether a meaningful identification of EU-related impacts is possible, the following are examples of factors that the undertaking may consider: a) existence of a separate business segment dedicated to serving the EU market; b) products or services specifically designed for the EU market; c) separate management of EU-related impacts; or d) value chains dedicated to products and services that were or are reasonably assumed to be sold or provided in the EU market.

Paragraph 30, ESRS-40a 1

(New) The undertaking may apply the option in paragraph 28 either:

(a) to all the impacts related to a specific topic (e.g. all impacts related to ESRS-40a E2 Pollution);
(b) to all the impacts related to a specific sub-topic (e.g. all the impacts related to pollution to air);
(c) to a group of impacts related to a topic or sub-topic.

31) Definition of EU-related impacts. Paragraph 28(a) of the ESRS-40a 1 ED refers to EU-related impacts (customer component) as: *'impacts that arise from products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties (downstream value chain actors such as distributors and traders)'.*

Do you agree with this formulation, which remains at the principles-based level? *

( ) Yes.

(X) No.

32) Please recommend alternative factors to be considered by the undertaking that could be included in the Standard.*

The proposed definition of EU-related impacts remains too ambiguous and should be clarified to establish a clear, objective, auditable reporting boundary, particularly for financial institutions.

Paragraph 28(a), referring to "*products and services that were or are assumed to be sold or provided in the EU market*", leaves significant room for interpretation. For financial institutions, it is unclear whether this refers to products and services provided to EU customers, through EU branches or subsidiaries, or to where proceeds are ultimately used. The formulation also risks moving the test away from the objective basis of Article 40a, significant EU-market activity measured by turnover.

Paragraph 28(a) should therefore specify an unambiguous customer-based test: *Products and services should be in scope only where they were actually sold or provided to direct, first-tier clients or counterparties incorporated in the EU through the undertaking's EU-incorporated subsidiaries or branches*. Where more appropriate, undertakings should be permitted to rely on established regulatory criteria for the customer-based test, such as the Solvency II criteria for identifying where a risk is situated.

Paragraph 28(b), referring to impacts of the undertaking's EU activities, is likewise unclear as to whether it covers own operations in the EU or broader activities connected with the EU.

It should focus instead on "*the impacts of the undertaking's activities actually conducted in the EU",* i.e. refer to the impacts arising from its own operations and direct upstream value chain of the undertaking's EU-based or EU-incorporated subsidiaries and/or branches.

The standard should also clarify that undertakings may limit the materiality assessment and reported information to impacts on the EU's environment and/or on people based in the EU.

Lastly, third-country parents should only need to identify material impacts arising from activities not already captured by subsidiary-level CSRD reporting, avoiding a duplicative re-assessment of material impacts already disclosed.

33) For preparers, Do you intend to apply the mixed approach?*

(X) Yes.

( ) No.

34) i. To which topic/sub-topic or group of impacts do you intend to apply the mixed approach?

35) ii. How would you apply it?*

Without pre-empting members' operationalising decisions, the members of the undersigned associations would apply the mixed approach using the methodology most appropriate to their business model and existing reporting arrangements.

Where a group has EU subsidiaries already reporting under the CSRD and ESRS, those subsidiaries' materiality assessments should be capable of serving as inputs into the identification of EU-related impacts.

At the same time, third-country parent undertakings subject to ISSB-aligned reporting requirements in their home jurisdictions would want to perform the materiality assessment at group level covering their global activities and identify EU-related impacts on that basis to avoid unnecessary duplication, additional administrative burdens and potential inconsistencies between reporting frameworks.

With a view to operationalising the mixed approach, we therefore request that EFRAG clarify that ESRS-40a does not prescribe a single methodology for identifying and assessing EU-related impacts.

While the drafting of paragraph 49 of ESRS-40a 1 does not appear to preclude different approaches, paragraph 51 of EFRAG's Basis for Conclusions states that the Exposure Draft assumes that the reporting undertaking would first identify products and services related to the EU market and then assess the associated impacts. This could be interpreted as favouring a particular sequence.

