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Mining [draft] ESRS Working Paper

First SR TEG discussion

Background

- 1 The CSRD requires EFRAG to develop sector-specific draft ESRS.
- 2 On 26 August 2022, considering the activities necessary to develop 41 different draft ESRS including the public consultation, the SRB agreed to develop the sector specific standards in more than one year, giving priority to sectors assessed to have a high-impact and to include in the first year the four sectors already covered by a GRI standard and Mining, for which a GRI standard is under construction. It was agreed to cover 10 sectors in Set 2 (consultation in 1H23, delivery to the EC in November 2023), assuming that proper resources would be available.
- 3 On the 15 December 2022, considering the current resources constraints, the SRB approved to limit to 5 the number of ESRS Sector standards to be issued in 2023 and to add two extra years to the workplan for the completion of the entire set of sector-specific ESRS (to be delivered to the EC by November 2027).
- 4 The EFRAG Secretariat has been running research activity since June 2022 including the organization of a series of workshops following a public call for input. The preparatory material that resulted from this activity constitutes the basis for the SR TEG and SRB discussions to define the content of the Exposure Drafts of Sector-specific ESRS, starting from this meeting.
- 5 In the SR TEG meeting on 13 December 2023, EFRAG SR TEG discussed the approach to the preparation of sector-specific ESRS. **The papers for that meeting are considered background reading for this meeting.** They can be found at the link below:

https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FMeeting%20Documents%2F2212090814197713%2F01.01%20SRB%20221214%20Sector%20specific%20ESRS_ED%20%28003%29%20%28002%29.pdf

<https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FMeeting%20Documents%2F2212090814197713%2F01.03%20SR%20TEG%20221213%20Materiality%20approach%20to%20Sector%20Specific%20ESRS.pdf>

General approach to the discussion and approval of draft ESRS in 1Q23

- 6 It is envisaged that the SR TEG runs three progressive discussions on each draft ESRS, before its release for public consultation; this will be the case for the Mining exposure draft. The first discussion aims at collecting comments on the general

structure of the document and detailed technical suggestions on the content of it, in order to identify missing elements and to instruct the EFRAG Secretariat on how the document should be modified to be suitable for SR TEG approval (to be recommended to the SRB for approval). For this first step, we welcome general, as well as detailed technical and editorial comments (using an [Excel template](#) that will be sent by emails). Resolution of split views of technical comments, may require dedicated sessions to workthrough detailed technical issues. If needed, sector-specific experts that have attended the workshops or other stakeholders with expertise on these sectors could be invited to attend a SR TEG meeting for the technical discussions.

- 7 The second discussion, to be held once the EFRAG Secretariat has updated the document following the comments that emerged in the first discussion, is dedicated to your review of the secretariat response to your comments. We are expecting these comments to be mainly of editorial nature with the exception of those topics where the conclusion from the first discussion was that further technical work is to be performed to enhance the disclosure requirements for a particular sustainability matter. . Further, TEG members will have the ability to provide additional drafting comments, before the document is finalized. It is to be noted that a holistic review of the first five sector-specific working papers is to be prepared by EFRAG Secretariat and discussed at the SR TEG with the objective being that consistency and harmonisation of treatment of ESG sustainability matters is to be ensured.
- 8 The third discussion would be the approval session, subject to non-substantial editorial comments if necessary. After each SR TEG discussion, there will be an SRB discussion to debrief the SRB on the outcome of the SR TEG discussion and to collect directions from the SRB to be considered in the subsequent SR TEG discussion. The approval by the SRB for issuance is planned by mid-March 2023.

Objective

- 9 During this session the SR TEG members will provide their comments on the content of the Mining working paper (future Exposure Draft), following the questions in para. 22 onward below. This is meant to be a « pilot » exercise that will serve as a reference for the adjustment/development of other sector-specific working papers. Detailed drafting comments are welcome using the [Excel template](#) that members and observers will receive by mail , but not in this meeting.
- 10 The time available in this meeting will probably not allow to cover all the questions listed below. The EFRAG Secretariat would suggest to focus on questions in paragraphs from 24 to 31. In case the other questions cannot be covered, SR TEG members and observers will be invited to provide their written comments.

