

Cover Note

ESRS E5 – list of comments and changes to the draft

Background

- 1 EFRAG ran a public consultation on 13 ESRS Exposure Drafts (EDs) from the end of April 2022 to the 8 of August 2022.
The comments received are available at the following link: [News - EFRAG](#).
- 2 EFRAG ran a number of outreach events with different stakeholders from different countries in June and July 2022.
- 3 The consultation was structured in two different Surveys:
 - (a) Survey 1 covers the general approach to the standards, contents of ESRS 1 and prioritisation/phasing-in and it also includes one question per each of the other 12 ESRS EDs;
 - (b) Survey 2 covers the detailed content of 12 ESRS EDs (excluding ESRS 1), with a number of sub-questions covering different aspects per each disclosure requirement.
- 4 EFRAG SRB received a presentation of the comments received in a joint meeting with the EFRAG SR TEG on 8 September. The document used for this presentation can be found at the link below:
<https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FMeeting%20Documents%2F2208191316296134%2F02-01%20-%20Survey%201%20results.pdf>
- 5 EFRAG has outsourced the analysis of comments received in the public consultation to an external consultant. Their report will be made publicly available in due course. A draft of the report for Survey 1 has been made available the EFRAG Secretariat to allow to progress in the subsequent analysis.

Purpose of this session

- 6 To discuss and approve the proposed detailed course of action to address the comments from the public consultation, including identification of topics that need to be further discussed (with the support of issue papers and SR TEG discussions) before a specific change to the standard is actually defined and agreed upon on ESRS E5.

EFRAG Secretariat assessment and recommended course of actions per each question in Survey 1

- 7 The EFRAG Secretariat has conducted an assessment of the comments received in the public consultation. **Agenda Paper 0x-0x** presents the outcome of this assessment. Per each comment the papers document the proposed course of action, with the following wording conventions:
 - (a) No action: the EFRAG Secretariat acknowledges the comment, however does not consider necessary or appropriate to propose a change to the standards in order to accommodate the comment/reservation/suggestion. The reasons for this are explained in the column 'EFRAG Secretariat comments'.

- (b) To be discussed: the EFRAG Secretariat considers that, due to different views that exist between different categories of stakeholders or due to the low support rate of this question in the statistics from the consultation or due to the complexity of the topic, a dedicated technical discussion is needed before a change to the draft standards can be defined in detail and agreed upon. In this case the column 'Issue paper needed?' shows in which Issue paper the topic will be covered. The issue papers will be presented at future SR TEG/SRB meetings (some of them have been already discussed in SR TEG/SRB at this stage).
- (c) To be aligned: the EFRAG Secretariat proposes to modify the text of the standard as illustrated in the column 'EFRAG Secretariat comments'.
- (d) To be considered: the EFRAG Secretariat proposes to consider this suggestion when finalizing the standard (differently from 'to be aligned', here the comment doesn't allow to immediately identify the change but further consideration is needed, without triggering a SRB discussion as the point is not as complex or controversial as it would be for the 'To be discussed').
- (e) Ongoing: the assessment/change to the standards is in progress.

Overall harmonisation across Es:

- PTAPR
 - o CCS consistency with:
 - less prescriptive wording and no duplicates, and
 - with a stronger focus on materiality assessment: Policies should be implemented only on material IROs, Targets should related to Policies and Action plans to ensure Targets are reached and Policies implemented.
 - o Additional PTAPR harmonisation across other Es:
 - Include the step on *dependencies and impacts* prior to IROs which is particularly relevant for E4 and E3
 - Include the *mitigation hierarchy* (already there in E4, E2, in a less direct manner in E5)
- Financial effects need a consistent approach starting with qualitative information (preferred option) while application guidance is still to be drafted at a later stage
- Boundaries "basis fo conclusions" linked with TNFD architecture
- Stick to guidance in Application Guidance

Summary of proposed changed on ESRS E5

	Value chain	Content	Material across sectors	Phase-in
E5-1 to E5-3 PTAPR	Value chain shall remain	<ul style="list-style-type: none"> - Harmonisation across Es and across ESRS - Attention on disguised guidance - International alignment efforts 	Yes	Focus on own operations for year 1
E5-4 Resources inflows	Supply chain and own operations		Mixed views. <ul style="list-style-type: none"> - Option 1: move the DR to sector-specific - Option 2: qualitative information regarding supply chain information - Option 3: same as option 2 but phase-in of quantitative information 	See options 2 and 3.

	Value chain	Content	Material across sectors	Phase-in
E5-5 Resources outflows	Own operations – focus on products and materials	- Proposal to add illustrations and examples. - Skip concept of decoupling	- Option 1: move the DR to sector-specific - Option 2: qualitative regarding own operations and value chain and phase-in quantitative information - Option 3: retain the DR and simplify (split of the turnover instead of weight & %) Merge with E5-7	See option 2
E5-6 Waste	Current focus on own operations	Add post-consumer waste concept	Yes. However granularity efforts: - Option 1: no phase-in - Option 2: phase-in of breakdowns under 41 (b) and 41 (c) - Option 3: full phase-in of the DR	See options 2 and 3
E5-7 Resource use optimisation			Merge with E5-5	
E5-8 Circularity support			Merged into E5-8 Action plans	
E5-9 Financial effects	See financial effect paper	See financial effect paper	See financial effect paper	See financial effect paper

Key points/Proposal

- i. **Sector Specific:** There are mixed views in the consultation’s feedback on the fact that the standard would be sector-specific. Some comments note that parts of the standard should be considered sector-specific (in particular Resource use optimisation). A majority of RAR believe ESRS E5 to be sector-agnostic.

