Supporto al MEF sulla consultazione della Commissione europea sulla bozza di EFRAG revised technical advice

---

Amending suggestions to EFRAG revised technical advice regarding Amended ESRS

1) **<u>Fair presentation and users of sustainability statements</u>**

<u>A. What is the issue?</u>

Compared to ESRSs 2023, EFRAG has introduced the fair presentation principle in the revised technical advice on Amended ESRS.

The introduction of this new principle in the Standards is critical from the perspective of achieving the objective of reducing reporting burdens for the following main reasons:

- the different level of maturity of sustainability reporting compared to financial reporting (especially considering the double materiality principle);
- the risks associated with this principle (responsibilities for Board members and auditors);
- this concept, while it is clear in the Accounting Directive for financial reporting, it is not equally stated in the CSRD for the sustainability reporting.

<u>B. Possible solutions/How to solve the issue</u>

We have developed two possible solutions. The first solution is the one that we largely favour, as it is the only one that ensures that the main concerns related with fair presentation are adequately addressed.

<u>FIRST SOLUTION</u>

We suggest, as a **first best**, to eliminate the concept of fair presentation from the Standards. In particular, we disagree with the introduction of this principle given:

- the different level of maturity of sustainability reporting compared to financial reporting. While the concept of fair presentation is well-established in financial reporting, its boundaries are far less defined in the context of sustainability reporting, especially considering the double materiality principle that requires to take into account a multi-stakeholder approach compared to the financial materiality perspective. Also, the multiple reliefs contemplated in the revised technical advice regarding Amended ESRS introduce an additional element of significant complexity and potential uncertainty. This creates a significant grey area in which the company bears the burden of determining what constitutes a fair presentation;
- the risks associated with this principle, as this would significantly increase the responsibilities for Board members on the one side and auditors on the other. In fact, under such a regime, companies would not only need to apply the Standards and ensure consistency in their disclosures, but also ensure that the overall picture of the reported information provides a true and fair view of all material impacts, risks and opportunities with respect to the needs of all users. Fair presentation also imply that companies have to disclose additional information that are not required by the reporting standards, by forcing management and directors to "stand back" in order to

assess the overall picture provided in the Sustainability Reporting. In other words, a fair presentation framework requires the undertaking to disclose entity-specific information (also regarding its value chain) whenever applying ESRS is not sufficient to enable users to understand the undertaking's material impacts, risks and opportunities. Therefore, under a fair presentation framework, the number of entity-specific information would grow enormously.
Paradoxically, this could lead to an open-ended obligation for the companies and their directors. Indeed, if the fair presentation requirement is applied broadly to all material stakeholders, the scope of information to be disclosed in the sustainability statement could become virtually unlimited;
- finally, while this concept is clear in the Accounting Directive for financial reporting, it is not equally stated in the CSRD (and the Omnibus text) for sustainability reporting. Indeed, the CSRD requires a compliance-based disclosure framework with regard to the auditing and assurance of sustainability reporting (see Article 34(1)(aa)).

SECOND POSSIBLE SOLUTION

As a **second best**, we suggest to consider what follows.

As mentioned above, the issue of fair presentation is amplified by the double materiality perspective.

This is because, under this regime, it is very difficult, if not impossible, to identify all users' needs for an undefined audience of stakeholders and therefore to assess if the sustainability statement fairly presents information in line with all users' needs.

A way to address this issue is to:

1. clearly specify the presumption that informing primary users (namely existing and potential investors, lenders and other creditors) also satisfies the information needs of other users; and
2. clearly limit the additional information required (due to the current level of maturity of the sustainability reporting), especially if this information is required only by a specific category different from primary users.

Therefore, the ESRS 1 should explicit that:

- a first category of users of the sustainability statements, which can be labelled primary users, is made up of existing and potential investors, lenders and other creditors;
- a second category of users of sustainability statements includes other parties, such as the undertaking's business partners, trade unions, civil society. Information needs of these users are satisfied through information provided through ESRS that are relevant to primary users.

To address the second point, namely the limitation of the entity-specific information, we suggest to amend the ESRS 1 to indicate that entity-specific information is required only when it is financially material (i.e. when this information is useful to enable primary users to take informed decisions). Other additional information is not required for an entity to meet the fair presentation.

In the absence of a clarification on who the other users are and what their information needs are, it could be considered to delete paragraph 23 b).