However, consistent with the ESRS framework and the flexibility to adopt a top-down or bottom-up approach, undertakings should remain free to apply judgement in determining the most appropriate methodology and transparently disclose the approach taken. In particular, undertakings should be permitted either to (i) conduct a group-level materiality assessment and subsequently identify the material impacts that are EU-related, or (ii) first identify EU-related products and services and then assess the materiality of the resulting impacts. This flexibility is important given the diversity of reporting frameworks and corporate structures.

36) For users, Considering the transparency requirements for applying the mixed approach in paragraph 4(a) and AR 1 of the ESRS-40a 2 ED, and the specific provisions added in paragraphs 28–30, AR 6 and AR 7 of the ESRS-40a 1 ED, do you expect to be able to understand and compare a sustainability report that applies different reporting boundaries (e.g. global vs EU-related scope) across topics or sub-topics?

Please find the paragraphs mentioned above here.

(X) Yes.

( ) No.

37) Please explain why.*

38) Please suggest possible amendments.*



PART 3 – SURVEY QUESTIONS – DETAILED FEEDBACK

If necessary, please refer to the text of the ESRS-40a ED in Annex 1 and the text of the Basis for Conclusions for the ESRS-40a ED in Annex 2.

TOPIC 1 – Revised ESRS as the basis for the ESRS-40a ED and approach to deleting datapoints or reformulating paragraphs as required by the CSRD

39) Despite the focus on impacts and the deletion of RORD, do you agree with the reference to fair presentation in the reporting objective of the ESRS-40a ED in paragraph 5 of the ESRS-40a 1 ED: 'the objective of the ESRS-40a ED sustainability report, taken as a whole, is to present fairly (see Chapter 2) all the undertaking's material sustainability-related impacts and how the undertaking manages them'? For further considerations, please refer to the Basis for Conclusions (BC87–BC 90).

(X) Yes

( ) No

40) Please explain.

TOPIC 2 – Mixed approach: option to limit the ESRS-40a ED sustainability report transparency to EU-related impacts only (paragraphs 28–30 of the ESRS-40a 1 ED

41) Under the ED, companies can also apply the mixed approach option when reporting about human rights impacts. This means that they can restrict reporting to EU-related human rights impacts. Do you think human rights impacts should be excluded from the mixed approach and reported globally, regardless of where they occur or whether they are connected to products and services sold to the EU? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)

( ) Yes, human rights impacts should be reported on a global scope.

(X) No, reporting can be limited to EU-related impacts.

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

We support retaining the mixed approach for own-workforce and broader human-rights impacts. Article 40a applies to third-country undertakings because of their significant economic activity in the EU. The reporting perimeter should therefore remain focused on impacts with a meaningful connection to that activity.

Support for the mixed approach does not diminish the importance of global human rights assessment. However, unlike climate-related impacts, which are global, human rights impacts are often location- and context-specific and governed under local legal and regulatory regimes.

Requiring a comprehensive global assessment and reporting of these impacts under EU-specific reporting standards could introduce significant duplication and complexity, generate disproportionate compliance burdens and extraterritorial effects, and risk imposing additional reporting expectations across jurisdictions with different legal and regulatory frameworks.

The mixed approach provides an appropriate and proportionate basis for determining the scope of reporting under ESRS-40a, recognising that third-country groups operate across different legal and reporting frameworks. The same principles of EU nexus, proportionality and faithful representation that support the mixed approach for other non-climate topics should therefore also apply to human rights and workforce impacts while preserving appropriate global consideration of severe human rights impacts.

Moreover, any requirement to report sustainability-related impacts on a global basis, without adequate value chain proportionality mechanisms, would require significant resources to establish reporting capabilities, governance frameworks, internal controls, data systems and assurance-ready processes across multiple jurisdictions. This challenge is particularly acute for financial institutions, which may have thousands of counterparties and investment exposures across global markets.

This would impose significant costs without necessarily producing comparable or decision-useful information for users seeking to understand impacts connected to the undertaking's EU activity. It could also dilute the focus and usefulness of the report by combining EU-related impacts with impacts arising from activities that have no meaningful EU connection.

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)

(X) Yes.

( ) No.

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

We share EFRAG's assessment that limiting the mixed approach to topics whose impacts are inherently local and can be meaningfully attributed to a specific geographical area would unduly restrict its application and undermine its effectiveness as a mechanism capable of ensuring accountability for EU-related impacts in a proportionate and targeted manner, reflecting the nature and extent of an undertaking's connection to the EU.