Secretariat Comments: The Secretariat consider that resource use and circular economy are material topics (considered one environmental objective in the Taxonomy Regulation) even if they are not as mature as other topics (i.e. E1). Thus the Secretariat proposes to keep the standard at sector-agnostic level and have a DR by DR assessment. An alternative option would be to keep only PTAPR and SFDR.

Questions to SR TEG members and observers

Do you agree with the general approach to define the standard on “resource use and circular economy” at sector-agnostic level?

Do you agree with the proposed option to skip granularity and breakdowns at the greatest extent possible at sector-agnostic level?

Do you have any other comments on this assessment?

- ii. **Terminology:** Several comments highlight the inconsistencies of concepts used throughout the standard. In addition they ask for clarifying or defining a series of concepts (e.g. Decoupling: (relative or absolute), Highest value/value, Linear to circular ecosystem, ‘reparability’, ‘upgradability’).

Secretariat Comments: The Secretariat will ensure further consistency starting with concepts used in the EU legislative framework and definition from the EU Taxonomy. As a consequence, this may mean less alignment with other frameworks. In particular, the Secretariat proposes to:

- delete the concept of “decoupling” which tends to bring more emphasis on intensity than on absolute value which should be the ultimate goal.
- avoid the term “eliminate waste”, but rather mention “prevent” or “minimize” according to the mitigation hierarchy on waste (to be harmonized with other E standards).
- clarify that some end of life treatment cannot be considered as “recovery”

Questions to SR TEG members and observers

Do you agree with the approach to align the concept of circular economy with the EU Taxonomy? If not please explain.

Do you agree with the following approach:

- delete the concept of “decoupling” which tends to bring more emphasis on intensity than on absolute value which should be the ultimate goal?
- avoid the term “eliminate waste”, but rather mention “prevent” or “minimize” according to the mitigation hierarchy on waste;
- clarify that some end of life treatment cannot be considered as “recovery”?

Do you have any other comments on this assessment?

- iii. **Resource inflows (DR E5-4):** Several comments from public consultation underline difficulties to disclose the weight and percentage of input material as this is largely sector specific and linked to manufacturing industries.

Secretariat Comments: EFRAG Secretariat proposes 3 options to overcome the difficulty in the implementation:

- Option 1: move the DR to sector-specific, but this is not the view of majority RAR with 64% approval
- Option 2 (preferred): propose some qualitative information to be provided regarding value chain information which would make more sense for some undertakings which do not manufacture products and which though they use materials as secondary input may not have any information on quantity.
- Option 3: same as option 2 but phase-in of quantitative information on value chain information at a later stage

Questions to SR TEG members and observers

Which option do you prefer? If for a specific items you disagree, please explain.

Do you have any other comments on this assessment?

- iv. **Resources outflows (DR E5-5):** Several comments from public consultation underline the complexity in the application of the DR

Secretariat Comments: EFRAG Secretariat proposes 3 options to simplify the approach:

- o Option 1: move the DR to sector-specific, but this is not the view of majority RAR with 65% approval
- o Option 2: propose some qualitative information to be provided regarding both own operations and value chain and phase-in quantitative information over time.

- Option 3 (preferred): retain the DR and reword/restructure, with possibly a split of the turnover rather than of the weight and percentage of products and services for greater connectivity.

In the cases of options 2 and 3, proposal to merge this DR with E5-7 on Resource use optimization.

Questions to SR TEG members and observers

Which option do you prefer? If for a specific items you disagree, please explain.

In case your preferred option is 2 or 3, do you agree with the proposal to merge with E5-7?

Do you have any other comments on this assessment?

- v. **Waste (DR E5-6):** Several comments from public consultation underline the excessive granularity and high burdensome.

Secretariat Comments: EFRAG Secretariat proposes 3 options to simplify the approach to overcome the granularity:

- Option 1: no phase-in
- Option 2 (preferred): phase-in of breakdowns under 41 (b) and 41 (c)
- Option 3: full phase-in of the DR to allow time for undertakings to get prepared and implement process to trace the data.

Questions to SR TEG members and observers

Which option do you prefer? If for a specific items you disagree, please explain.

Do you have any other comments on this assessment?

- vi. **Resource use optimisation and circularity support:** Several comments from public consultation underline the architecture and structure complexity

Secretariat Comments: **Combining this disclosure requirement E 5-7 with Disclosure Requirement E5-5 Resources outflows.** In this merging, proposal to keep at least the turnover KPI which may be easier to trace than weight and percentage. For E5-8 the proposal is to merge with PTAPR

Questions to SR TEG members and observers

Do you agree with the approach to merge E 5-7 with Disclosure Requirement E5-5? If for a specific items you disagree, please explain.

Do you agree with the proposal to merge E5-8 with PTAPR

Do you have any other comments on this assessment?