Approach to materiality in sector-specific ESRS

- 11 The approach to materiality is key for the architecture and definition of the sector-specific reporting system, as the detailed structure and drafting of the disclosure requirements in the sector ESRS will depend on key decisions to be taken at this level. The number and content of disclosure requirements and datapoints, as well as the length of the ESRS itself depends on the approach to materiality.
- 12 EFRAG SR TEG discussed on the 13 December 2022 the materiality approach to be applied in the sector-specific ESRS. Views were initially split. Based on the f approaches discussed in the meeting, EFRAG Secretariat has established a table of possible approaches (presented at the end of this paper) with a brief characterization and arguments relative to their strengths and weaknesses.
- 13 The SR TEG on the 13 December did not take a decision, so this topic is still to be discussed and decided upon.
- 14 The Mining working paper prepared for this discussion (Agenda Paper 06-02) assumes as a basis for the discussion approach 3. The working paper identifies a

list of sustainability matters that are considered material for all the undertaking in the Mining sector and allows to select the DRs (or datapoints in a DR) to be included/omitted, following the requirements of paragraphs 33 to 39 of ESRS 1.

- 15 This would mean that DRs (and their datapoints) in both sector agnostic and sector specific standards related to policies, actions and targets would always be reported for the matters in the list of paragraph 16, while metrics (DR or datapoints) could be omitted if not material and therefore considered as « not material for the undertaking ». Consistency in approach is sought for a given sustainability matter (i.e. material for both sector-agnostic and sector-specific).

Explicit/implicit approach

- 16 The working paper prepared for this discussion (Agenda Paper 06-02) assumes to adopt the same approach as in the sector agnostic standards (paragraphs 38 and 39 of ESRS 1): when an entire topic is omitted, a justification is required. No justification is required when a DR (or a datapoint of a DR) is omitted, but the undertaking discloses a list of the DR that are included in the sustainability statements.

Interaction of materiality at sector agnostic and sector-specific level

- 17 The approach proposed in the working paper as a basis for the discussion assumes that the undertaking runs a materiality assessment supported by both the list of Appendix B in ESRS 1 and the list in paragraph 16 of the Mining ESRS working paper (Agenda Paper 06-02 for this session). The following elements of interaction need to be specifically considered:
- a. The sector agnostic materiality approach considers Climate change and the list of datapoints mandated by the EU legislation (appendix C of ESRS 2) as always to be reported, irrespective of the outcome of the materiality assessment. The EFRAG Secretariat considers that, to be consistent with the intentions of the SRB when approving the sector agnostic standards, Climate change should continue to be reported irrespective of the outcome of the materiality assessment, also at sector specific level (ESRS 1 approach should prevail in this respect). This means that the undertaking would not be allowed to omit a DR (or datapoint) in the sector agnostic and in the sector specific standard that relate to climate change.
 - b. The sector agnostic materiality approach considers S1-1/S1-9 as always to be reported for undertakings with more than 250 employees, irrespective of the outcome of the materiality assessment. The EFRAG Secretariat considers that, to be consistent with the intentions of the SRB when approving the sector agnostic standards, ESRS 1 approach should prevail in this respect. This means that, by stating that for an undertaking in the mining sector *own workforce* is considered a material matter (irrespective of the materiality assessment), the draft Mining ESRS would result in the undertaking having to report always S1-1/S1-9 if it has more than 250 employees. At the same time the draft Mining ESRS would result in allowing to omit a DR (or datapoint) related to metrics of the DR other than S1-1/S1-9 in ESRS S1, when they are not material.

Approach to granularity in sector-specific ESRS

- 18 A key aspect of materiality and relevance is the level of disaggregation adopted in the presentation of a specific element of disclosure.
- 19 The Mining draft ESRS working paper (Agenda Paper 06-02) identifies a number of datapoints for which a specific decision has to be taken regarding the level of disaggregation of the information (at operational site level, potentially limited to the key operational sites – with 'key' to be appropriately defined, at country level, per each incident, etc.). The identification of these datapoints to be discussed results

from the research activity and reflects current market practice (i.e. other frameworks specifically referring to the information to be provided at operational site level).

- 20 The decision whether to require a disaggregation at operational site or limited to key operational sites has to reflect primarily the relevance of the resulting information and, as a second step, the cost/benefit profile. Depending on facts and circumstances, presenting a long detailed list of datapoints per each operational site could result in boilerplate non-informative disclosure, while the identification of 'key' operational sites could support instead the provision of more relevant information. The use, as one of the ESRS 2 related disclosures, of a comprehensive list of sites with a number of indications in relation to sustainability matters shall be considered carefully.

