

## ANALYSIS OF THE PRELIMINARY COMMENTS OF TEG MEMBERS

### ESRS E4 – BIODIVERSITY AND ECOSYSTEMS

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/SRB (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.

#### **QUESTION FOR EFRAG SRT 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**

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	<b>DR</b>	<b>COMMENT</b>	<b>EFRAG SECRETARIAT PRELIMINARY ASSESSMENT</b>	<b>CONCLUSION / TO DO</b>

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#13	E4-1	Paragraph 12 about ensuring that BM is compatible with the transition is already required to be disclosed in ESRS 1 SBM 3 and 4 for material matters. Thus think this DR could be removed and an AG could be added to precise SBM 3 and 4 if the undertaking wants to add something or it could be a DR on policies only.		No actions for November.
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#13	E4-1	In the application guidance, all paragraphs refer to policy disclosures and are redundant with DR E4-2, particularly AG3 with paragraph 21 and following.		Draft to be amended, if feasible in time for the deadline of November.
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#13	E4-1	Recommend that paragraph 16 applies only if the materiality is confirmed.	If the undertaking doesn't rebut the presumption for the entire ESRS, biodiversity is material. In this case, if this specific datapoint can be rebutted, the undertaking will simply not include this info (implicit non-materiality statement). If biodiversity is not material (rebuttable presumption at the ESRS level), the undertaking shall simply state this fact and is not requested to disclose this datapoint. The rebuttable presumption already provides a remedy for this issue. No separate discussion of this issue is needed, in addition to the general discussion on rebuttable presumption/mandatory DRs.	No actions for November.
#9	E4-2	Believe paragraph 21 is too prescriptive as undertakings are free to define what their policies address and as policies are mainly a general objective. Thus, think splitting the policies into 7 requirements (from (a) to (g)) is not necessary. Suggest the following phrasing : "The undertaking shall describe its biodiversity policy , including its general objectives which may relate to :." and then continue with the 7 points.	This structure has been designed to facilitate digitalization, hence this would produce comparable information (semi-narrative).	To be discussed
#9	E4-2	The listing of all possible actions in paragraphs 22, 23 and 24 will oblige preparers to answer to all items. Therefore, think the words "shall provide" should be replaced by "may provide" as actions are voluntary and not mandatory.	To be discussed.	To be discussed.
#14	E4-3	In paragraph 31 think that the phrasing should be "The disclosure required by paragraph 28 may relate to:" (instead of "shall include targets related to").	Or "... shall be classified by..."	To be discussed.
#14	E4-3	In paragraph 34, there is an error in the paragraph number mentioned (it is not 27).	Draft to be amended.	Draft to be amended.
	E4-3	Think paragraphs 31 and 32 are too prescriptive. They include four targets mandatory to disclose.	On §32: This reflects the mitigation hierarchy and is again easily digitized and therefore generates comparable information	To be discussed

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#14	E4-3	In Paragraph 34e, do not understand why the undertaking should list the relevant legislation if they are mandatory.	Can be deleted, assuming the approach is similar across all E-Standards.	Draft to be amended (provided it is comparable across all E-Standards)
#35	E4-4	Think paragraph 40 is redundant with ESRS 1 DP3, it could then be removed.		Draft to be amended, if feasible in time for the deadline of November.
#5	E4-4	Think the list of description requirements in paragraph 42 is too long with some repetitions and too granular, it could be simplified.	Check to streamline language without losing relevant content.	Draft to be amended, if feasible in time for the deadline of November.
#35	E4-4	Think paragraph 42a is the same as ESRS 1, paragraph 104b, it could be removed.		Draft to be amended, if feasible in time for the deadline of November.
#35	E4-4	Think paragraphs 42e, 42f, 42g and 42h could be grouped and moved to the application guidance with the phrasing “may” instead of “shall”.		Draft to be amended, if feasible in time for the deadline of November.
#15	E4-4	Think paragraph 42 misses one requirement on the allocated resources to the action plan (with a link to the EU Taxonomy Capex and Opex).	Draft to be amended.	Draft to be amended, if feasible in time for the deadline of November.
#6	E4-5	Think paragraphs 48, 49 and 50 could be merged into one paragraph with 3 sub-topics.	Draft to be amended.	Draft to be amended.
#16	E4-6	In paragraph 53, believe we should require the number of sensitive locations of the undertaking instead of metrics on impacts.	To be discussed. New guidance on metrics has been published by Align / TNFD. Needs to be checked and aligned.	To be discussed.
#16	E4-6	In paragraph 55, think the requirement of the assessment of the impact has already been done in AG 10 to AG 27 (impact, risk and opportunities).	Draft to be amended and content possibly merged with AG in ESRS 2 SBM 4..	Draft to be amended, if feasible in time for the deadline of November.
#36	E4-7	Think DR in E4-7 are already covered by DR E4-4 in actions plans.	Check Align and TNFD-approach to metrics.	Draft to be amended (provided it is consistent with TNFD)
#17	E4-8	DR E4-8 could be in ESRS G3 on sustainable products and supply chains.	To be discussed in TEG. Align with E1-14.	To be discussed
#20	E4-8	This disclosure requirement should not be optional in case the undertaking is connected to material impacts on biodiversity.	Agree.	Draft to be amended.
#37	E4-9	Wondering if it is not redundant with Climate change standard on offsetting	To be discussed.	To be discussed.

