

## ANALYSIS OF THE PRELIMINARY COMMENTS OF TEG MEMBERS

### ESRS E3 – WATER AND MARINE RESOURCES

This paper presents an assessment of the comments provided by EFRAG SR TEG members (in the survey). Such assessment is considered preliminary orientation, is not final (the final views will be expressed by SR TEG members following the end of the consultation) and has been prepared in order to provide EFRAG SR TEG with a basis for the discussion and to allow to identify the topics **that have to be discussed** following the consultation and those for which possible changes could be approved by EFRAG SR TEG/Board members (where appropriate) in written. Views of TEG members are preliminary at this stage and may change following the presentation of the outcome of the consultation. If feasible, for the topics identified to be amended, the EFRAG Secretariat will start preparing a markup. All the changes to the EDs will be submitted for approval by the SR TEG/SR TEG (where appropriate and reflecting the allocation of decisions at TEG/SRB) in written or in meetings. Comments supporting the proposals in the ED have not been reported in this paper as they do not require actions/discussions.

#### **QUESTIONS FOR EFRAG SR TEG MEMBERS (will be asked in the meeting)**

A decision on the changes to the EDs will only be made after having assessed the results of the public consultation in September. However:

- a) some points of enhancements can already be identified and if feasible a markup can be already developed (on points that do not change the substance of the proposals). Those points are identified in the secretariat assessment as '**Draft to be amended**'. For these topics a written approval procedure is proposed in order to focus the discussion on more substantial points;
- b) some comments point in the direction of possible DRs/datapoints that may be considered as postponed to year 2 and they are identified as to be **considered in the phase-in**;
- c) some comments point in the direction of possible actions that are not compatible with the deadline of November (e.g. additional guidance on some aspects). They are identified as **not compatible with the November deadline**. Along the same lines, some items require an assessment of their feasibility by November and as such they are identified as **Feasibility for November to be assessed**;
- d) some comments require discussion as they require a possible change in the substance of the requirements. They are identified as '**to be discussed**'. In this case, the EFRAG SR TEG members are invited to provide their preliminary orientation in the meeting.

- 1) *Do you agree with the preliminary assessment by the EFRAG Secretariat? In case you disagree, please explain.*
- 2) *Please provide your view on the items 'to be discussed in TEG'.*

**G = general**

**1. SUGGESTED IMPROVEMENTS TO THE DRAFT**

#1	G	The ESRS as a whole need to have a consistent approach to due diligence (across environment, social...) consistent with UNGP / OECD MNE Guidelines due diligence. We should consider strengthening the CCS consistent with this goal.	<p>In the EDs just transition is conventionally located in the Social standards. This is to avoid mixing envt and social DR and because social impacts may come from other environmental issues (water scarcity for instance) and should not be repeated in several E standards. This point was already discussed in PTF.</p> <p>Insert a cross reference to ESRS S in all environmental standards.</p>	Draft to be amended.
#2	G	As for the the effects of risks and opportunities on the undertaking's development, performance and position over the short-, medium- and long- term and therefore on its ability to create enterprise value, it's difficult to measure without common methodologies, and therefore, difficult to be verified/assessed, to foster comparability across and within sectors and don't reach a reasonable cost/benefit balance	<p>This is a relevant datapoint for financial materiality which is also included in IFRS S1.</p> <p>Guidance may be developed at later stage.</p>	To be discussed and considered as part of the phase-in.
#4	G	Compared to E1 guidance given falls significantly behind, e.g. no comment on management incentivitation.	Indeed, there is no specific application guidance regarding remuneration but DR 2-GOV4 still applies as for all other topical standards. E1 AG is there to highlight the link with climate target and GHG emission reduction targets. It was not deemed relevant to specify further the incentive mechanism for pollution.	No action for November.