Overall content of the Mining draft ESRS working paper

- 21 The EFRAG Secretariat has performed an assessment, supported by the outcome of the relevant sector workshops, of which datapoints should be included and which should not be included. In order to allow for a meaningful discussion of the content of the Mining [draft] ESRS working paper, members should refer to the material provided for Session 5 of this meeting, where there is an illustration of the research process that allowed to identify, out of the datapoints that exist in the examined sources and frameworks, what to include. This will allow to members to exercise a systematic challenge on the overall content of the standard (see specific questions below).

Papers for this session

- 22 **Agenda Paper 06-02** – [draft] ESRS Mining – Working Paper.
- 23 Refer also to the papers uploaded under point 5. In session 5 the EFRAG Secretariat will illustrate the research performed in order to build the [draft] ESRS Mining Working Paper (including logical steps and sources).

Questions to SR TEG members and observers

- 24 Materiality approach: do you consider that there are other possible approaches that the EFRAG Secretariat should consider in addition to those listed in paragraph 9 above? Do you agree to retain Approach 4? If no, which alternative would you suggest to retain? Why?
- 25 Explicit/implicit: do you agree to retain the same approach adopted for the sector agnostic standards in combination with Approach 4? If no, what type of transparency would you suggest (e.g. explanation of why a DR corresponding to a material matters is not material)? Why?
- 26 Interaction of the materiality approach at sector agnostic and sector-specific level: do you agree with the EFRAG Secretariat proposals in paragraph 16? If no, what alternative would you consider instead? Why?
- 27 Approach to granularity in sector-specific ESRS: for each of the datapoints identified in Agenda Paper 06-02 as 'TO BE DISCUSSED' please express your view on whether the datapoint should be required at the highest level of granularity (e.g. for each operational site) or limited to the 'key' operational sites. Also, how would you define 'key' per each of these datapoints?
- 28 Shall/Should consider/May – Agenda Paper 06-02 only includes 'shall' datapoints. Do you think that the standard should also include 'should consider' datapoints (as a tool to support the preparation of 'shall' datapoints)? Or 'May' (for voluntary datapoints)? Please explain.
- 29 Architecture and general structure: do you agree with the proposal in the Mining [draft] ESRS (i.e simplification of the structure by merging IRO management and metrics and targets datapoints into one disclosure requirement)? What would you alternatively suggest? Please explain.
- 30 Overall content – sector description: do you agree with the description of the sector? If no, what change would you consider necessary? Why?
- 31 Overall content – sustainability matters: do you agree with the list of the sustainability matters considered material for the mining sector? Is there anything missing? What would you change? Do you assess that the granularity of the social matters is appropriate? Why?
- 32 Overall content – DRs – ESRS 2 related: do you agree with the new DRs/sector specifications of DRs in ESRS 2? Is there anything missing? What would you change? Why?
- 33 Disclosure Requirement ESRS 2 – SBM 1.2. The DR requires to disclose for each operational site the economic value generated and distributed. A similar DR for sector agnostic was finally not retained, as considered too judgemental to be prepared on a sufficiently comparable basis. This information is currently required by GRI Coal standards by project (not by site) and considered useful. The GRI Coal guidance can be found at the link below:
- GRI Sector standard for coal:
<https://www.globalreporting.org/standards/standards-development/sector-standard-for-coal/>
- GRI guidance on Direct economic value generated and distributed:
<https://www.globalreporting.org/standards/media/1039/gri-201-economic-performance-2016.pdf>
- Do you consider that (1) it is useful to include this datapoint? Do you think that the GRI guidance (or something equivalent) could provide a basis for the inclusion