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#2	E4-10	In Paragraph 69, it is required that the undertaking assesses the market size related to risks over products and services, but the market size is used to assess an opportunity not a risk. Recommend replacing the market size evaluation by the disclosure of the current year turnover made with harmful products. It is the concept of business activities at risk or the “brown Taxonomy”.	To be discussed. Align with E1-17.	To be discussed.
#18	E4-10	In a context in which the regulatory framework and the methods of analyzing impacts / dependencies are not yet defined and standardized, believe that disclosure on potential financial effects is not easy and would lead to reporting financial data that incorporate numerous hypotheses and assumptions that may differ essentially between different companies. Therefore, specific guidelines are required to support companies in reporting information on the potential financial effects of risks and opportunities deriving from impacts and dependencies related to biodiversity, on the development, performance and position of the company in the short, medium and long term.	Additional guidance to be developed at later stage. Ensure TNFD-alignment.	To be considered as part of the phase-in.
#12	E4-10	Biodiversity and ecosystems-related specific application guidance on ESRS 2 Disclosure Requirements IRO 1 and IRO 2 on materiality assessment - AG 10 -AG 19 Physical and transition risks can be identified for direct activities, albeit with an important effort given the lack of consolidated standards and in consideration of the continuous evolution of the topic. For indirect activities (supply chain in particular) it is believed that only some sectors are able to identify their risks for direct suppliers of commodities (especially in the case of direct agricultural supplies), it is instead considered absolutely complex to identify the risks related to complex and global supply chains such as those relating to products (in the case of utilities such as photovoltaic modules or wind generators). Finally, the identification of those systemic risks, eg. ecosystem collapse, which have not already been identified by relevant institutions and therefore not already included in transition risks."	CSRD takes a value chain approach. Data landscape will improve, e.g. via new tools like the WWF Biodiversity Risk Filter.	Systemic risks to be discussed, if feasible for November.
#4	E4-10	Does not take into account trickle down effect on SMEs. Too complex.	The need to include a DR on the potential financial effects is imposed by the CSRD (to cover financial effects stemming from risks and opportunities).	No actions for November.