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#9	G	<p>With regard to requests related to "financial effects", specific guidelines are followed which support companies in reporting information on the potential effects of risks and opportunities deriving from environmental impacts and related dependencies. We also believe that it is important that threshold criteria are defined for the definition of the impacts and economic, which allow companies to decline these requirements in an operational manner in a homogeneous way, especially within the same sector.</p>	<p>Regarding financial effects: this is a relevant datapoint for financial materiality which is also included in IFRS S1.</p> <p>Guidance may be developed at later stage.</p> <p>Thresholds have not been contemplated at this stage because suitable criteria for all kinds of impacts and circumstances seem complex and would not be consistent with generally agreed standards.</p> <p>This of course does not prevent undertakings from applying a materiality assessment.</p>	<p>To be discussed in TEG and considered as part of the phase-in.</p>
#11	G	<p>Water, especially fresh water, is a resource very much linked to its local environment. Depending on the local state of freshwater resources, this will very much increase or decrease the materiality of the topic from a sustainability point of view for an undertaking. While the annex provides guidance on implementation of ESRS 2 IRO requirement that make the link to the local context / areas of water stress to be taken into account when assessing the materiality of water issues for an undertaking, it seems that many indicators displayed in ESRS E3 are not put in perspective with their local context. For instance on water intensity performance, the absolute number of withdrawals, consumption and water discharge will not have the same meaning if for a same amount, it occurs in an area of high water stress or not. The geographical / water-related context should be better integrated in the indicators in order to produce relevant information.</p>	<p>The draft already prescribes a geographical area approach but needs to be clarified further and reflect well the importance of fresh water consistently with GRI approach.</p>	<p>Draft to be amended.</p>
#12	G	<p>In case of most companies impacts on water lie in the value chain. Most undertakings don't have adequate information needed to fulfil performance measurement DRs in ESRS E3.</p>	<p>Water is deemed relevant for all sectors at least from a GRI and SFDR perspective.</p>	<p>To be discussed as part of the phase-in.</p>

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#14	E3-1	Scope overlaps: water discharge already covered by pollution of water ESRS E2 par 5: "Pollution of water covers disclosure requirements related to the undertaking's emissions into water (including groundwater), and prevention, control and reduction of such emissions and thus pollution." ESRS E should focus on facilities and not on products and supply chain that should be covered by G3 responsible products and supply chain. The line between Pollution and Water discharges should be better designed, could be all disclosed in Pollution.	Agreed that the articulation between environmental standards needs better scope definitions and articulation.	Draft to be amended.
#17	E3-1	There would be no need for a specific Paragraph: points b) and c) should be covered by G3; a) is covered in the title (management of water includes sourcing). ESRS are not an obligation to do but to disclose, it could be considered to use "may" instead of "shall". The reduction commitment should be disclosed under target section if any. Furthermore, chosen wording in ESRS 1 DP1 focuses on setting objectives and not commitments, it could be replaced to be aligned.		Draft to be amended.
#17	E3-1	Policies are required only when the IROs have been identified as material. Moreover, paragraph 15 is already addressed in Par 98 of ESRS 1. It could be deleted here except the last sentence that may be kept in the Application Guidance."		Draft to be amended.

