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ESRS for non-EU Groups ED Approval

Cover Note

Objective

1. The objective of this session is for the SRB to approve the ESRS for Non-EU Groups ('NESRS') Exposure Draft (ED) for consultation.
2. In this Cover Note, the EFRAG Secretariat has summarized only the key topics and decisions covered during the SRB Approval Initiation session on 3 December, without repeating what has been captured in Cover Note 02-01 (prepared for the Approval Initiation), which is equally relevant also for this meeting.

Background

3. On the SR TEG meeting 21 November 2024, the EFRAG SR TEG approved the NESRS ED with a global only approach, as a technical advice to the EFRAG SRB. For the details on the EFRAG SR TEG recommendation, please refer to the papers uploaded for the SRB 3 December 2024.

Approval Initiation meeting key points

4. As highlighted in the cover note for the approval initiation, the main standard-setting issues that defined the current version of the NESRS ED are as follows:
 - (a) Perimeter of information covered;
 - (b) Internationalisation of EU references;
 - (c) Financial information providing context to impacts;
 - (d) Transitional provisions; and
 - (e) Incorporation by reference.
5. For point (a), some SRB members shared similar concerns with this approach to that of SR TEG but appreciated that the "mixed approach" aims at minimising concerns about extraterritoriality and that the EC specifically requested its inclusion in the consultation.
6. The SRB had no objection about the approach for points (b) to (d) above as described in the cover note 02-01 for 3 December 2024. Point (e) is discussed below.

Other aspects discussed

7. ESRS Set 1 as basis for the development of NESRS was described as a sensible, pragmatic approach avoiding reinventing the wheel while maintaining a level-playing field, especially as simplification or reduction was not the objective of NESRS per article 40a of the CSRD.

8. The estimation of the number of entities in scope will have to be determined. Furthermore, the meaning of ‘turnover generated in the Union’ will be finalised by the European Commission in due course.
9. It was confirmed that CSRD does not require digital tagging of reports under NESRS.

Incorporation by reference

10. Due to series of technical concerns, EFRAG SR TEG requested the EFRAG Secretariat to remove “Incorporation by reference” from the NESRS ED and proposed to consult on need to introduce it in the final standard and on feasibility. In addition the consultation would also cover the interaction of NESRS with IFRS S1 and S2, as the two dimensions of impact materiality (NESRS) and financial materiality (IFRS) complement each other and as there are still many common disclosures (e.g. GHG emissions), for which incorporation by reference would be a logical tool.
11. SRB disagreed with the removal of “Incorporation by reference” possibility arguing that it should not be prevented. It should be allowed to avoid double-reporting whenever possible, however it was acknowledged that clear requirements should be set for when Incorporation by reference is acceptable, so undertakings disclose meaningful and auditable information (language, country, etc.)
12. The EFRAG Secretariat proposes the following changes:

119A Provided that the conditions in paragraph 120 are met, information prescribed by a Disclosure Requirement of an ESRS, including a specific datapoint prescribed by a Disclosure Requirement, may be incorporated in the *sustainability report* by reference to:

- (a) ~~another section of the management report or similar document (such as management discussion and analysis) of the ultimate parent;~~
- (b) the financial statements of the ultimate parent;
- (c) the corporate governance statement (if not part of the management report) of the ultimate parent;
- (d) the remuneration report of the ultimate parent required by local regulation Directive 2007/36/EC of the European Parliament and of the Council (9);
- (e) ~~the universal registration document, as referred to in Article 9 of Regulation (EU) 2017/1129 (10);~~ and
- (f) public disclosures under local regulation covering similar topics to Regulation (EU) No 575/2013 of the European Parliament and of the Council (Pillar 3 disclosures) (11) of the ultimate parent. If the consolidation perimeter of such document is different from the reporting entity used for the ESRS sustainability report, the undertaking shall ensure that the information matches the scope of consolidation used for the ESRS sustainability report, by complementing the incorporated information with additional elements as necessary.

