This paper has been prepared by the EFRAG Secretariat for discussion at a public meeting of EFRAG SRB. The paper forms part of an early stage of the development of a potential EFRAG position. Consequently, the paper does not represent the official views of EFRAG or any individual member of the EFRAG SRB or EFRAG SR TEG. The paper is made available to enable the public to follow the discussions in the meeting. Tentative decisions are made in public and reported in the EFRAG Update. EFRAG positions, as approved by the EFRAG SRB, are published as comment letters, discussion or position papers, or in any other form considered appropriate in the circumstances.
The content of each Explanation has been drafted to provide an answer to a specific technical question and cannot be directly extended by analogy to a different fact-pattern.

This draft has not yet been subject to the English editorial review, which will be performed in the version approved by EFRAG SRB.

Log of draft explanations

Table of content

Cross-Cutting

ID 855 – Financial materiality and time horizon

Category

Cross-cutting

Question asked

What is the role of time horizon (short-, medium- or long-term) in the materiality assessment of risks and opportunities?

ESRS Reference

ESRS 1 Chapter 3.5 *Financial materiality;* paragraphs AR 14 and AR 15; Chapter 6.4 *Definition of short-, medium- and long-term for reporting purposes*; ESRS E1 paragraphs AR 67 and 68

Key terms

Time horizon; financial materiality

Background

The question received, 'When assessing risks and opportunities from a financial perspective, how is it possible to integrate the variable of time horizon (e.g. short-, medium- or long-term) in the evaluation of magnitude/probability of that risk or opportunity?' was rephrased to the above for clarity.

ESRS 1 paragraph AR 14 states: 'The **identification** of risks and opportunities that affect or could reasonably be expected to affect the undertaking's financial position, financial performance, cash flows, access to finance or cost of capital over the short-, medium- or long-term is the starting point for financial materiality assessment. In this context, the undertaking shall consider:

(a) the existence of dependencies on natural and social resources as sources of financial effects (see paragraph 50);

(b) their classification as sources of:

  i. risks (contributing to negative deviation in future expected cash inflows or increase in deviation in future expected cash outflows and/or negative deviation from an expected change in capitals not recognised in the financial statements); or

  ii. opportunities (contributing to positive deviation in future expected cash inflows or decrease in deviation in future cash outflows and/or positive deviation from expected change in capitals not recognised in financial statements).'

ESRS 1 paragraph AR 15 states: 'Once the undertaking has identified its risks and opportunities, it shall determine which of them are **material for reporting**. This shall be based on a combination of (i) the **likelihood of occurrence** and (ii) the **potential magnitude** of financial effects determined on the basis of appropriate thresholds. In this step it shall consider the contribution of those risks and opportunities to financial effects in the short-, medium- and long-term based on:

(a) scenarios/forecasts that are deemed likely to materialise; and

(b) potential financial effects related to sustainability matters deriving either from situations with a below the “more likely than not” threshold or assets/liabilities not, or not yet, reflected in financial statements. This includes:

   i. potential situations that following the occurrence of future events may affect cash flow generation potential;

   ii. capitals that are not recognised as assets from an accounting and financial reporting perspective but have a significant influence on financial performance, such as natural, intellectual (organisational), human, social and relationship capitals; and

   iii. possible future events that may have an influence on the evolution of such capitals.’

ESRS E1 paragraph AR 67 states: 67. ‘Material climate-related physical risks and transition risks may affect the undertaking’s financial position (e.g. owned assets, financially-controlled leased assets, and liabilities), performance (e.g. potential future increase/decrease in net revenue and costs due to business interruptions, increased supply prices resulting in potential margin erosions) and cash flows. The low probability, high severity and long-term time horizons of some climate-related physical risk exposures and the uncertainty arising from the transition to a sustainable economy mean that there will be associated material anticipated financial effects that are outside the scope of the requirements of applicable accounting standards.’

ESRS E1 paragraph 68 states: ‘Currently, there is no commonly accepted methodology to assess or measure how material physical risks and transition risks may affect the undertaking’s future financial position, financial performance and cash flows. Therefore, the disclosure of the financial effects (as required by paragraphs 64, 66 and 67) will depend on the undertaking’s internal methodology and the exercise of significant judgement in determining the inputs and assumptions needed to quantify their anticipated financial effects.’

Note for the SRB

Some **SRB members** (also in the context of the SRB WG) objected and commented that this ID should not be published as an Explanation but as an IG because the drafted explanation goes beyond the current ESRS stipulations and to allow stakeholders to provide feedback on this utmost important topic.

Another **SRB member** objected as well, stating strong disagreement with the current drafting of the explanation regarding discounting and expressing concerns around the overall clarity of the draft explanation (i.e. what should an undertaking do in practice?).

EFRAG SR TEG discussed the need to develop an IG as well but reached a consensus on the fact that the current explanation reflects the content of ESRS and IFRS AR on the matter as described in the background.

EFRAG Secretariat has amended the Explanation with editorial changes to clarify further the concepts in it, hoping that the content is more clear and less contentious. The EFRAG Secretariat considers that the text, in line with EFRAG SR TEG agreement, explains the current applicable literature and as such does not require public feedback.

The alternative, is to expose it for feedback as an IG.

Answer

A sustainability matter is material from a financial perspective if it generates risks or opportunities that have a material influence, or that could reasonably be expected to have a material influence on, the undertaking's development, financial position, financial performance, cash flows, access to finance or cost of capital **over the short-, medium- or long-term** (ESRS 1 paragraph 49). When assessing a risk or opportunity for (financial) materiality, the undertaking considers the perspective of the investors (ESRS 1 paragraph 48).

Determining if a risk or opportunity is material shall be based on a combination of (i) the **likelihood** of occurrence and (ii) the potential **magnitude** of financial effects determined on the basis of appropriate thresholds' (see ESRS 1 paragraph AR 15).

Magnitude

Looking at the magnitude, the time horizon is generally factored in the financial materiality assessment based on the time value of money, i.e. using the discounted cash-flow method, in line with investors' information needs. This means that a cash inflow/cash outflow is worth more/less now than the same cash flow at a future date due to its earnings potential in the interim.

However, there might be situations when the undiscounted amount is the relevant figure to report. In particular: "If a possible future event is expected to affect an entity's cash flows, but only many years in the future, information about that event is usually less likely to be judged material than information about a possible future event with similar effects that are expected to occur sooner. However, in some circumstances, an item of information could reasonably be expected to influence primary users' decisions regardless of the magnitude of the potential effects of the future event or the timing of that event. For example, this might happen if information about a particular sustainability-related risk or opportunity is highly scrutinised by primary users of an entity's general purpose financial reports.' (See IFRS S1 B 24 (cited below, in 'Supporting material').

