

ANALYSIS OF THE PRELIMINARY COMMENTS OF TEG MEMBERS

ESRS E5 – RESOURCE USE AND CIRCULAR ECONOMY

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

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#3	E5-1	<p>I think that paragraph 19 is unnecessary as it is already addressed in paragraph 98 of ESRS 1. Should paragraph 19 be kept, the sentence “If the undertaking does not disclose the information required by paragraph 17, because it does not believe it has material impacts, risks or opportunities in relation to resource use and circular economy” is not appropriate. This case is not necessary as policies are only required when impact, risks and opportunities have been identified as material.</p>			Draft to be amended.
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#3	E5-1	I think paragraph 20 is unnecessary as it is already addressed in ESRS 1 DP1. Should paragraph 20 be kept, I think “commitments” should be replaced by “objectives”, according to ESRS 1.			Draft to be amended.
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#19	E5-1	<p>The objective of this [draft] Standard is to specify disclosure requirements which will enable users of the sustainability statements to understand how the undertaking affects resource use, including the depletion of non-renewable resources and the regeneration of renewable resources (referred to in this [draft] standard as “resource use and circular economy”) in terms of positive and negative material actual or potential adverse impacts.</p> <p>It would be useful to clarify from the beginning the concept of "resource" that should concern not only raw material, but also fuels and renewable sources. In this ED seems that are only considered resource used for manufacturing products but also the use of energy (e.g. fuel), for asset/infrastructure (e.g. equipment used for manufacturing) .</p>		<p>The definition provided is “Natural assets (raw materials) occurring in nature that can be used for economic production or consumption. (OECD Glossary of Statistical Terms)”. This includes renewable sources but energy is addressed under ESRS E1.</p>	<p>To be discussed.</p>
	E5-1	<p>To evaluate the transition from linear to circular ecosystem, this [draft] Standard relies on the identification of resources, materials and products physical flows used by the undertaking and the share of circularity achieved through ESRS E5 Disclosure Requirement 4 Resource inflows, Disclosure Requirement 5 Resource outflows and Disclosure Requirement 6 Waste.</p> <p>It could be useful to add some examples to guide companies in the identification of resources to be considered (also according to the position of the value chain). For example:</p> <ul style="list-style-type: none"> - Original Equipment Manufacturer: material used for products, material used for production equipment purchased, material related to energy consumed during production etc.) - Customer (e.g. utilities): material related to equipment purchased, material related to energy used in the operation (or produced for energy utilities) etc 		<p>Guidance or further references/examples may be developed. Prioritisation may need to be considered.</p>	<p>Draft to be amended only if feasible for November, otherwise it will be for next steps.</p>

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	E5-1	<p>AG 4. With regards to risks and opportunities, the undertaking shall disclose:</p> <p>(a) a list and prioritisation of the natural resources used by the undertaking based on the evaluation of the remaining resources and the negative externalities resulting from the use of resources;</p> <p>(b) a description of the resulting short-, medium- and long-term strategic implications for its business model and strategy.</p> <p>It would be useful to detail more the key parameters to evaluate negative externalities (e.g. CO2 emissions, waste production ... social issues etc). Moreover in the definition of the priority list is fundamental to consider also geopolitical risk, price risk. Point b) is fundamental to identify the priority list of material. In general would be useful to detail the criteria to be considered to identify the priority list of material.</p> <p>Resource use and circular economy-related specific application guidance on ESRS 2 Disclosure Requirements IRO on impacts, risks and opportunities</p>		<p>Guidance or further references/examples may be developed. Prioritisation may need to be considered.</p>	<p>Draft to be amended only if feasible for November, otherwise it will be for next steps.</p>
	E5-1	<p>“AG 5. The description of the process to identify and assess sustainability impacts, risks and opportunities shall cover: “</p> <p>For companies that are not manufacturer the procurement processes are fundamental to identify impacts (e.g. requiring EPD, material passport etc) and to improve circularity through tender requirements/rating factors on circular economy etc.</p>		<p>Indeed, well included in AG5. (b)</p>	<p>N/A</p>
#23	E5-2	<p>I think requirements in Paragraph 24a,b,c (outcome-orientated target, link of material impacts with targets and scope) don't bring new content and are already covered in ESRS 1 DP2.</p>			<p>Draft to be amended.</p>
#18	E5-2	<p>Paragraph 25 provides a classification of targets. This is too prescriptive. I fear that we could miss some circularity-related targets and I propose that we let open the possible targets. Instead of “The resource use and circular economy targets above-mentioned shall be classified in the following categories:” I suggest the following phrasing: “The disclosure required by paragraph 21 may relate to the following targets: a,b,c,d”.</p>		<p>The classification of targets allows to give information on the type of targets required. Alternatively, those elements could be considered as application guidance.</p>	<p>To be discussed.</p>