Making geographic containability a prerequisite for applying the mixed approach would risk creating substantial complexity, uncertainty and compliance costs for preparers. Faithful representation should instead be supported by allowing undertakings to exercise judgement, based on their business models, in identifying and estimating EU-related impacts and by requiring transparent disclosure of the methodologies, assumptions and limitations involved.

45) Do you think that fair presentation can be achieved under the mixed approach? (see Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)

(X) Yes.

( ) No.

46) Please explain.

We consider that fair presentation can be achieved under the mixed approach, provided that the operational and scoping issues identified in our responses are appropriately addressed. Given the diversity of business models, undertakings should be able to exercise judgement in identifying and estimating EU-related impacts based on their operations, products and services, and the way their value chains are managed. This principles-based approach, supported by transparent disclosure of the methodologies, assumptions and estimates used, would enable undertakings to faithfully represent EU-related impacts without imposing rigid criteria that may be inappropriate for their particular business model.

However, we recommend that EFRAG clearly clarifies that fair presentation for Article 40a reports will be assessed by reference to the applicable ESRS-40a reporting perimeter (including where the mixed approach is applied) and does not create an expectation to assess or report impacts outside that perimeter.

We recommend replacing the phrase "*present fairly*" with wording that recognises the defined reporting scope and does not imply global completeness, for example: "*the objective of the ESRS-40a sustainability report, taken as a whole, is to provide a faithful account of the undertaking's material sustainability-related impacts within the reporting scope selected in accordance with ESRS-40a, and how the undertaking manages them"*.

47) Do you agree with the flexible formulation of the option, which allows companies to choose the scope of reporting (global or EU-related impacts) at topic, sub-topic or group-of-impacts level, irrespective of how other topics, sub-topics or groups of impacts within the same topic are treated?

(X) Yes.

( ) No.

48) i. Please explain

This flexibility is essential to the workability of the mixed approach and reflects the reality that EU-related

impacts may be relevant for some topics, sub-topics or groups-of-impacts but not for others. This may, for example, be the case where a particular business segment or value chain is dedicated to serving the EU market, while other activities operate on a more integrated global basis.

Requiring an all-or-nothing application of the mixed approach would either eliminate the proportionality benefit of the mixed approach for undertakings with only partially EU-dedicated value chains, or force artificial global reporting.

49) ii. SUB-QUESTION FOR PREPARERS: If you replied 'Yes.' to the above question, are you considering, within the same topic, reporting at EU-related level for some groups of impacts or sub-topics, and reporting at global level for some other groups of impacts or sub-topics?

(X) Yes.

( ) No.

50) iii. Please explain for which topic this would happen and the rationale behind this choice.

Feedback from our members indicates that some undertakings are considering a combination of EU-related and global-level reporting within the same topic. The rationale for this approach is to enable undertakings to reflect the nature, location and relevance of individual impacts in a manner that is operationally feasible and decision-useful. It also supports the flexibility sought under Questions 47 and 48 by allowing reporting boundaries to be determined at the level most appropriate to the specific impact, rather than requiring a single reporting level to be applied uniformly across an entire topic.

Beyond this general observation, we cannot provide more granular information, as reporting approaches remain under consideration and may vary across members of undersigned associations.

51) For preparers and assurance providers, do you anticipate implementation challenges when applying the mixed approach?

(X Yes.

() No.

52) i. If "Yes.", please select one or more of the following.

[X] How to demonstrate the condition in AR 6 for paragraph 29 of ESRS-40a 1 ED

[X] How to identify the products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties;

[] How to perform a materiality assessment focused on EU-related only impacts (chapter 3 of ESRS-40a 1 ED)

[X] How to report on policies, actions and targets for EU-related impacts

[X] How to identify the most appropriate allocation key and report on metrics

[ ] How to report in accordance with ESRS-40a 2 ED.