- in the draft? (2) would you consider more appropriate a higher granularity, such as by Country? Or (3) this datapoint could be optional?
- 34 Overall content – DRs – ESRS E1 related: do you agree with the new DRs/sector specifications of DRs in ESRS E1? Is there anything missing? What would you change? Why?
- 35 Overall content – DRs – ESRS E2 related: do you agree with the new DRs/sector specifications of DRs in ESRS E2? Is there anything missing? What would you change? Why?
- 36 Overall content – DRs – ESRS E4 related: do you agree with the new DRs/sector specifications of DRs in ESRS E4? Is there anything missing? What would you change? Why?
- 37 Overall content – DRs – ESRS E5 related: do you agree with the new DRs/sector specifications of DRs in ESRS E5? Is there anything missing? What would you change? Why?
- 38 Overall content – DRs – ESRS S1 related: do you agree with the new DRs/sector specifications of DRs in ESRS S1? Is there anything missing? What would you change? Why?
- 39 Overall content – DRs – ESRS S3 related: do you agree with the new DRs/sector specifications of DRs in ESRS S3? Is there anything missing? What would you change? Why?
- 40 Overall content – DRs – ESRS G1 related: do you agree with the new DRs/sector specifications of DRs in ESRS G1? Is there anything missing? What would you change? Why?
- 41 Financial materiality: do you consider that the financial materiality (outside-in dimension) is sufficiently and appropriately covered in the working paper (e.g. would it be necessary to further detail at sector specific level the items listed in paragraph 46 of ESRS 2) either as disclosure requirements per se or as application requirements related to the sector-agnostic disclosure requirements)? In your opinion is there something specifically missing?
- 42 Is there any other content missing? Please explain.

List of options related to materiality approach, their strengths and weaknesses

APPROACH	Strengths (+)	Weaknesses (-)
1. List of DRs entirely subject to materiality	This approach focuses entirely on the materiality assessment, giving high flexibility but it doesn't promote comparability.	Depending on the level of maturity of the undertaking in performing the materiality assessment, the result may be more or less complete/relevant. Risk of under-reporting for several years.
2. All the DR in the sector specific ESRS are subject to materiality assessment. Either on all of the DRs or on a subgroup of them, the undertaking has to report a justification when they do not include a DR. This approach represents a compromise between 1 and 6.	The undertaking would be required to include an explicit justification of why a DR has not been included, giving flexibility, but also transparency and allowing public inquiry.	May be considered a deviation from Set 1 decision of deleting rebuttable presumption (but there are reasons for its inclusion at this stage, list of DRs significantly shorter and focused).
3. The standard setter identifies the matters that are considered material for the sector. The undertaking exercises its materiality assessment at level of DR or datapoint. It may be further combined with approach 2 above. This approach promotes a compromise between 1 and 6.	<p>The identification of material sustainability matters by the standard setter promotes a basic level of comparability and ensures a minimum content.</p> <p>Provides flexibility by leaving space to the materiality assessment at DR or data point level, which allows also to deal with the granularity problem (41 sectors VS 77 industries) and is consistent with the approach adopted at sector-agnostic level. This approach is close to approach 4 with an increased level of justification.</p>	<p>Policies/Actions/Targets cannot be omitted, while for Metrics the undertaking may omit a DR or datapoint. Concerns that many of the hard performance metrics may not be reported in favour of narrative disclosure on policies and commitments. This will undermine comparability where it is most needed.</p> <p>Concerns with the definition of the list of sustainability matters at granular level and how it will be used in practice by undertakings.</p>
4. Subset of DRs mandatory for some of the NACE codes included in the sector. This approach seeks to address the necessary differentiation within a sector by writing mandatory NACE specific DRs.	Would allow for very targeted and meaningful disclosure on an activity basis.	<p>Considered by the EFRAG Secretariat not suitable for standard setting, as it would be overly-complex, equivalent to issuing a standard per each group of NACE codes instead of a standard per each sector.</p> <p>By exception, some flexibility could perhaps be provided to allow for some DRs to apply just to specific NACE codes (however, could this create further issues, namely other DRs be considered as "not applicable" because they do not specify a NACE?).</p>

<p>5. A subset of DRs is mandatory to companies in the sector (irrespective of NACE code).</p> <p>This approach is the “negative” of approach 4 – it seeks to recognize the minimum common denominator within the NACE codes in the standard and require those DRs as mandatory, Could be combined with approach 2.</p>	<p>Would promote comparability on the aspects that are considered comparable across the sector. Would allow the materiality assessment to prevail on all others.</p>	<p>May still lead to the non-inclusion of highly relevant DRs due to poor materiality assessments (could be combined with approach 2, to require transparency on when excluded and with approach 4, to only require that transparency for specific NACE codes in case of highly specific disclosures (e.g. calculation of embedded emissions of proved reserves).</p>
<p>6. All DR are mandatory</p>	<p>In principle, approach promotes high comparability.</p>	<p>With current sector definitions (sector granularity of 41 sectors, as opposed to, for example, the 77 sectors in SASB), would result in non-relevant information being mandated when an undertaking operates only in some of the NACE codes aggregated into the sector. Avoiding this problem creates complexity in the formulation of sector DRs and may not always be possible to avoid.</p>