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#18	E5-2	As regards 25a, I would limit the target to eliminate waste to its own operation (and not during use phase and at end of functional life). I would also suggest to add another category: objective of green turnover based on substantial contribution to circular economy (based on the EU Taxonomy ratio).		Paragraph 25 is about classification, it does not mandate a target in the value chain but rather requires to clarify the scope of the target which may well be on own operations.	To be discussed.
#20	E5-2	Refer to paragraph 24, it's important that the targets cover all the business activities focusing on the core business lines.		Paragraph 100 (c) of ESRS 1 describing Disclosure Principle 1-2 should cover this concern	N/A
#20	E5-2	It's important also to consider aggregated indicator that measure overall Company performance. A key aggregate indicator that measure the key benefits of circular economy evaluate the resource consumption and compare it vs. business performances. It represents the resource productivity and measure the decoupling of business activities from resource consumption.		Indeed targets on resource use in absolute value and intensity could also be considered – in the current classification or as illustrative guidance. This is well addressed in paragraph 17 for policies.	To be discussed.
#20	E5-2	Regarding AG 11, another key lever can be a procurement strategy that increase circularity (e.g. with tender requirements, reward factors etc).		Illustrative guidance could be added in Disclosure Requirement E5-1.	To be discussed.
#24	E5-3	I think the "resources allocated" to the action plan would also be relevant and should be added in the disclosure requirement.		This is already covered by paragraph 105 of ESRS 1, it is not obvious why additional guidance is required in ESRS E5.	No actions for November.
#14	E5-3	Paragraph 27 drafting is too complex and could be simplified. For example, the sentence “develop circular business models fostering the transition to a more circular economy” mentions two times the “circular” concept, one could be deleted?			Draft to be amended.
#36	E5-3	Paragraph 29 is already covered by ESRS 1 DP3 and can be deleted.			Draft to be amended.

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#25	E5-4	Resources inflows should be linked to key resources in ESRS 2 / DR2 GR3 on key features of value chain (key resources).		Terminology from DR2 GR3 is consistent with Disclosure Requirement E5-6. However, there are some inconsistencies between the main body and the application guidance which needs redrafting.	Draft to be amended.
#25	E5-4	In Paragraph 33a, I'm not convinced that requiring the "overall total weight of material" will bring value to users; it should only be required for key resources used by the undertaking and not as a total weight but rather by category of materials.		Total weight of material used is required by GRI 301-1, along with the split between non-renewable and renewable.	N/A
#25	E5-4	In Paragraph 33b, should we include recycled materials in "renewable input materials" or not?		Indeed para 33 failed to be rightly aligned with changes made in AG, it should read: (b) the weight in both absolute value (tons) and percentage of renewable input materials used to manufacture the undertaking's products and services (including packaging); and (c) the weight in both absolute value (tons) and percentage, of reused or recycled input materials <u>used to manufacture the undertaking's products and services (including packaging)</u>	Draft to be amended.

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#25	E5-4	In paragraph 33c, I do not understand why the “reuse or recycled input materials used” only concerns packaging materials of the undertaking.		Indeed para 33 failed to be aligned with changes made in AG, it should read: (b) the weight in both absolute value (tons) and percentage of renewable input materials used to manufacture the undertaking's products and services (including packaging); and (c) the weight in both absolute value (tons) and percentage, of reused or recycled input materials <u>used to manufacture the undertaking's products and services (including packaging)</u>	Draft to be amended.
#1	E5-4	Suggest to include the whole resources used by a company and not only the materials related to product manufacturing. In general a company could present one or more of the following cases: 1) impact through manufacturing activities 2) impact through asset procurement for own business activities 3) impact through asset procurement for retail activities: asset that are bought only to be sold from the Company. In all of these cases circular is relevant, but the distinction is important because in the second and third cases the role of suppliers should be strongly highlighted.		This proposal seems very granular, as assets procured covers a wide range of assets for which companies may not always have the information. Is it not rather sector-specific?	To be discussed.
#1	E5-4	Regarding AG.18, in order to evaluate the total resource consumption, it's fundamental to consider the material related to asset/infrastructure (e.g. production facilities) and energy.		Energy is covered in ESRS E1. Regarding assets and infrastructure, this is very interesting but also very granular, and may be sector-specific?	To be discussed.