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#14	E3-1	<p>APPENDIX GUIDANCE</p> <p>AG1 Introduction. Instead of saying that it could include an illustration, it could also say that or an explanation or whether and how the undertaking has considered the following points.</p> <p>AG1 b). The commodities could be defined so it can be better understood what to include.</p> <p>AG2 b). This should be covered by due diligence and G3 on responsible products and supply chains.</p> <p>AG3. Must be located in G3 not in E3: this AG is applicable to all suppliers whatever the impacts.</p> <p>AG6. This should be a debate between preparer and auditor, not a disclosure.</p> <p>AG12. The second "the" should be deleted.</p> <p>Application Guidance on PTAPR could probably be simplified; for instance, AG21 is too detailed and could be deleted. "</p>	Valuable comments on form and articulation which are under reflection to be onboarded in updated drafts for harmonisation and consistency.	Draft to be amended.
#18	E3-2	<p>Modal verbs to express obligations could be avoided and replaced by descriptive linkers or suggestive modal verbs. ESRS cannot mandate the undertaking to set target, only to disclose them. For instance:</p>	Agreed for this and in general on the right level of balance to reach between main body and application guidance which should be illustrative and not compulsory.	Draft to be amended.
#18	E3-2	<p>The disclosure required by paragraph 19a) relates to targets for the reduction of the undertaking's water management withdrawals, consumptions, and/or discharges (general or priority substances of concern).</p>		N/A
#18	E3-2	<p>The disclosure required by paragraph 19b) may relate to targets for: use of commodities, reduction of waste, land change, etc.</p>	Those matters are addressed in ESRS E2 and ESRS E4.	N/A
#24	E3-4	<p>The use of the word "management" could bring confusion with the Implementation part, which also covers management of the IROs, whilst in this section the topic is about performance. It could be: "Water withdrawals and consumptions". As already stated, water discharged should be referred to E2.</p>	Ok to reconsider title and clarify boundaries.	Draft to be amended.

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#24	E3-4	Water discharges in m3 as it is disclosed with ESRS E2 Par 36(a) "the total amount of emissions in a defined period, using standard measures such as tons, kilograms, cubic meters". Disclosures c) and d) should be under E2 and not E3, point d) is only possible to be disclosed at sector specific level, as comparability between sectors is not possible at this level of detailed impacts. For paragraph 20, a) should be merged with 28 and b) located in the Application Guidance, as it is a marginal disclosure.	Boundaries need clarification but water discharge seem well located under ESRS E3, also given the importance of the geographical area.	To be discussed.
#29	E3-5	Performance could be replaced by "per net revenue"; intensity is broader (per unit of production) and per net revenue is not the best performance indicator. The reason for this one is SFDR and not really performance management.	SFDR indicator, terminology to be consistent.	Draft to be amended.
#39	E3-6	I suggest that financial effects are disclosed as "high, medium, low" for example, but not in monetary terms, since it's very sensitive information that could be misinterpreted until there is common and transparent methodology available. Otherwise, the results will vary between companies and would be difficult to understand from a stakeholder perspective. Another option is to phase in these disclosures until such methodologies are available.	This is a relevant datapoint for financial materiality. Guidance may be developed at later stage.	To be considered as part of the phase-in.
#36	E3-6	Does not take into account trickle-down effect on SMEs. Too complex		To be discussed.
#41	E3-7	Information is forward looking and based on estimations and assumption. Thus hard to verify.	This DR responds to the need to cover the financial materiality (financial effects) and is the same in all the E standards.	To be discussed.

**2. TOO MANY DR / GRANULARITY / COMPLEXITY / COST-BENEFIT**

#9	G	The information related to the value chain on environmental issues requires a gradual approach to allow companies belonging to the value chain to implement adequate systems for collecting and controlling the required data. It is therefore suggested to adopt a "phasing approach" for the following requirement.	Value chain is also where the key impacts, risks and opportunities sometimes sit. To be duly considered, with probably a phased-in approach.	To be considered as part of the phase-in.
#9	G	Suggest providing higher flexibility concerning the time horizon of interim targets	Time horizon of targets is not very specific and actually leaves flexibility. Interim targets can be added withing the broader pre-defined time ranges.	No actions for November.