[ ] How to report in accordance with ESRS-40a E2 ED

[ ] How to report in accordance with ESRS-40a E3 ED

[ ] How to report in accordance with ESRS-40a E4 ED

[ ] How to report in accordance with ESRS-40a E5 ED

[ ] How to report in accordance with ESRS-40a S1 ED

[ ] How to report in accordance with ESRS-40a S2 ED

[ ] How to report in accordance with ESRS-40a S3 ED

[ ] How to report in accordance with ESRS-40a S4 ED

[ ] How to report in accordance with ESRS-40a G1 ED

[ ] Providing transparency on the use, assumptions and results of the mixed approach (paragraph 4(a), AR 1 for paragraph 4(a) of ESRS-40a 2 ED)

[] Others - Write In:

53) ii. Please explain why and, if applicable, suggest improvements.

54) iii. Because you identified as a challenge How to demonstrate the condition in AR 6 for paragraph 29 of ESRS-40a 1 ED', please explain why and, if applicable, suggest improvements.

The principal implementation challenges arise from the condition that the mixed approach is available only where a "*meaningful identification*" of EU-related impacts is possible and from the ambiguity of the proposed customer-based boundary. "*Meaningful identification*" is not clearly or practically defined and would therefore be difficult for undertakings and assurance providers to interpret and apply consistently. Treating it as a precondition could unduly restrict the availability of the mixed approach.

Paragraph 29 and AR 6 should therefore be amended to remove this condition with a view to avoiding making the use of the mixed approach conditional on structural characteristics that may not exist across all business models. Instead, illustrative implementation guidance should clarify that, given the diversity of business models, undertakings may exercise judgement and use reasonable existing internal methodologies and assumptions to identify and estimate EU-related impacts based on their operations, products and services, and the way their

value chains are managed. The guidance should support faithful representation rather than prescribe structural characteristics that may not exist or may be challenging to implement.

In particular, AR 6(b), (c) and (d) should be removed. Financial products, services and supporting functions are frequently designed and managed on a market-agnostic basis. The absence of an EU-specific product design, separate impact-management structure or dedicated value chain should not prevent an undertaking from identifying EU-related impacts using reasonable methodologies and judgement.

Because you identified as a challenge 'How to identify the products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties', please explain why and, if applicable, suggest improvements.

The reference to products and services that were or can be reasonably assumed to be sold or provided in the EU market should be replaced by the clearer customer-based test proposed in our response to question 32.

Because you identified as a challenge 'How to report on policies, actions and targets for EU-related impacts', please explain why and, if applicable, suggest improvements.

Further clarity is needed regarding the application of the mixed approach to policies, actions and targets. While ESRS-40a S2 AR 34, AR 36 and AR 52 require disclosures to focus on policies, actions and targets that address EU-related impacts, the Exposure Draft does not explain how these requirements should be applied where the relevant management responses are established and managed at global group level.

Given that the general requirements for reporting on policies, actions and targets are designed to reflect the undertaking's actual management approach and require disclosure of the scope and geographical coverage of policies, actions and targets, clarification would be helpful that undertakings may disclose global policies, actions and targets where these are the measures through which the identified EU-related impacts are managed, while explaining their relevance to those impacts and the extent of their geographical coverage.

Because you identified as a challenge 'How to identify the most appropriate allocation key and report on metrics', please specify which metrics you are referring to. Please specify why.

Further clarity is needed on the practical application of the metric requirements under the mixed approach. While ESRS-40a 2 paragraphs 44-46 indicate that metrics should reflect EU-related impacts, it remains unclear how these requirements should be operationalised where sustainability performance is monitored and managed through group-wide metrics and reporting systems. In particular, clarification would be helpful on whether undertakings may disclose group-wide metrics alongside the required EU-related metric, the level of precision expected when developing allocation keys, and how undertakings should proceed where a meaningful allocation of a globally monitored metric to EU-related impacts is not feasible. Additional guidance and examples would help ensure consistent application and avoid unnecessary complexity.

55) ESRS-40a 2 ED BP-1, paragraph 4(a), requires the undertaking to disclose whether the sustainability report has been prepared using the mixed approach and, if so, to explain – per topic, sub-topic, or group of impacts – how EU-related impacts were determined and how the conditions set out in the ESRS-40a 1 ED, paragraphs 29 and 30, and AR 6 have been met. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of when and how the mixed approach is applied?

( ) Yes.

(X) No.

56) Please include your suggestions, if any, on how these requirements can be improved.