In other cases, determining the discounted financial effects might not be feasible, such as when the timing of the event is uncertain (e.g. a flooding in an area exposed to it), but the undiscounted financial effects would nevertheless be relevant for investors. This is also acknowledged in ESRS E1 Disclosure Requirement E1-9 paragraphs 67 and 68 for anticipated financial effects (see above 'Background').

Judgements, estimates and assumptions made when considering the time value of money shall consider connectivity of information (see ESRS 1 Chapter 9.2 Connected information and connectivity with financial statements), noting that when measuring assets or liabilities in financial statements time value of money is often considered.

Likelihood

Time horizon may also affect the assessment of **likelihood** of a financial effect.

There are instances where a higher likelihood is associated with a specific time horizon. Consider the risk of impairing an asset due to the end of its useful life, as a result of a potential ban of a specific technology, starting from a given period in the future. The likelihood of a risk arising might be affected by whether the ban is expected in the near future or further ahead in the future. However, if the ban is already decided (there is no uncertainty), the financial effect is not affected by likelihood (the probability of occurrence is 100%) and the time horizon only affects the magnitude (not the likelihood).

In other instances, the longer the time horizon, the higher the likelihood of an event happening (i.e. the higher the likelihood of the associated risk or opportunity). For example, a flooding or a situation of water stress is less likely to occur during the short-term one-year time horizon as compared to longer mid-term and long-term time horizons.

Supporting material

IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information* B19 – B24 states:

'Identifying material information

B19 Materiality judgements are specific to an entity. Consequently, this Standard does not specify any thresholds for materiality or predetermine what would be material in a particular situation.

B20 To identify material information about a sustainability-related risk or opportunity, an entity shall apply, as the starting point, the requirements of the IFRS Sustainability Disclosure Standard that specifically applies to that sustainability-related risk or opportunity. In the absence of an IFRS Sustainability Disclosure Standard that specifically applies to a sustainability-related risk or opportunity, the entity shall apply the requirements on sources of guidance specified in paragraphs 57–58. Those sources specify information, including metrics, that may be relevant to a particular sustainability-related risk or opportunity, to a particular industry or in specified circumstances.

B21 An entity shall assess whether the information identified in applying paragraph B20, either individually or in combination with other information, is material in the context of the entity's sustainability-related financial disclosures taken as a whole. In assessing whether information is material, an entity shall consider both quantitative and qualitative factors. For example, an entity might consider the magnitude and the nature of the effect of a sustainability-related risk or opportunity on the entity.

B22 In some cases, IFRS Sustainability Disclosure Standards require the disclosure of information about possible future events with uncertain outcomes. In judging whether information about such possible future events is material, an entity shall consider:

(a) the potential effects of the events on the amount, timing and uncertainty of the entity's future cash flows over the short-, medium- and long-term (referred to as 'the possible outcome'); and

(b) the range of possible outcomes and the likelihood of the possible outcomes within that range.

B23 When considering possible outcomes, an entity shall consider all pertinent facts and circumstances. Information about a possible future event is more likely to be judged as being material if the potential effects are significant and the event is likely to occur. However, an entity shall also consider whether information about low-probability and high-impact outcomes might be material either individually or in combination with information about other low-probability and high-impact outcomes. For example, an entity might be exposed to several sustainability-related risks, each of which could cause the same type of disruption – such as disruption to the entity's supply chain. Information about an individual source of risk might not be material if disruption from that source is highly unlikely to occur. However, information about the aggregate risk – the risk of supply chain disruption from all sources – might be material.

B24 If a **possible future event** is expected to affect an entity's cash flows, but only **many years in the future**, information about that event is usually less likely to be judged material than information about a possible future event with similar effects that are expected to occur sooner. However, in some circumstances, an item of information could reasonably be expected to influence primary users' decisions regardless of the magnitude of the potential effects of the future event or the timing of that event. For example, this might happen if information about a particular sustainability-related risk or opportunity is highly scrutinised by primary users of an entity's general purpose financial reports.'

ID 870 – Materiality threshold for group company

Category

Cross-cutting

Question asked

Is it technically possible to identify consolidated issues and establish a 'consolidated' materiality matrix for a group comprising several companies operating in various sectors of activity by averaging the issues?

ESRS Reference

ESRS 1 Chapter 3 Double materiality as the basis for sustainability disclosures and paragraph 102

Key terms

Consolidated reporting

Background

ESRS 1 paragraph 102 states: 'When the undertaking is reporting at a consolidated level, it shall perform its assessment of material impacts, risks and opportunities for the entire consolidated group regardless of its group legal structure. It shall ensure that all subsidiaries are covered in a way that allows for the unbiased identification of material impacts, risks and opportunities. Criteria and thresholds for assessing an impact, risk or opportunity as material shall be determined based on chapter 3 of this Standard.'

Answer

No, when assessing the materiality of the impacts, risks and opportunities of different subsidiaries operating in different sectors, they should not be averaged but assessed in their own right. This is because the assessment of material impacts, risks and opportunities is agnostic, whether the business activities are conducted in a group comprising several subsidiaries operating in various sectors of activity or whether those same business activities are all conducted by one legal entity that is active in various sectors.

As stated in ESRS 1 paragraph 102, 'when the undertaking is reporting at a consolidated level, it shall perform its assessment of material impacts, risks and opportunities for the entire consolidated group, regardless of its group legal structure. It shall ensure that all subsidiaries are covered in a way that allows for the unbiased identification of material impacts, risks and opportunities.'

In respect of thresholds for impacts, risk or opportunities of subsidiaries operating in various sectors, IG 1 *Materiality assessment* states in paragraph 125: 'When performing the materiality assessment at a group level , paragraph 103 [of ESRS 1] does *not* require the adoption for a given sustainability matter of a common threshold that is the same for the group in its entirety but rather to adopt an approach that is at the same time consistent across the whole group and unbiased, i.e. able to capture the specificities that may exist in a specific subsidiary.'

Reference is made to IG 1 *Materiality assessment* in Chapter 3.6.3 *Consideration for groups and subsidiaries* and FAQ 13: *Performing the impact materiality assessment when the undertaking operates in different sectors*, mentioning a top-down approach and a bottom-up approach or a combination of the two approaches to materiality assessment in group situations.

ID 1210 – Materiality Assessment: different sectors - level of disaggregation

Category

Cross-cutting

Question asked

How to approach multi-sector reporting where there are large and small entities?