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#14	E3-1	Withdrawals, consumptions, discharged, water risks for water + discharges and emissions ending up in the oceans would be sector agnostic topics, however, activities in maritime areas; by definition, would be sector specific. Water is probably a material topic for all sectors as water ends up into oceans but marine resources as such should probably be defined on a more limited scope and remain a sector specific subtopic.	Marine resources are often addressed as specific materials or under biodiversity.	To be discussed.
#16 #20 #23 #28 #41	E3-1 E3-2 E3-3 E3-4 E3-7	Water and marine resources are not material topics to all sectors - i.e. service sectors among others.	Water is deemed relevant for all sectors at least from a GRI and SFDR perspective. Disclosure requirements and datapoints may need to be discussed individually.	To be discussed.
#15	E3-1	Not expected to be material in many industry areas and service sector, where water consumption hardly exceeds personal use of company individuals	Water is deemed relevant for all sectors at least from a GRI and SFDR perspective. Value chain is key. Disclosure requirements and datapoints may need to be discussed individually.	To be discussed.
#19 #26 #31	E3-2 E3-3 E3-4 E3-5	Not expected to be material in many industry areas and service sector, where water consumption hardly exceeds personal use of company individuals	Water is deemed relevant for all sectors at least from a GRI and SFDR perspective. Value chain is key. Disclosure requirements and datapoints may need to be discussed individually.	To be discussed.
#21	E3-3	Not sure about the feasibility of disclosing the resources allocated to the action plans' implementation. Sometimes the forecasting is not so granular, and in terms of the number of people allocated, it's difficult to measure their involvement, since they most likely will be assigned to more than one project		To be discussed.
#23	E3-3	Action plans in general might not be prepared by already by the first year of disclosure.	Phased-in implementation may be considered.	To be discussed as part of the phase-in.
#25	E3-4	Some of the information needed for metrics such as: water recycled or reused, water stored...is going to be difficult to collect without changing the operational systems that can measure those impacts. This is going to take time.	.	To be discussed as part of the phase-in.
#27 #32	E3-4 E3-5	This information should be provided specifically for the areas with high water stress	Indeed, this should be the case and the wording of the standard may not reflect it properly.	Draft to be amended.
#30	E3-5	I agree that water intensity performance metrics are interesting for the stakeholders but talking about decoupling the net turnover for from withdrawal, consumption and discharge of water, it too ambitious	This is the principle to be followed and rationale for the disclosure requirement per say but does not lead to disclosure.	N/A
#34	E3-6	I don't think it's applicable to all sectors.	Water is deemed relevant for all sectors at least from a GRI and SFDR perspective. Value chain is key.	To be discussed.

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#37	E3-6	Possible no performance to report year one.	Phased-in implementation to be considered.	To be discussed as part of the phase-in.
#33	E3-6	Paragraph 35, disclosure b); "provide reference when relevant to". Material substances of concern are only possible at sector specific level. Comparability between sectors is not possible at this level of detailed impacts.	It will not be applicable to all undertakings, but materiality assessment allow undertakings not to disclose.	To be discussed.
#35 #40	E3-6 E3-7	Not sector agnostic, material only in industry areas and service sectors, where shipping, fishing or usage of marine resources are of relevance.	Marine resources are often addressed as specific materials or under biodiversity.	To be discussed.
#38	E3-7	The undertaking may include an assessment of the market size of related products and services at risk over the short-, medium-, and long-term, explaining how these are defined, how financial amounts are estimated and which critical assumptions are made. The evaluation, even if limited only to the activities for which the resource is material, could be affected by significant uncertainties, especially in relation to the significance of the market prices of the water resource (compared to its real systemic value). The use of future scenarios relating to its availability and / or quality conditions (e.g. Aqueduct 2030-50 maps or similar) could only be of (qualitative) direction to estimate the economic effects on operating activities (e.g. lack of production). "	This is a relevant datapoint for financial materiality.  Scenario analysis and assessing markets size indeed are delicate elements which indeed need more guidance to be developed.	To be considered as part of the phase-in and discussed and to be discussed in TEG.

**3. ALIGNMENT WITH INTERNATIONAL STANDARDS / WITH EU REGULATIONS**

#5	G	Large overlap with Taxonomy - approach commission to replace disclosures under Art. 8 by inclusion into ESRS		Amending other EU regulations is not in the mandate of EFRAG.	Not to be considered.
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#6	G	No visible efforts for alignment with ISSB		<p>The architecture derives from cross-cutting standards.</p> <p>More specifically on Water, there is no standard developed by the ISSB, so no alignment possible.</p> <p>However, further consistency with TNFD is sought.</p>	To be discussed.
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