To ensure a proper understanding of the application of the mixed approach, and that reporting boundaries are clear, the ESRS-40a requirements should be concise but principles-based so that they can be applied appropriately to the undertaking with consideration if its business model.

BP-1 paragraph 4(a) and AR 1 should be amended consistently with the removal of the condition in paragraph 29 and AR 6. Undertakings should not be required to demonstrate that a separately defined "*meaningful identification*" threshold has been met as a precondition for using the mixed approach.

Rather, BP-1 paragraph 4(a) and AR 1 should allow undertakings to provide one consolidated description of the methodology used to determine EU-related impacts, accompanied by a concise mapping of the topics, sub-topics or groups of impacts to which the mixed approach is applied. Additional topic-level explanations should be required only where a material deviation in methodology applies.

Additionally, given the diversity of business models, the requirements should recognise that undertakings may exercise judgement based on their operations, products and services, and the way their value chains are managed. This would provide users and assurance providers with transparent information on how the boundary was determined while supporting faithful representation and avoiding an unclear and excessively restrictive eligibility test.

The disclosure should also identify significant limitations and the level of estimation uncertainty where relevant, without requiring undertakings to explain why EU-related impacts can be identified for some topics but not others.

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.

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)

59) ii. Please explain why you selected this option and, if applicable, provide suggestions for improvement.

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.

(X) No.

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)

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

[X] ESRS-40a S2 (paragraph8)

[X] ESRS-40a S3 (paragraph 7)

[X] 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)

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

We suggest amending ESRS-40a S1, paragraph 8 as follows:
- Retain 8(a) (own workforce = employees and non-employees in own operations located in the EU) and
- Remove 8(b) and AR 1.

This avoids an unworkable extraterritorial scoping test based on "involvement" in EU-market products/services - particularly impracticable for global operating models and supporting functions - and gives a clear, auditable boundary aligned to EU-incorporated operations.

The seemingly expanded reporting perimeter beyond what appears intended under the mixed approach is also relevant to the below topics:

- S2 Workers in the Value Chain
- S3 Affected Communities
- S4 Consumers and End Users

As noted above, the inclusion of persons outside the EU solely because of their connection to products or services sold in the EU market risks reintroducing a near-global reporting perimeter for internationally integrated business models, thereby undermining the proportionality benefits intended by the mixed approach. We therefore encourage EFRAG to review the consistency of these topic-specific provisions with the overarching objective of the 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.

(X) No.

64) i. If 'Yes.', should all quantitative metrics in S1-6 to S1-16 have to be disaggregated in that way or only some?

( ) All.

( ) Only some.

65) ii. If for 'Only some.', please specify which ones.

Topic 3: Interoperability, presentation and incorporation by reference

Background and context

The presentation requirements in ESRS-40a ED are carried forward from ESRS without modifications.

Several jurisdictions whose law governs the ultimate third-country parent company subject to Article 40a reporting, have introduced, or are in the process of introducing, mandatory sustainability reporting supported by standards based on IFRS S1 and IFRS S2. In general, these standards cover sustainability-related financial risks and opportunities and are complementary, and in some cases underpin the information provided in accordance with ESRS-40a ED.

EFRAG acknowledges that the ESRS-40a ED and jurisdictional requirements based on IFRS S1 and IFRS S2 include a significant number of common disclosure requirements. To ease reporting and avoid double reporting, the current ESRS-40a ED allows incorporation by reference. However, it was acknowledged that clear requirements shall be set for when incorporation by reference is acceptable, so that undertakings disclose meaningful and auditable information (language, same assurance level, etc.) In addition, considering the difference between materiality approaches (ISSB standards on financial materiality, while the ESRS-40a ED focuses on impact materiality), structuring these different disclosures while enabling understandability is critical.

Further details are provided in Chapter 9.3 *Incorporation by Reference* of the ESRS-40a 1 ED.

66) Questions

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

(X) Yes.

( ) No.

67) i. If "No.", please explain why.

68) ii. If 'No.', please provide suggested amendments.

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.

(X) No.

70) i. If 'No.', please specify if you disagree with.

[X] Examples of sources (paragraph 120)

[X] Conditions for incorporation by reference (paragraphs 121–123)

[ ] Additional flexibility made available in the ED to third-country groups when incorporating by reference a substantial part of the ESRS-40a ED reported information (paragraph 124)

[X] Requirement to add a content table (paragraph 125)

71) ii. If "No", please explain and, if applicable, provide suggested improvements.