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#21	E5-5	The use of the name "Resource outflow" for this section can be misleading considering that some of the requirements (e.g. durability, reparability) don't generate an outflow for companies that are using these asset (e.g. utilities). This part is related to design and could be included as further requirement in the "Resource inflow" section.		Concistency with Circulytics. Could be merged in one disclosure requirement but information both on inflows and outflows is of utmost importance.	N/A
#21	E5-5	Regarding requirement of paragraph 37, it would be useful to further details this requirement in order to make them more objective.		Illustrative guidance could be added in Disclosure Requirement E5-5.	Draft to be amended, if feasible in time for the deadline of November.
#26	E5-6	In Paragraph 41c, we should replace "averted to" by "directed to" to clarify what we mean.		Agreed and consistent with GRI comment.	Draft to be amended.
#22	E5-6	The concept of waste is only part of the resource outflow. It would be more complete to rename the section as ""Resource outflow"" and review accordingly the definitions in the paragraph. For example circular models as reuse of still functioning product/equipment (e.g. platform to resell used products, or still new and unused products in inventory) through resell to other customers don't deal with waste.		"Resource outflows refers to all materials and products that a company puts on the market." According to the Exposure Draft. This is different from waste, which is defined as "Any substance or object which the holder discards or intends or is required to discard." Waste can be diverted from disposal and sometimes become an outflow.	Draft to be amended to clarify the articulation of concepts.

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#22	E5-6	Regarding paragraph 41, is not clear the relation with the previous indicators. Moreover, if include only non recycled waste it doesn't give a correct representation of circularity because it include in the ""not-recycled part"" circular (e.g. reuse) and not circular (e.g. landfilling) options.		<p>“Resource outflows refers to all materials and products that a company puts on the market.”</p> <p>According to the Exposure Draft. This is different from waste, which is defined as “Any substance or object which the holder discards or intends or is required to discard.”</p> <p>Waste can be diverted from disposal and sometimes become an outflow.</p>	Draft to be amended to clarify the articulation of concepts.
#29	E5-7	In general, the requirement in AG 35 and 36 are not clear in terms of application, so we request more details to guarantee faithful information and comparability.		Illustrative guidance could be added in Disclosure Requirement E5-7.	Draft to be amended, if feasible in time for the deadline of November.
#37	E5-8	This DR should be merged with E5-2 & 3.			Draft to be amended.
#38	E5-8	Redundancy with other DR? i.e. could be included in action plans?			Draft to be amended.
#5	E5-9	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. The opportunity section could be merged to DR E5-7.	To be considered as part of the phase-in and discussed.
#31	E5-9	This DR on potential financial effects is very poor with no AG. "shall" is used in par 53 but then it is only followed by a "may" in Par 55 about risks. This seems to be inconsistent. It is required that the undertaking disclose its “opportunities arising from resource use and circular economy-related impacts and dependencies”. We don't see any opportunities neither in the following paragraph nor in the AG. The word "opportunities" should be deleted.		This is a relevant datapoint for financial materiality. Guidance may be developed. The opportunity section could be merged to DR E5-7.	To be considered as part of the phase-in and discussed.

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#32	E5-9	In Paragraph 55, 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. We recommend to replace the market size evaluation by the disclosure of the current year turnover made with harmful products. Here we refer to the concept of business activities at risk or to the so called "brown Taxonomy".		This is a relevant datapoint for financial materiality. Guidance may be developed. The opportunity section could be merged to DR E5-7.	To be considered as part of the phase-in and discussed.
#30	E5-9	Regarding requests related to "financial effects," specific guidelines are required to support companies in reporting information on the potential financial effects of risks and opportunities arising from resource use and circular economy-related impacts and dependencies		This is a relevant datapoint for financial materiality. Guidance may be developed. The opportunity section could be merged to DR E5-7.	To be considered as part of the phase-in and discussed.
#42	E5-9	Requirement needs to distinguish companies who make business as an enabler of circularity and companies who themselves produce circular goods.		To be covered in the sector specific standards.	No actions for November.
#15	E5-9	Does not take into account trickle down effect on SMEs. Too complex			To be discussed.