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

#21 #22 #23 #24 #25 #26 #27 #28 #29 #30	E4-1 E4-2 E4-3 E4-4 E4-5 E4-6 E4-7 E4-8 E4-9 E4-10	I think it's too ambitious, given that biodiversity is a field where only recently companies have started working on and there's a lot of work to do in terms of developing measurement methodologies, KPI, work plans, strategies....I think the biodiversity disclosures should be phased in at least two years	Belen Varela Nieto		To be discussed as part of the phase-in.
#13	E4-1	Not material at sector-agnostic level: Wonder if this DR is sector-agnostic as no net loss doesn't concern all undertakings.	Eric Duvaud	To be discussed.	To be discussed.
#13	E4-1	Wonder if "transition plan" is not a too high requirement as biodiversity matters are not as mature as Climate change ones. Biodiversity policies could suffice.	Eric Duvaud	To be discussed.	To be discussed.
#13	E4-1	The targets mentioned in the title of the DR are State targets and not undertaking targets.	Eric Duvaud	To be discussed.	To be discussed.
#13	E4-1	Not material at sector-agnostic level: In Paragraph 14, we are elevating biodiversity as a strategic matter for all undertakings which is not currently the case.	Eric Duvaud	To be discussed.	To be discussed.
#39 #40 #41	E4-2 E4-3 E4-10	Not material at sector-agnostic level: Biodiversity is not material to all sectors - i.e. service sectors.	Johan Dahl	To be discussed.	To be discussed.
#38	E4-1 E4-3 E4-4 E4-5 E4-6 E4-7 E4-8 E4-9 E4-10	Not material at sector-agnostic level: Topic is likely to be of low materiality to several industries and sectors, including most services --> in many cases a protective policy under E4-2 would be sufficient to keep impacts minimal.	Klaus Hufschlag	To be discussed in TEG.	To be discussed in TEG.

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#7	E4-2	<p>Too many details required to disclose- Will all this information be requested for?</p> <p>"shall provide information on how the policy allows the undertaking to: (c) restore/rehabilitate degraded ecosystems or restore cleared ecosystems following exposure to impacts that cannot be completely avoided and/or minimised; (d) compensate for residual impacts (impacts that cannot be completely avoided and/or minimised and/or restored on site) by means of offsets; and (e) mitigate material biodiversity loss drivers as disclosed in the section dependencies, impacts, risks and opportunities.</p> <p>etc....."</p>	Johan Dahl	To be discussed.	To be discussed.
#11	E4-3	<p>The targets disclosed under paragraph 27 shall include where applicable: (a) regarding the timeframe of the target: short-term relates to 1-5 years from the baseline year, medium-term to 5-10 years and long-term to 10 years and more, but no later than 2050; (b) a presentation with milestones including a set date in 2030;</p> <p>Believe it is reasonable to identify the 2030 targets for the direct impacts of businesses, taking into account the difficulties related to the current evolution of the regulatory environment. With regard to the supply chain, the tools to support the analysis of impacts are not yet sufficiently mature to allow their identification for all supply chains.</p>	Giulia Genuardi	To be discussed.	To be discussed as part of the phase-in.
#11	E4-3	<p>Point out that the 2050 targets are useful as a trend, but considering the time horizon so far it is complex to estimate the data in a timely manner"</p>	Giulia Genuardi	To be discussed.	To be discussed.
#8	E4-3	<p>"Too many details required to disclose. Will all this information be requested for?</p> <p>Action plans in general might not be prepared already by the first year of disclosure"</p>	Johan Dahl	To be discussed in TEG.	To be discussed as part of the phase-in.

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#19	E4-4 E4-8 E4-9 E4-10	In areas with low underlying impact, action plans will be rather greenwashing to distract from other topics than true action.	Klaus Hufschlag	If the materiality assessment is properly performed this is not a real risk. If not material, undertaking may omit (rebuttable presumption).	No actions for November.
#31	E4-5	Information might not be available already by the first year of disclosure.	Johan Dahl	To be discussed	To be discussed as part of the phase in.
#3	E4-5 E4-6 E4-7 E4-8 E4-9 E4-10	E - metrics need to be defined, currently pure expert topic, will most likely overburden smaller companies	Klaus Hufschlag	To be discussed.	To be discussed: feasible for November?
#32 #33 #34	E4-6 E4-7 E4-8	This information will most likely be hard to gather and process in the first couple of years.	Johan Dahl	To be discussed.	To be discussed as part of the phase-in.
#1	E4-10	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 of the economic impact related to biodiversity requires the definition of criteria and thresholds that make it possible to evaluate and compare the economic impact. More generally, many of the requirements contained in the following standard should be accompanied by sectoral guidelines in order to allow companies to implement these requirements in an operational manner and allow for the application of the homogeneous standard within the sectors.	Giulia Genuardi	Guidance to be developed in future steps.	No actions for November.
#42	E4-10	Not material at sector-agnostic level: "Biodiversity is not material to all sectors - i.e. service sectors. Information is forward looking and based on estimations and assumption. Thus hard to verify."	Johan Dahl	To be discussed in TEG.	To be discussed in TEG.