The incorporation by reference mechanism is essential to reducing duplication and allowing existing, reliable sustainability-related disclosures to be reused

However, field testing by members indicates that, as drafted, incorporation by reference can avoid duplication but does not deliver a genuine "*report once*" outcome as granular disclosure mapping and differences between frameworks can create significant additional burden. Accordingly, paragraphs 120-125 should be amended to ensure the mechanism's practical benefits:

The mechanism is intended to leverage disclosures that may be subject to different assurance requirements. Requiring the same level of assurance would create unnecessary cost and complexity and undermine interoperability. Incorporation should remain possible where the source document and its assurance status are clearly disclosed. If considered necessary, any additional assurance should be limited to incremental disclosures required specifically under ESRS-40a.

Paragraph 120 should permit the incorporation of voluntary disclosures prepared under internationally recognised standards (incl. ISSB & GRI). Restricting incorporation to legally required information would disadvantage early adopters.

Undertakings should be permitted to apply ISSB standards as the reporting baseline, without reconciliation or adjustment where disclosures provide substantively equivalent information, supplemented only with material incremental information under ESRS-40a. Explicit mapping of non-ESRS-40a information should not be required.

Paragraph 120 should also permit third-country parents to incorporate by reference their subsidiaries'

CSRD/ESRS sustainability statements, without supplementation where these faithfully represent relevant material (EU-related) impacts. Paragraph 121(d) should confirm that a subsidiary's statement satisfies the ESRS-40a assurance condition.

Paragraph 121(e) should apply "*to the extent applicable*" so digitalisation is required only where the relevant regime is in place.

ESRS-40a should permit existing published climate disclosures including TCFD, ISSB, and applicable jurisdictional standards to satisfy relevant ESRS-40a E1 requirements.

Lastly, EFRAG and the ISSB should develop an interoperability mapping, identifying ESRS-40a requirements satisfied by ISSB disclosures. The GRI–ESRS-40a interoperability should be similarly recognised.

72) For preparers, If you are in scope of the ESRS-40a ED and, at the same time, (will) prepare (from YE2028) a sustainability report in accordance with jurisdictional standards based on IFRS S1 and IFRS S2, do you anticipate:

( ) To be able to avoid double reporting, by using incorporation by reference from the sustainability report prepared at group level in accordance with jurisdictional requirements.

( ) To be able to comply in a single report with the two frameworks, ensuring clear identification of the information that meets respectively the requirements in each of the two sets of standards, including the information that meets the requirements that are common to the two sets of standards.

( ) Not to be able to avoid double reporting, which means having to produce the same information in two standalone reports.

73) In this case, please specify how you plan to support understandability and identification of disclosures that meet the disclosure requirements in the respective frameworks.

74) Please explain why and illustrate the challenges you anticipate.

75) Please provide suggestions for amendments.

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

() Yes.

( ) No.

77) If applicable, please provide suggested improvements.

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

Background and context

This questionnaire seeks stakeholders' views on the use of references to EU laws and regulations in the ESRS-40a ED for third-country undertakings. The current 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, while also considering the level playing field, as ESRS reporters also have to apply these references when reporting on operations located outside the EU. Please note that the 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.

Where EU references contain concepts and terms that are not applicable in the jurisdictions where the undertaking operates, undertakings may have to adjust their reporting processes to adopt such concepts and terms and, if relevant, are expected to disclose methodologies, assumptions and estimates to ensure comparability. Reliefs in Chapter 7.3 and 7.4 are applicable.

78) For preparers, Do you think that referring to terms and concepts from EU legislation as the default framework is feasible?

( ) Yes.

(X) No.

79) If not, please specify which disclosure requirements you are referring to.

Please find attached an Excel file containing a list of disclosure requirements where you can provide your comments. Please note that comments are allowed also on disclosure requirements not mentioned in this file.

Please, download the file here.

A practical note, to correctly use the Excel file, please download it, complete the fields, and then upload the document.

Please upload the populated Excel File in this box.

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.

(X) No.

81) If no, please explain your reasoning.