ESRS Reference

ESRS 1 paragraphs 31, 42, 56 and 102; IG 1 Materiality Assessment chapter 3.6.3 and FAQ 13

Key terms

Consolidated reporting; multi-sector group

Background

The submitter provided the following background to the question asked: 'We are a group that has 100+ entities within 5 different sectors. One of them being a financial sector where some entities from this sector fall under the criteria of 500+ employees - clearly we have to report for this sector/ entity. However, our group also has smaller entities in industries such as wine, real estate, hotels. For instance, the entity in wine industry has around 30 employees, turnover below 40 million EUR and is far from CSRD scopes for upcoming 2 years. We have mapped IROs for all of the sectors, including wine. However, the scope of data reporting for all of the sectors is very wide and our staff is quite limited to cover all ESG data. Should the largest entities (falling under 2025 reporting) be prioritized in reporting and can the smaller entities such as wine be omitted for this initial reporting period? In the larger scope of the group, we see the wine group as financially immaterial in the group reporting perspective, despite being material on an individual sector level. We are ready to disclose mapped impacts, risk and opportunities, however we do not plan to disclose much more than that.'

The answer provided by the submitter to the question is as follows: 'Disclose IROs for all of the group in the first 2 years report on the 250+ groups [sic; we assume it is entities of the group] and provide info that report is to be published in upcoming years for other sectors.'

ESRS 1 paragraph 31 states: 'The applicable information prescribed within a Disclosure Requirement, including its datapoints, or an entity-specific disclosure, shall be disclosed when the undertaking assesses, as part of its assessment of material information, that the information is relevant from one or more of the following perspectives:

(a) the significance of the information in relation to the matter it purports to depict or explain; or

(b) the capacity of such information to meet the users' decision-making needs, including the needs of primary users of general-purpose financial reporting described in paragraph 48 and/or the needs of users whose principal interest is in information about the undertaking's impacts.'

ESRS 1 paragraph 102 states: 'When the undertaking is reporting at a consolidated level, it shall perform its assessment of material impacts, risks and opportunities for the entire consolidated group, regardless of its group legal structure. It shall ensure that all subsidiaries are covered in a way that allows for the unbiased identification of material impacts, risks and opportunities. Criteria and **thresholds** for assessing an impact, risk or opportunity as material shall be determined based on chapter 3 of this Standard.'

Chapter 3 of ESRS 1 states in paragraph 42 in respect of thresholds: 'The undertaking shall apply the criteria set under sections 3.4 [Impact materiality] and 3.5 [Financial materiality] in this Standard, using appropriate quantitative and/or qualitative thresholds. Appropriate thresholds are necessary to determine which impacts, risks and opportunities are identified and addressed by the undertaking as material and to determine which sustainability matters are material for reporting purposes. …'

ESRS 1 paragraph 56 states: 'Where data from different levels, or multiple locations within a level, is aggregated, the undertaking shall ensure that this aggregation does not obscure the specificity and context necessary to interpret the information. The undertaking shall not aggregate material items that differ in nature.'

ESRS 1 paragraph 103 states: 'Where the undertaking identifies significant differences between material impacts, risks or opportunities at group level and material impacts, risks or opportunities of one or more of its subsidiaries, the undertaking shall provide an adequate description of the impacts, risks and opportunities, as appropriate, of the subsidiary or subsidiaries concerned.'

ESRS 1 paragraph 104 states: 'When assessing whether the differences between material impacts, risks or opportunities at group level and material impacts, risks or opportunities of one or more of its subsidiaries are significant, the undertaking may consider different circumstances, such as whether the subsidiary or subsidiaries operate in a different sector than the rest of the group or the circumstances reflected in section 3.7 Level of disaggregation.'

Answer

<u>Note for the SRB</u>

It was initially suggested by the **Secretariat** to draft an explanation regarding this ID solely from an educational point of view considering that the topic was already covered in IG 1.

The **Secretariat** kept on adding considerations (see item a to f) to the draft answer upon request from different members during the approval process to meet their expectations.

At this stage some **SRB members** find the answer too long (a general concern already expressed by the SRB WG of 19/11 considering other IDs), others want to even add additional paragraphs, and other members strongly disagree with one or more of the added items a to f.

<u>Proposal from the **Secretariat** as a way forward:</u> Considering the above, the **Secretariat** suggests changing the categorization of this ID into '2 – Already covered in existing IG' (instead of 1 'explanation'). There also seems to be a significant overlap with other IDs, e.g. ID 870 'Materiality threshold for group companies'.

The **Secretariat** is indeed looking for a clear steer from the SRB *<u>before</u>* making any additional amendments as listed in the traffic light tab '06-03 pre-meeting' as well as tab '06-03 post-meeting'.

Sustainability reporting should be designed in a way that is able to deliver the same results irrespective of how the group is structured. It considers the financially consolidated group as one undertaking for which the materiality assessment shall be made. Disclosures shall be made for those matters assessed material for the group: 'When the undertaking is reporting at a consolidated level, it shall perform its assessment of material impacts, risks and opportunities for the entire consolidated group, regardless of its group legal structure. …' (ESRS 1 paragraph 102).

Useful guidance is also provided in IG 1 Materiality assessment FAQ 13: *Performing the impact materiality assessment when the undertaking operates in different sectors* and its chapter 3.6.3 *Consideration for groups and subsidiaries* the latter mentioning examples '… when … impacts are occurring in the operations of just one subsidiary within a large corporate group, … the impacts may still … meet the group materiality threshold.' and '(c)onversely, … there may be situations where a matter is assessed to be material for some subsidiaries in isolation but, despite the aggregation of data of such subsidiaries, the matter is assessed as not material for the group in its entirety.' (see IG 1 Materiality assessment paragraph 127 and 128).

Based on that and given the background provided with the question asked, the following can be concluded:

(a) whether the undertaking (here a group) needs to report on its activities in the sector of wine, real estate, and hotel does not depend on size (e.g., scope of impacts or risks), the sector revenue (e.g., scale of financial effects) or the number of employees (e.g., relevance to social issues) in that sectors / entities but on the basis of whether these sectors are connected to impacts, risks or opportunities assessed as material for the group;

(b) appropriate qualitative and/or quantitative thresholds shall be used to determine at group level which matters are material and which are not, and therefore applicable information prescribed within a Disclosure Requirement, including datapoints, or an entity-specific disclosure included in the sustainability statement (see ID 870 – *Materiality threshold for group company*);

(c) the applicable information shall only be included if it is relevant from one or more of the perspectives of ESRS 1 paragraph 31;

(d) materiality from an individual entity / sector level is not relevant as the materiality is assessed for the group in its entirety regardless of group legal structure. Consider however ESRS 1 paragraph 103. To be more precise:

    i. Materiality is assessed at the group level and requires a step of selection and prioritisation to avoid obscuring either the sustainability statement or the material topics. Its outcome is not a mere juxtaposition of material topics from each site, country, or subsidiary. However, issues or events identified at the subsidiary, country, or site level that are particularly material (due to their severity or probability of occurrence) should be presented. It should be noted that certain issues have primarily local impacts, such as water consumption and discharge in areas under water stress; and

    ii. When the group operates in multiple sectors, a proportionate materiality analysis is recommended for each significant sector. In accordance with ESRS 2, a sector is considered significant for the company if it meets one of the following criteria: it represents more than 10% of the turnover or is associated with particularly material negative impacts;

(e) ESRS do not provide for a phase-in of group subsidiaries like large CSRD subject subsidiaries first and others later or similar; and

(f) whether an subsidiary of the group needs to be included in the consolidated sustainability reporting does not depend on whether the subsidiary based on its size or other criteria itself is subject to ESRS sustainability reporting or not.