120A The undertaking may incorporate information by reference to the documents, or part of the documents, listed in paragraph 119, provided that the disclosures incorporated by reference:

- (a) constitute a separate element of information and are clearly identified in the document concerned as addressing the relevant Disclosure Requirement, or the relevant specific datapoint prescribed by a Disclosure Requirement;
- (b) are published before or at the same time as the management report;
- (c) ~~are in one of the European languages or translated into such a European language; in the same language as the **sustainability statement**;~~
- (d) are subject to at least the same level of assurance as the ESRS sustainability report; ~~and~~
- (e) ~~meet the same technical digitalisation requirements as the sustainability statement.~~

Paragraphs 119 to 121 have been deleted.

122. In the preparation of its ESRS **sustainability report** using incorporation by reference, the undertaking shall consider the overall cohesiveness of the reported information and ensure that the incorporation by reference does not impair the readability of the sustainability statement. Appendix G *Example of incorporation by reference* of this Standard is an illustrative example of incorporation by reference (See NESRS 2 BP-2).

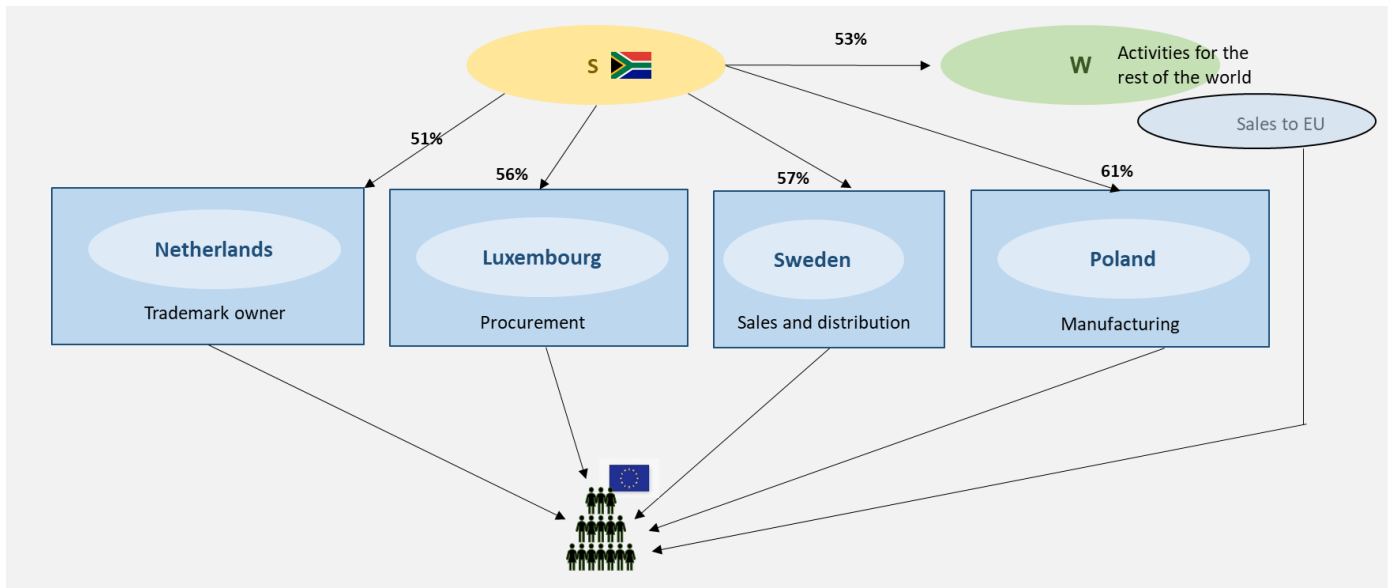
Reporting on impacts

13. An SRB member noted that as report that focuses on impacts only risks being confusing, as many impacts create risks and opportunities. Therefore, NESRS should not allow the perception that impacts do not trigger risks and opportunities. The EFRAG Secretariat proposes the following additional paragraph in the section on materiality:

38A While NESRS requires undertakings to report on impacts only, these impacts generally result also in financial risks and opportunities. However, NESRS does not allow the voluntary reporting of risks and opportunities as the related standardised disclosures were not included in these standards and neutrality of such reporting is essential to avoid biased reporting. As noted in paragraph 3A above, if undertakings want to report on risks and opportunities, they can apply full ESRS.

More complex example with respect to the mixed scope approach:

14. An SRB member requested that the EFRAG Secretariat develop an example as follows: A South African headquartered group, S, with the following structure and sales into the EU from other non-EU entities. What impacts are covered under the different approaches?