We fundamentally disagree with the approach proposed with respect to references to EU laws and regulations. Imposing EU legal references on third-country parent undertakings and non-EU companies in their value chains and requiring them to operationalise concepts that are foreign from the legal frameworks of local jurisdictions results in a disproportionate effort to third-country groups.

In this regard, we do not share EFRAG's view that the practical challenges associated with applying terms and concepts derived from EU law are the same for third-country groups as for EU undertakings subject to the CSRD.

While this may be true at a purely conceptual level, third-country groups typically have the majority of their operations, value chains and business relationships outside the EU and are therefore more significantly exposed to the onerous and resource-intensive process of applying EU-derived concepts to non-EU contexts, i.e. the required gap analysis and additional disclosures where companies may need to rely on approximations or estimations. This disproportionate treatment is further aggravated when considering that third-country parent undertakings are inherently more attuned than to the applicable frameworks and concepts in their home jurisdictions than the concepts of a third-country jurisdiction such as the EU.

It should be clarified that the ESRS-40a only includes terms and concepts in EU law for reference purposes and does not impose these EU laws on non-EU groups. Relevant terms and concepts under applicable local law and/or internationally recognised standards shall prevail.

ESRS-40a 2 BP-1, paragraph 7 should be removed in its entirety. Paragraph 7 introduces a broad obligation to explain and reconcile differences between EU-derived concepts and third-country concepts, including approximations/estimations and boundary impacts. This is not necessary for achieving the objectives of ESRS-40a, would be operationally burdensome for non-EU groups, and risks creating an implied expectation to apply EU-law concepts extraterritorially.

Topic 5: Any other comment

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

- Omnibus I introduced the value-chain cap to protect smaller counterparties from disproportionate information requests. The absence of an equivalent safeguard for third-country groups means that SMEs become subject to potentially burdensome information requests, effectively reversing the co-legislators' intention. We therefore urge the Commission to consider how value chain proportionality can be achieved for third-country groups and EFRAG, within its scope of mandate, to make full use of the available mechanisms to limit disproportionate information requirements under ESRS-40a.

- Non-EU parent companies reporting at group level under ISSB standards and ESRS-40a should be able to consider making use of the CSRD's subsidiary exemption, as such group reporting would meet a comparable level of decision-useful information. This approach should be expressly enabled in ESRS-40a through corresponding ESRS-40a drafting.

- The definition and calculation methodology of turnover for Article 40a scoping remains unclear. Undertakings should be permitted to calculate turnover using a realistic and reasonable methodology based on the nature of their business and the data reasonably available to them. Rather than requiring a single calculation methodology, we recommend that the implementation guidance provide illustrative examples of calculation methodologies that undertakings may apply.

- The implementation timeline remains critical. Ideally, there should be a two-year buffer period between adoption and application. At a minimum, particularly if there are delays in the adoption of the standards, third-country undertakings should be provided the same transition period as EU undertakings under the revised ESRS.

- Implementation of ESRS-40a may precede the phased application of comparable sustainability-reporting requirements in third-country jurisdictions. EFRAG and the Commission should therefore provide transitional relief under which the relevant ESRS-40a disclosure is not required before the later of: (i) the date on which comparable disclosures become mandatory in the relevant third-country jurisdiction; and (ii) a final date specified in ESRS-40a.

PART 4 – DETAILED FEEDBACK PER STANDARD & PARAGRAPH

This field is mandatory if you indicated disagreement with EFRAG's implementation of the Accounting Directive; otherwise, it is optional. Therefore, if an error occurs, please upload the Excel file and include the required detailed feedback.

Answer in Excels for Part 2 - Topic 1 - Question 1.

1. Would you retain any deleted datapoints?
2. Do you have comments on deleted, amended or new paragraphs?

Please note that comments are not allowed on paragraphs that remained unchanged.

A practical note, to correctly use the Excel file, please download it, complete the fields, and then upload the document.

Please download the file Excel here

NOTE: The Excel File contains several validations. Please make sure to not break those validations. Only files with intact validations and not corrupted will be considered as valid by EFRAG Secretariat.

Please upload the populated Excel File in this box.

Thank you for taking our survey. Your contribution is very important to us.

You will receive an email with your submission in a few minutes. Please, also check your spam folder.