ID 1057 – Targets – only qualitative?

Category

Cross-cutting

Question asked

Can targets also be qualitative if they are specific enough?

ESRS Reference

ESRS 1 paragraph 33; ESRS 2 paragraphs 80-81; definitions of 'target' and 'metrics' in Annex II *Acronyms and Glossary of Terms.*

Key terms

Targets, only qualitative; targets; metrics

Background

The submitter provided the following background to the question asked: 'In all topical ESRS, it is required to disclose the targets that the company has set. While in certain cases targets must be quantitative (e.g. ESRS E1) in others this is not defined, so could a qualitative target still be compliant?

For example, regarding ESRS E4, could 'align in the next two years with EU Biodiversity 2030 Strategy' be considered a target? And in ESRS S2, could 'engage with value chain workers through annual surveys' be considered a target?'

Annex II Acronyms and Glossary of Terms defines targets as: 'Measurable, outcome-oriented and time-bound goals that the undertaking aims to achieve in relation to material impacts, risks or opportunities. They may be set voluntarily by the undertaking or derive from legal requirements on the undertaking.'

Annex II Acronyms and Glossary of Terms defines metrics as 'Qualitative and quantitative indicators that the undertaking uses to measure and report on the effectiveness of the delivery of its sustainability-related policies and against its targets over time. Metrics also support the measurement of the undertaking's results in respect of affected people, the environment and the undertaking.'

ESRS 1 paragraph 33 states: 'When disclosing information on policies, actions and targets in relation to a sustainability matter that has been assessed to be material, the undertaking shall include the information prescribed by all the Disclosure Requirements and datapoints in the topical and sector-specific ESRS related to that matter and in the corresponding Minimum Disclosure Requirement on policies, actions and targets required under ESRS 2. If the undertaking cannot disclose the information prescribed by either the Disclosure Requirements and datapoints in the topical or sector-specific ESRS or the Minimum Disclosure Requirements in ESRS 2 on policies, actions and targets because it has not adopted the respective policies, implemented the respective actions or set the respective targets, it shall disclose this to be the case and it may report a timeframe in which it aims to have these in place.'

ESRS 2 paragraph 80 states: 'The undertaking shall disclose the measurable, outcome-oriented and time-bound targets on material sustainability matters it has set to assess progress. For each target, the disclosure shall include the following information:

(a) a description of the relationship of the target to the policy objectives;

(b) the defined target level to be achieved, including, where applicable, whether the target is absolute or relative and in which unit it is measured;

(c) the scope of the target, including the undertaking's activities and/or its upstream and/or downstream value chain where applicable and geographical boundaries;

(d) the baseline value and base year from which progress is measured;

(e) the period to which the target applies and, if applicable, any milestones or interim targets;

(f) the methodologies and significant assumptions used to define targets, including, where applicable, the selected scenario, data sources, alignment with national, EU or international policy goals and how the targets consider the wider context of sustainable development and/or local situation in which impacts take place;

(g) whether the undertaking's targets related to environmental matters are based on conclusive scientific evidence;

(h) whether and how stakeholders have been involved in target setting for each material sustainability;

(i) any changes in targets and corresponding metrics or underlying measurement methodologies, significant assumptions, limitations, sources and processes to collect data adopted within the defined time horizon. This includes an explanation of the rationale for those changes and their effect on comparability (see Disclosure Requirement BP-2 Disclosures in relation to specific circumstances of this Standard); and

(j) the performance against its disclosed targets, including information on how the target is monitored and reviewed and the metrics used, whether the progress is in line with what had been initially planned, and an analysis of trends or significant changes in the performance of the undertaking towards achieving the target.'

ESRS 2 paragraph 81 states: 'If the undertaking has not set any measurable outcome-oriented targets:

(a) it may disclose whether such targets will be set and the timeframe for setting them, or the reasons why the undertaking does not plan to set such targets;

(b) it shall disclose whether it nevertheless tracks the effectiveness of its policies and actions in relation to the material sustainability-related impact, risk and opportunity , and if so:

i. any processes through which it does so;

ii. the defined level of ambition to be achieved and any qualitative or quantitative indicators it uses to evaluate progress, including the base period from which progress is measured.'

Answer

Yes, targets can be qualitative only if they are specific enough.

Targets as defined in ESRS (see Background) are 'measurable, outcome-oriented, time-bound goals that the undertaking aims to achieve in relation to material impacts, risks or opportunities.' Metrics are used to measure results against targets. As metrics per the metrics definition can be 'qualitative and quantitative indicators that the undertaking uses to measure and report on the effectiveness of the delivery of its sustainability-related policies and against its targets over time', targets can be quantitative or qualitative.

ESRS do not require undertakings to set targets on a quantitative basis only except when explicitly specified (see, e.g., ESRS E1 Disclosure Requirement E1-4).

If the undertaking sets qualitative targets, they shall be specific enough to meet the Disclosure Requirements of the Minimum Disclosure Requirements – Targets MDR-T – Tracking effectiveness of policies and actions through targets and of the datapoints in the respective topical or sector-specific ESRS. Reference is made to ESRS 2 paragraph 80.

As such, the example provided by the submitter (see background section) regarding the 'alignment in the next two years with EU Biodiversity 2030 Strategy' could be a qualitative target in the context of ESRS E4 if it would refer to concrete, measurable aspects of EU Biodiversity 2030 Strategy. However, 'engaging with value chain workers through annual surveys' in the context of ESRS S2 would not qualify as an outcome-oriented target and would not meet the MDR-T requirements referenced above.

If the qualitative target cannot be considered a measurable and outcome-oriented target, disclosures under ESRS 2 paragraph 81 and not under paragraph 80 are applicable (see also ESRS 1 paragraph 33).

Environment

ID 455 – Contextual information and consolidated data for water consumption

Category

Environment

Question asked

How to provide any contextual information for 200-300 sites?

[Additional background provided by the submitter: It is not feasible to provide water consumption data and all contextual information for 200-300 sites in one report.]