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

#39	E5-1	For some sectors, circular economy implies changes to the business model that are not easy/quick to deploy. In some cases, technology is needed to really become a circular company so this standard could only be implemented to a certain extent.		Indeed, not all companies will have actions to highlight E5-7 and E5-8, which is also true for all standards and which is fine as this is about transparency.	To be discussed.
#40	E5-2				
#41	E5-3				

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#2	E5-1	I don't understand the rationale for the 2 separate policies: (i) to decouple economic activity from extraction of non-renewable resources and (ii) for regeneration of renewable resources and ecosystems). I would suggest only one policy in paragraph 17 potentially covering the following objectives depending on the sectors: (i) resource efficiency in operations ; (ii) ecodesign of products and services (including new business models) ; (iii) waste recycling I think that ecodesign should be included as a key driver of resource efficiency."		The two separate paragraphs build on the underlying principles of the Platform on Sustainable Finance report which are reminded in the Objective section of the standard.	No actions for November.
#43	E5-1	Too many details requested for.		There is no more than Disclosure Principle 1-1.	N/A discussion on ESRS 1
#43 #44 #46 #47	E5-1 E5-2 E5-7 E5-9	This topic is not material to all sectors. i.e service sectors, financial sectors		Materiality assessment will be made by undertakings with the possibility to use the rebuttable presumption where needed. All the disclosure requirements are meant to be sector-agnostic.	To be discussed.
#7 #8 #9 #10 #11 #12 #13	E5-1 E5-2 E5-3 E5-4 E5-5 E5-6 E5-7	Very limited applicability for companies not producing physical goods, e.g. service industries, as every company produces at least some waste, will end up in immaterial reporting; E - under 'rebuttable presumption' its a reporting burden for companies, who want to report under E5-8 and E5-9.		Materiality assessment will be made by undertakings with the possibility to use the rebuttable presumption where needed. All the disclosure requirements are meant to be sector-agnostic.	To be discussed.

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#45	E5-6	This topic is not material to all sectors. Even though all sectors have waste, it is not material for all sectors to report on. I.e. office waste, waste from canteen etc.	Johan Dahl	Materiality assessment will be made by undertakings with the possibility to use the rebuttable presumption where needed. All the disclosure requirements are meant to be sector-agnostic.	To be discussed.
#33	E5-5	Concepts such as durability, reusability and upgradability are product features some sectors are starting to implement, not all the information requested will be available when this standard is implemented		Materiality assessment will be made by undertakings with the possibility to use the rebuttable presumption where needed. All the disclosure requirements are meant to be sector-agnostic.	To be discussed.
#17	E5-2	We suggest providing flexibility to companies in determining additional targets to the categories above, for example, an aggregate target that measures the circularity of the overall undertaking.		This flexibility does exist, may be clarified.	Draft to be amended.
#16 #35	E5-3 E5-5	Action plans in general might not be prepared already by the first year of disclosure		Phased-in implementation may be considered.	To be discussed as part of the phase-in.
#6	E5-5	In Paragraph 37 it is written that the information on the resource outflows “shall include the amount in both absolute and percentage terms of material and products that are designed along circular principles”. I question the feasibility of this requirement, especially if the undertaking has a long list of outflows. I recommend to only require information about the most significant outflows. The disclosure could also be expressed in percentage of turnover like in the EU Taxonomy.		Undertakings may use materiality to focus on the significant amount. More clarity could be provided in the draft	Draft to be amended.
#47	E5-9	Information is forward looking and based on estimations and assumption. Thus hard to verify.		This is a relevant datapoint for financial materiality. Guidance may be developed.	No actions for November

3. ALIGNMENT WITH INTERNATIONAL STANDARDS / WITH EU REGULATIONS

	E5-2	I would also suggest to add another category : objective of green turnover based on substantial contribution to circular economy (based on the EU Taxonomy ratio).		This is already covered	N/A
#4	E5-6	I'm not 100% convinced that the analysis for this proposal is very robust and I would recommend that we align this DR with the disclosures requirements in GRI 306 as it is probably representing the best practices regarding the reporting on waste.		This disclosure requirement is mostly aligned on GRI 306 already, more alignment efforts will be made in particular to clarify the articulation of concepts and on terminology.	Draft to be amended.
#27	E5-7	I'm wondering if a link to the EU Taxonomy on circular economy shouldn't be added in paragraph 46.			Draft to be amended.
#28	E5-9	In Paragraph 54 it is written "Such information is complementary to the information requested under the Taxonomy Regulation". We believe we should remove the sentence as we are addressing risks here and that Brown Taxonomy does not exist yet. Unless we wanted to address opportunities, but in this case all the DR has to be reworked.		This sentence included in the paragraph refers to opportunities but it would be worth rephrasing the paragraph to clarify, also considering merging elements with E5-7	Draft to be amended.