Assume Also assume S has an integrated manufacturing and distribution system which does not differentiate in their value chain and operations between the location of customers during the manufacturing phase.

If S follows paragraph 18A, the perimeter of all disclosures for own operations will cover the whole area portrayed (i.e., grey and blue). The related value chains are those outside the area in grey.

In this case, preparers using option 18B would have to perform a materiality assessment for topics beyond climate designed to capture impacts (also arising outside Europe) when they are connected with EU sales of goods or provision of services. This would also mean for example a quantification of the metrics for impacts, wherever they emerge, when connected with sales/services to the EU.

If S follows paragraph 18B, the perimeter for the disclosures in NESRS 2 and NESRS E1 will cover whole area portrayed (i.e., grey and blue).

Other environmental metrics could be apportioned on a relevant basis, but such estimations and the basis thereof would need to be explained carefully.

Items agreed to be specifically covered in the consultation

15. The inclusion of the following topics for Basis for Conclusions were agreed:
- (a) Internationalisation of EU references;
 - (b) Financial information providing context to impacts;
 - (c) Transitional provisions;
 - (d) Approach to removing paragraphs as required by CSRD;
 - (e) Set 1 as basis for NESRS ED (reasons, benefits); and
 - (f) Incorporation by reference.
16. These will all be subject to specific questions in the consultation questionnaire. However, the consultation will not reopen discussions about set 1 data points.

Questions for EFRAG SRB members

17. The Strategic Direction decided by the EFRAG SRB in the meeting on 16 October 2024 includes this option. EFRAG SR TEG has recommended a version of the ED which does not include the option in paragraph 18B. Does EFRAG SRB approve the issuance of an ED which consistently with the Strategic Direction of the EFRAG SRB includes the option?
18. Does EFRAG SRB have further comments on the Exposure Drafts presented?
19. Does EFRAG SRB members agree with the proposed areas for consultation questions or would like to add/change anything?

Next steps

20. Following the approval, the EFRAG Secretariat will finalise the basis for conclusions that will accompany this ED and draft the consultation questionnaire and field test procedures.
21. Written input of EFRAG SR TEG and SRB will be sought on the Basis for Conclusions and Consultation questionnaire.

Agenda papers

22. In addition to this cover note, agenda papers for this session are the same as for the approval initiation Board meeting (3 December). Please note that numbering, footers and headers have not been changed.
 - (a) Agenda paper 02-02 Mixed Scope consultation questionnaire;
 - (b) Agenda paper 02-03 NESRS 1 General requirements ED;
 - (c) Agenda paper 02-04 NESRS 2 General disclosures ED;
 - (d) Agenda paper 02-05 NESRS E1 Climate change ED;
 - (e) Agenda paper 02-06 NESRS E2 Pollution ED;
 - (f) Agenda paper 02-07 NESRS E3 Water and marine resources ED;
 - (g) Agenda paper 02-08 NESRS E4 Biodiversity and ecosystems ED;
 - (h) Agenda paper 02-09 NESRS E5 Resource use and circular economy ED;
 - (i) Agenda paper 02-10 NESRS S1 Own workforce ED;
 - (j) Agenda paper 02-11 NESRS S2 Workers in the value chain ED;
 - (k) Agenda paper 02-12 NESRS S3 Affected communities ED;
 - (l) Agenda paper 02-13 NESRS S4 Consumers and end-users ED; and
 - (m) Agenda paper 02-14 NESRS G1 Business conduct ED.
23. Given the direction from both the European Commission and the SRB to follow the mixed approach, the EFRAG Secretariat, next to the draft ED as approved by EFRAG SR TEG has also prepared a version which includes paragraph 18B and its consequential changes (mixed approach). This includes the cross-cutting content of the NESRS for the SRB meeting. Each topical standard would include in an AR a reference to paragraphs to NESRS 2 paragraphs 65A, 69A and 79A to strengthen the importance of these paragraphs. All ED's are in tracked changes to the delegated act for set 1.
24. The papers included are:
 - (a) Agenda paper 02-03A NESRS 1 General requirements including 18B WP; and
 - (b) Agenda paper 02-04A NESRS 2 General disclosures including 18B WP.
 - (c) The related topical standards have been uploaded as background for the SRB only.