ESRS Reference

ESRS E3-4 paragraph 28

Key terms

Water consumption, contextual information, consolidated data, multiple sites

Background

ESRS 1 paragraph 31 states: 'The applicable information prescribed within a Disclosure Requirement, including its datapoints, or an entity-specific disclosure, shall be disclosed when the undertaking assesses, as part of its assessment of material information, that the information is relevant from one or more of the following perspectives:

(a) the significance of the information in relation to the matter it purports to depict or explain; or

(b) the capacity of such information to meet the users' decision-making needs, including the needs of primary users of general-purpose financial reporting described in paragraph 48 and/or the needs of users whose principal interest is in information about the undertaking's impacts.'.

ESRS 1 (3.2. Materiality assessment and material information) paragraph 34 states: 'When disclosing information on metrics for a material sustainability matter according to the Metrics and Targets section of the relevant topical ESRS, the undertaking:

(a) shall include the information prescribed by a Disclosure Requirement if it assesses such information to be material; and

(b) may omit the information prescribed by a datapoint of a Disclosure Requirement if it assesses such information to be not material and concludes that such information is not needed to meet the objective of the Disclosure Requirement.'.

ESRS 1 (3.7 Level of disaggregation) paragraph 54 states: 'When needed for a proper understanding of its material impacts, risks and opportunities, the undertaking shall disaggregate the reported information: (a) by country, when there are significant variations of material impacts, risks and opportunities across countries and when presenting the information at a higher level of aggregation would obscure material information about impacts, risks or opportunities; or (b) by significant site or by significant asset, when material impacts, risks and opportunities are highly dependent on a specific location or asset.'.

ESRS 1 (3.7 Level of disaggregation) paragraph 56 states: 'Where data from different levels, or multiple locations within a level, is aggregated, the undertaking shall ensure that this aggregation does not obscure the specificity and context necessary to interpret the information. The undertaking shall not aggregate material items that differ in nature.'.

ESRS 1 Appendix B: Qualitative characteristics of information, Relevance, QC. 1 states: 'Sustainability information is relevant when it may make a difference in the decisions of users under a double materiality approach (see chapter 3 of this Standard).'.

ESRS 1 Appendix B: Qualitative characteristics of information, Faithful representation, QC. 5 states: 'To be useful, the information must not only represent relevant phenomena, it must also faithfully represent the substance of the phenomena that it purports to represent. Faithful representation requires information to be (i) complete, (ii) neutral and (iii) accurate.'.

ESRS 2 (MDR-M) paragraph 77(a) states: 'For each metric, the undertaking shall: (a) disclose the methodologies and significant assumptions behind the metric, including the limitations of the methodologies used.'.

~~Disclosure Requirement related to ESRS 2 IRO-1 – Description of the processes to identify and assess material water and marine resources-related impacts, risks and opportunities~~

ESRS E3 paragraph 26 states: 'The undertaking shall disclose information on its water consumption performance related to its material impacts, risks and opportunities.' .

ESRS E3 paragraph 28 states: 'The disclosure required by paragraph 26 relates to own operations and shall include:

(a) total water consumption in m3;

(b) total water consumption in m3 in areas at water risk, including areas of high-water stress;

(c) total water recycled and reused in m3;

(d) total water stored and changes in storage in m3; and

(e) any contextual information necessary regarding points (a) to (d), including the water basins' water quality and quantity, how the data have been compiled, such as any standards, methodologies, and assumptions used, including whether the information is calculated, estimated, modelled, or sourced from direct measurements, and the approach taken for this, such as the use of any sector-specific factors.'.

ESRS E3 paragraph AR 1 states: 'When conducting a materiality assessment on environmental subtopics, the undertaking shall assess the materiality of water and marine resources in its own operations and its upstream and downstream value chain, and may consider the four phases below, also known as the LEAP approach: (a) Phase 1: locate where in its own operations and along the value chain the interface with nature takes place; […] '.

Answer

ESRS E3 paragraph 28 requires the disclosure of water consumption related to own operations and related contextual information. It is expected that all sites and their contextual information are considered in the materiality assessment. The disclosures on water consumption and contextual information shall be reported for the entire group and can be aggregated for all or for multiple sites.

The undertaking can aggregate information, accordingly to ESRS 1 paragraph 56, under the condition that the aggregation does not obscure the specificity and context necessary to interpret the information. The undertaking shall not aggregate material items that differ in nature. It is up to the undertaking to decide the best way to do that aggregation, so as to not to obscure material information and applying the qualitative characteristics of information as per ESRS 1 paragraph 19.

The undertaking may consider omitting the water consumption of sites that contribute only an immaterial amount, provided that the sum of omissions is not material, as per ESRS 1 paragraph 31, and provided that the qualitative characteristics of the information, such as relevance and faithful representation, are met when reporting the metric at the group level.

If an aggregated presentation would fail to portray in alignment with the qualitative characteristics of information the profile of water consumption of the group the information shall be disaggregated for material sites (or assets), in accordance with ESRS 1, paragraph 54(b). The information to be disaggregated may refer to the water consumption metric or to the contextual information, or to both.

As an example, an undertaking with several (e.g. one hundred) facilities in different water basins may provide contextual information on how x% of its facilities are in areas of high-water stress and how this is the underlying factor that is driving water consumption as a material matter, as the risk of water droughts becoming more frequent can lead to more frequent production stoppages constraining future production capacity. It may also have to provide the location of the facilities located in the areas of high-water stress or of the areas of high-water stress where the relevant facilities are located, if material.

ID 776 – Pollutants emissions – granularity

Category

Environment

Question asked

(1) Could you clarify the level of detail required in reporting pollutants (including microplastics)?

(2) When is it possible to resort to estimations?

(3) Do all the pollutants listed in the E-PRTR and all microplastics need to be measured?

ESRS Reference

Disclosure Requirement E2-4 paragraph 28

Key terms

Pollution of air, water and soil; microplastics; granularity

Background

To better address the issue addressed by the submitter it was agreed to change the question received from: 'The level of detail required in measuring pollutants is very unclear, could you please clarify?' to the question above.

ESRS 1 paragraph 11 states: 'In addition to the disclosure requirements laid down in the three categories of ESRS, when an undertaking concludes that an impact, risk or opportunity is not covered or not covered with sufficient granularity by an ESRS but is material due to its specific facts and circumstances, it shall provide additional entity-specific disclosures to enable users to understand the undertaking's sustainability-related impacts, risks or opportunities . Application requirements AR 1 to AR 5 provide further guidance regarding entity-specific disclosures.'

ESRS 1 paragraph 54 states: 'When needed for a proper understanding of its material impacts, risks and opportunities, the undertaking shall disaggregate the reported information: . . . (b) by significant site or by significant asset, when material impacts, risks and opportunities are highly dependent on a specific location or asset. 'ESRS 1 paragraph 69 states: 'There are circumstances where the undertaking cannot collect the information about its upstream and downstream value chain as required by paragraph 63 after making reasonable efforts to do so. In these circumstances, the undertaking shall estimate the information to be reported about its upstream and downstream value chain, by using all reasonable and supportable information, such as sector-average data and other proxies'.

ESRS 1 paragraph 72 states: 'The incorporation of estimates made using sector-average data or other proxies shall not result in information that does not meet the qualitative characteristics of information (see chapter 2 and section 7.2 Sources of estimation and outcome uncertainty of this Standard)'.

ESRS E2 Disclosure Requirement E2-4 paragraph 28 (a) states: 'The undertaking shall disclose the amounts of: (a) each pollutant listed in Annex II of Regulation (EC) No 166/2006 of the European Parliament and of the Council (European Pollutant Release and Transfer Register 'E-PRTR Regulation') emitted to air, water and soil, with the exception of emissions of GHGs which are disclosed in accordance with ESRS E1 Climate Change; (b) microplastics generated or used by the undertaking.'

ESRS E2 Disclosure Requirement E2-4 paragraph 29 states: 'The consolidation shall include only the emissions from facilities for which the applicable threshold value specified in Annex II of Regulation (EC) No 166/2006 is exceeded.'

ESRS E2 Disclosure Requirement E2-4 paragraph 31: 'When an inferior methodology compared to direct measurement of emissions is chosen to quantify emissions, the reasons for choosing this inferior methodology shall be outlined by the undertaking. If the undertaking uses estimates, it shall disclose the standard, sectoral study or sources which form the basis of its estimates, as well as the possible degree of uncertainty and the range of estimates reflecting the measurement uncertainty.'

ESRS E2 Disclosure Requirement E2-4 paragraph AR 26: 'When providing information on pollutants , the undertaking shall consider approaches for quantification in the following order of priority: (a) direct measurement of emissions, effluents or other pollution through the use of recognised continuous monitoring systems (e.g., AMS Automated Measuring Systems); (b) periodic measurements; (c) calculation based on site -specific data; (d) calculation based on published pollution factors; and (e) estimation.'

ESRS E2 Disclosure Requirement IRO-1 paragraph 11: 'The undertaking shall describe the process to identify material impacts, risks and opportunities and shall provide information on: (a) whether the undertaking has screened its site locations and business activities in order to identify its actual and potential pollution -related impacts, risks and opportunities in its own operations and upstream and downstream value chain , and if so, the methodologies, assumptions and tools used in the screening; (b) whether and how the undertaking has conducted consultations, in particular with affected communities.'

Regulation (EU) 2024/1244 (IEPR), Annex I, provides a list of activities that fall within its scope. Recital (12) states: 'To comply with the requirements of the Protocol, the reporting requirements provided for in this Regulation should apply to all activities listed in Annex I to the Protocol and, in fulfilling those reporting requirements, the facility to which the installation, or part thereof, belongs should be indicated. In addition, and with a view to achieving synergies with related Union environmental law affecting industrial installations, the scope of this Regulation should also be aligned with the industrial activities under Annexes I and Ia to Directive 2010/75/EU and with certain activities covered by Directive (EU) 2015/2193 of the European Parliament and of the Council'.

Answer

(1) Could you clarify the level of detail required in reporting pollutants (including microplastics)?

The level of detail required in reporting pollutants is not specific. The selection of pollutants that the undertakings will need to disclose will depend on the pollutants (including microplastics) that are material for their specific operations (ESRS E2 Disclosure Requirement IRO-1). Therefore, the undertaking will need to conduct a materiality assessment, including being transparent on whether any screening of its site locations and business activities were conducted, considering the pollutants they emit, the quantities, and the associated impacts of those emissions, as well as any consultations with the communities that are affected by its operations, where appropriate. In addition, the undertaking shall disaggregate the information by significant site or by significant asset, when material pollution-related impacts, risks and opportunities are highly dependent on a specific location or asset. For further information on the disaggregation of reported pollutant emissions, please consult ID 440.

(2) When is it possible to resort to estimations?

Estimations are generally considered a less preferable measuring methodology compared to direct observations. However, should the undertaking be compelled to resort to reporting by estimation (e.g., impossibility to collect the information about its upstream and downstream value chain), it should ensure to provide an explanation as well as a description of the methodologies, assumptions and tools used. The incorporation of estimates made using sector-average data or other proxies shall meet the qualitative characteristics of information as defined in ESRS 1. In the specific case of microplastics, it is worth noting that estimations may be the only feasible measuring methodology (particularly in the case of wear and tear of larger pieces of plastics, such as car tires or synthetic textiles), and, therefore, undertakings will most likely resort to estimations when reporting on microplastics.

(3) Do all the pollutants listed in the E-PRTR and all microplastics need to be measured?

In terms of E-PRTR pollutants, considering that the undertaking will need to refer to all material pollutants, it will report only on each material pollutant listed in the E-PRTR under ESRS E2-4 paragraph 28(a), whereas other pollutants assessed as material but not included in the E-PRTR are to be reported under entity-specific disclosures.

Please also refer to ID 441 for further information on microplastics, and to ID 440 for an understanding on the disaggregation level when reporting on pollutant emissions.

Supporting material

Regulation (EU) 2024/1244 of the European Parliament and of the Council of 24 April 2024 on reporting of environmental data from industrial installations, establishing an Industrial Emissions Portal and repealing Regulation (EC) No 166/2006.

ID 882 – Data availability for biogenic emissions in Scope 3

Category

Environment

Question asked

Can a preparer state that data for biogenic emissions in Scope 3 is 'not available' as it is specifically possible for Scope 2 biogenic emissions?

ESRS Reference

Disclosure Requirement E1-6 AR 45(e) and E1-6 AR 46(j); ESRS 2 Chapter 5.2 Estimation using sector averages and proxies

Key terms

Biogenic emissions; Scope 2; Scope 3; data availability; proxies; value chain

Background

ESRS E1 paragraph AR 45 (e) states the undertaking shall: 'disclose biogenic emissions of CO_2 carbon from the combustion or biodegradation of biomass separately from the Scope 2 GHG emissions but include emissions of other types of GHG (in particular, CH_4 and N_2O). In case the emission factors applied do not separate the percentage of biomass or biogenic CO_2, the undertaking shall disclose this. In case GHG emissions other than CO_2 (particularly CH_4 and N_2O) are not available for, or excluded from, location-based grid average emissions factors or with the market-based method information, the undertaking shall disclose this.'

In addition to Scope 2 emissions, ESRS E1 AR 46 (j) requires the undertaking to report biogenic Scope 3 emissions separately. ESRS E1 paragraph AR 46 (j) states that the undertaking shall 'disclose biogenic emissions of CO_2 from the combustion or biodegradation of biomass that occur in its upstream and downstream value chain separately from the gross Scope 3 GHG emissions, and include emissions of other types of GHG (such as CH_4 and N_2O), and emissions of CO_2 that occur in the life cycle of biomass other than from combustion or biodegradation (such as GHG emissions from processing or transporting biomass) in the calculation of Scope 3 GHG emissions …'.

On emissions in the value chain, ESRS 1 paragraphs 69 and 71 state that:

'69. There are circumstances where the undertaking cannot collect the information about its upstream and downstream value chain as required by paragraph 63 after making reasonable efforts to do so. In these circumstances, the undertaking shall estimate the information to be reported about its upstream and downstream value chain by using all reasonable and supportable information, such as sector-average data and other proxies'; and

'71. With reference to metrics, in many cases, in particular for environmental matters for which proxies are available, the undertaking may be able to comply with the reporting requirements without collecting data from the actors in its upstream and downstream value chain, especially from SMEs, for example, when calculating the undertaking's GHG Scope 3 emissions.'

Answer

AR45(e) does not allow for the omission of Scope 2 CO_2 biogenic emissions. What it says is that in the case of CH_4 and N_2O emissions are not available within the location-based or market-based emission factors, this shall be disclosed. However, this does not prevent the undertaking estimating these emissions, in case they are significant, for example based on the emission factors provided by the IPCC (see tables 2.2 to 2.10) for specific fuels and combustion technologies. Depending on the specific Scope 3 category and the specific circumstances of the undertaking, similar sources of emission factors may be found.

ID 1058 – ESRS E4 metrics covering own operations or upstream/downstream value chain

Category

Environment, Biodiversity

Question asked

ESRS E4-5 paragraph 37 mentions that 'For datapoints specified in paragraphs 38 to 41, the undertaking shall consider its own operations'. Does that mean that ESRS E4 paragraph 33 'The undertaking shall report metrics related to its material impacts on biodiversity and ecosystems.' also refers to the undertaking's own operations only?

ESRS Reference

ESRS E4 paragraph 37

Key terms

Metrics, own operations, materiality

Background

ESRS E4-5 paragraph 33 states 'The undertaking shall report metrics related to its material impacts on biodiversity and ecosystems.'

ESRS E4-5 paragraph 37 states: 'For datapoints specified in paragraphs 38 to 41, the undertaking shall consider its own operations.'

ESRS E4 paragraph 38 states: 'If the undertaking has concluded that it directly contributes to the impact drivers of land-use change, freshwater-use change and/or sea-use change, it shall report relevant metrics. The undertaking may disclose metrics that measure:

- (a) the conversion over time (e.g. 1 or 5 years) of land cover (e.g. deforestation or mining);
- (b) changes over time (e.g. 1 or 5 years) in the management of the ecosystem (e.g., through the intensification of agricultural management, or the application of better management practices or forestry harvesting);
- (c) changes in the spatial configuration of the landscape (e.g. fragmentation of habitats, changes in ecosystem connectivity);
- (d) changes in ecosystem structural connectivity (e.g. habitat permeability based on physical features and arrangements of habitat patches); and
- (e) the functional connectivity (e.g. how well genes or individuals move through land, freshwater and seascape).'

ESRS E4 paragraph 39 states: 'If the undertaking concluded that it directly contributes to the accidental or voluntary introduction of invasive alien species, the undertaking may disclose the metrics it uses to manage pathways of introduction and spread of invasive alien species and the risks posed by invasive alien species.'

ESRS E4 paragraph 40 states: 'If the undertaking identified material impacts related to the state of species, the undertaking may report metrics it considers relevant. The undertaking may:

- (a) refer to relevant disclosure requirements in ESRS E1, ESRS E2, ESRS E3, and ESRS E5;
- (b) consider population size, range within specific ecosystems as well as extinction risk. These aspects provide insight on the health of a single species' population and its relative resilience to human induced and naturally occurring change;
- (c) disclose metrics that measure changes in the number of individuals of a species within a specific area;
- (d) disclose metrics on species at extinction risk (80) that measure:
  - (i) the threat status of species and how activities/pressures may affect the threat status; or
  - (ii) changes in the relevant habitat for a threatened species as a proxy for the undertaking's impact on the local population's extinction risk.'

ESRS E4 paragraph 41 states: 'If the undertaking identified material impacts related to ecosystems, it may disclose:

- (e) with regard to ecosystems extent, metrics that measure area coverage of a particular ecosystem without necessarily considering the quality of the area being assessed, such as habitat cover. For example, forest cover is a measure of the extent of a particular ecosystem type, without factoring in the condition of the ecosystem (e.g., provides the area without describing the species diversity within the forest).
- (f) with regard to ecosystems condition:

(i) metrics that measure the quality of ecosystems relative to a pre-determined reference state;
(ii) metrics that measure multiple species within an ecosystem rather than the number of individuals within a single species within an ecosystem (for example: scientifically established species richness and abundance indicators that measure the development of (native) species composition within an ecosystem against the reference state at the beginning of the first reporting period as well as the targeted state outlined in the Kunming-Montreal Global Biodiversity Framework, or an aggregation of species' conservation status if relevant); or
(iii) metrics that reflect structural components of condition such as habitat connectivity (i.e., how linked habitats are to each other).'

ESRS 1 paragraph 11 states: 'In addition to the disclosure requirements laid down in the three categories of ESRS, when an undertaking concludes that an impact, risk or opportunity is not covered or not covered with sufficient granularity by an ESRS but is material due to its specific facts and circumstances, it shall provide additional entity-specific disclosures to enable users to understand the undertaking's sustainability-related impacts, risks or opportunities . Application requirements AR 1 to AR 5 provide further guidance regarding entity-specific disclosures.'

ESRS 1 paragraph 30 states 'When the undertaking concludes that a sustainability matter is material as a result of its materiality assessment, on which ESRS 2 IRO-1, IRO-2 and SBM-3 set disclosure requirements, it shall:

(a) disclose information according to the Disclosure Requirements (including Application Requirements) related to that specific sustainability matter in the corresponding topical and sector-specific ESRS; and
(b) disclose additional entity-specific disclosures (see paragraph 11 and AR 1 to AR 5 of this Standard) when the material sustainability matter is not covered by an ESRS or is covered with insufficient granularity.'

ESRS 1 paragraph 31 states 'The applicable information prescribed within a Disclosure Requirement, including its datapoints, or an entity-specific disclosure, shall be disclosed when the undertaking assesses, as part of its assessment of material information, that the information is relevant from one or more of the following perspectives:

(a) (a) the significance of the information in relation to the matter it purports to depict or explain; or
(b) (b) the capacity of such information to meet the users' decision-making needs, including the needs of primary users of general-purpose financial reporting described in paragraph 48 and/or the needs of users whose principal interest is in information about the undertaking's impacts.'

ESRS 1 paragraph 133 states: 'For the first 3 years of its sustainability reporting under the ESRS, in order to take account of the difficulties that undertakings may encounter in gathering information from actors throughout their value chain and in order to limit the burden for SMEs in the value chain:
(...) (b) when disclosing metrics , the undertaking is not required to include upstream and downstream value chain information, except for datapoints derived from other EU legislation, as listed in ESRS 2 Appendix B.'

Answer

ESRS E4 paragraph 33 refers to own operations and the upstream and downstream value chain, as no further specifications in terms of the scope are mentioned in this paragraph. For other paragraphs it is to be noted that:

- ESRS E4-5 specifies in relation to the disclosure requirements in paragraphs 38 to 41 to consider own operations exclusively.
- ESRS E4 paragraph 35 specifies metrics focusing on sites owned, leased or managed by the undertaking.
- ESRS E4 paragraph 36 is a voluntary disclosure on land use based on a Life Cycle Assessment, which inherently addresses the undertaking's value chain, as it involves assessing the impact of products or services on land use across all stages, from raw material sourcing to production and disposal.

In addition, if the undertaking identified material impacts, risks and opportunities in the value chain, it shall determine whether and what additional entity-specific disclosures it needs to disclose in line with ESRS 1 paragraphs 11 and 30(b). This may but does not have to include metrics. See in particular ESRS 1 paragraph AR3. on how to determine the usefulness metrics for inclusion in entity-specific disclosures. It is to be noted that, in any case, transitional provisions apply related to the disclosure of value chain information (see particularly ESRS 1 paragraph 133 (b)).

ID 1116 – Disclosure requirements related to ESRS E4 SBM-3 if biodiversity is material for the upstream or downstream value chain only

Category

Environment

Question asked

Is the SBM-3 metric to be reported for ESRS E4 if biodiversity was assessed as not material for the company's own operations, but only for the upstream value chain? The SBM-3 metric specifically refers to the company's own sites, i.e. own operations. Additionally, no sites were found located in or near biodiversity-sensitive areas that have negative impacts on these areas.

ESRS Reference

ESRS E4 SBM-3

Key terms

Value Chain

Background

ESRS E4-4 states: 'Disclosure Requirement SBM 3 – Material impacts, risks and opportunities and their interaction with strategy and business model

16. The undertaking shall disclose:

(a) a list of material sites in its own operations, including sites under its operational control, based on the results of paragraph 17(a). The undertaking shall disclose these locations by:

i. specifying the activities negatively affecting biodiversity sensitive areas;

ii. providing a breakdown of sites according to the impacts and dependencies identified, and to the ecological status of the areas (with reference to the specific ecosystem baseline level) where they are located; and

iii. specifying the biodiversity-sensitive areas impacted, for users to be able to determine the location and the responsible competent authority with regards to the activities specified in paragraph 16(a) i.

(b) whether it has identified material negative impacts with regards to land degradation, desertification or soil sealing; and

(c) whether it has operations that affect threatened species.'

Answer

If the topic 'Biodiversity and Ecosystems' has been identified as material for the undertakings upstream (or downstream) value chain only, the undertaking:

a) would not disclose the information required by ESRS E4 paragraph 16 (a), which refers to own operations only;
b) would be required to disclose information required by ESRS E4 paragraph 16 (b)in connection with its upstream (or downstream) value chain, as ESRS E4 paragraph 16 (b) applies not only to impacts connected to the undertaking's sites in its own operations.
c) In relation to ESRS E4 paragraph 16 (c), the undertaking would be required to disclose whether it has operations that affect threatened species. If ESRS E4 is material and it does not have operations that affect threatened species, it shall state so.

Social

ID 1026 – Definition of end-users

Category

Social

Question asked

Does the definition of end-users include workers at the client?

ESRS Reference

ESRS S4, ESRS Annex II (Acronyms and glossary of terms) Table 2

Key terms

Accidents, work-related; business-to-business customers; consumers and end-users; workers in value chain

Background

The following background was provided with the question: 'If a company sells products B2B, is the potential impact on those individuals to be assessed under S2 or S4? For example a harbor has ferry services and a truck driver, who in his/hers job needs to use the ferry to deliver goods, gets injured because of lacking security in the harbor. Is the impact on that driver to be assessed under S2 (because the truck driver is considered to be a worker in the downstream value chain) or S4 (because the truck driver is considered an end-user)?'

The ESRS define end-users as individuals 'who ultimately use or are intended to ultimately use a particular product or service'. A value chain worker is defined as an 'individual performing work in the value chain of the undertaking, regardless of the existence or nature of any contractual relationship with the undertaking'. This includes 'all workers in the undertaking's upstream and downstream value chain who are or can be materially impacted by the undertaking'. (See Table 2 of Annex II of ESRS.)

The ESRS definition of 'end-users' is closely related to that of 'consumers'. Both make it clear that consumers and end-users are natural persons who purchase or consume a good or service for their own personal, rather than commercial or professional, purposes. This is in line with relevant EU law. For example, the EU Consumer Rights Directive defines a consumer as 'any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession' (Article 2, point (1), Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights).

ESRS S1 Own Workforce, Disclosure Requirement S1-14 deals with reporting requirements for work-related injuries and work-related cases of ill health, including those that involve workers from companies other than the reporting undertaking as well as cases of work-related injuries and ill health that happen during travel for working purposes. ESRS S1 paragraph 86 states that, apart from cases of work-related injury and ill health among its own workforce, the reporting undertaking must 'also disclose the number of fatalities as a result of work-related injuries and work-related ill health of other workers working on the undertaking's sites' (emphasis added). ESRS S1 paragraph AR 84 states that an undertaking must also report incidents that happen to its workforce while travelling for work, i.e. outside the undertaking's own premises: 'With regard to travelling for work purposes, injuries and ill health that occur while a person is travelling are work-related if, at the time of the injury or ill health, the person was engaged in work activities 'in the interest of the employer'. Examples of such activities include travelling to and from customer contacts; conducting job tasks; and entertaining or being entertained to transact, discuss, or promote business (at the direction of the employer).'

Answer

No, ESRS define 'end-users' as individuals, and typically this does not include workers of a business customer of the reporting undertaking. In the general fact pattern described in the question, those workers may use the services or consume the goods sold by the undertaking, but they do so in the context of providing a service or producing a good on behalf of their employers. In other words, they do so for commercial or other professional purposes and not in a personal capacity. Typically, such workers should be considered value chain workers.

However, there can be circumstances where the exposure to negative impacts of an undertaking can be the same for workers in the value chain and end-users. In such a case, the undertaking shall assess the negative impacts from both perspectives. This can be the case when a business sells the same product or service both to business and retail customers. If, say, the failure to properly maintain a facility related to the provision of said product or service causes an accident that leads to injury of retail customers as well as employees of business customers they would both be treated as consumers or end-users, and the necessary reporting would fall under ESRS S4.