All those suggestions are also consistent with the fact that, as required in the CSRD and in ESRSs, the undertakings shall present the sustainability statements within a dedicated section of the management report.

Finally, those amendments could represent a major step towards an improvement to the interoperability with ISSB Standards.

<u>C. Possible amendments to ESRS 1 *General Requirements*</u>

"*4.Users of general-purpose sustainability statements are:*

(a) primary users ~~***of general-purpose financial reports***~~*, such as existing and potential investors, lenders and other creditors, including asset managers, credit institutions and insurance undertakings; and*

(b) other users ~~***of general-purpose sustainability statements***~~*, such as the undertaking's business partners, trade unions and social partners, civil society and non-governmental organisations.* <u>***Generally needs of these other users are satisfied by information provided for primary users.***</u>

11.If the undertaking concludes that a topic related to material impact, risk or opportunity, is not covered, or not covered with sufficient granularity, by an ESRS, it shall provide entity-specific disclosures taking account of the provisions on fair presentation in Chapter 2. This may be the case due to sectorial specificities or other facts and circumstances relevant to the undertaking itself.

19.Fair presentation requires <u>***the undertaking to provide a complete, neutral and accurate depiction of its***</u> ~~***disclosure of relevant information about the undertaking's***~~ *material impacts, risks and opportunities* <u>***identified***</u> *in accordance with* <u>***paragraph 23 (a)***</u> ~~***Chapter 3 and their faithful representation in accordance with the requirements set out in this Standard (for relevance and faithful representation see Appendix B)***~~*.* ~~***To achieve faithful representation, the undertaking shall provide a complete, neutral and accurate depiction of its material impacts, risks and opportunities.***~~

20.Fair presentation also requires that the undertaking discloses:

(a) information that is comparable, verifiable and understandable (see Appendix B); and

(b) entity-specific information when applying ESRS is not sufficient to enable <u>***primary***</u> *users* <u>***identified in paragraph 23 (a) to take informed decisions on***</u> ~~***to understand***~~ *the undertaking's material impacts, risks and opportunities and how the undertaking manages them (see paragraph 3).*

AR6.To meet the objective of <u>***fair presentation***</u> ~~***its sustainability statement set out in paragraph 3***~~*, the undertaking shall consider the overall picture of the reported information. This can result in the addition of entity-specific information, as well as the implementation of the provision in paragraph 24*~~***, by using the criteria for information materiality in paragraph 23***~~*.*

Making use of one or more of the provisions in Chapters 5.4, 7.3, 7.4, or 7.7 is not detrimental to fair presentation provided that the undertaking provides explanations that enable users to understand the consequences on the reported information ~~***and the resulting limitations***~~*.*

23.Information is material when omitting, misstating or obscuring that information could reasonably be expected to influence:
(a) the decisions that primary users ~~***of general-purpose financial reports***~~ *make based on those reports, including financial statements and the sustainability statement, relating to providing resources to the undertaking;* ~~***or***~~
~~***(b) decisions, including informed assessments, that other users of 'general-purpose' sustainability statements make based on the sustainability statement regarding the undertaking's material impacts, risks and opportunities and how the undertaking manages them***~~*.*

2) Anticipated financial effects

A. What is the issue?

The anticipated financial effects is a very sensitive and burdensome topic for companies.

Companies expressed serious concerns regarding the limited measurability and reliability of this kind of information due to the lack of mature and established methodologies, the potential lack of reliability for users, and the sensitivity of commercially relevant data.

Moreover, this kind of information could lead to confusion for users compared to the information reported in the financial statements.

B. Possible solutions/How to solve the issue

For all those reasons, it would be appropriate to delete the requirements to report information about anticipated financial effects at least until the development of appropriate methodologies to quantify those effects also in cooperation with the EFRAG Financial Reporting Board and the ISSB. Moreover, it would be also appropriate to delete all the phases-in.

In the meantime, the issue could be addressed by disclosing the qualitative information on how the company expects its financial position, financial performance, and cash flows to change over the short, medium and long term on a voluntary basis.

C. Possible amendments to ESRS 1 *General Requirements*, ESRS 2 *General Disclosures* and ESRS E1 *Climate Change*

ESRS 1 *General Requirements*

"~~***125. 'Wave-one' undertakings may omit in their sustainability statement:***~~
~~***(b) all information about anticipated financial effects, required in paragraph 27 of ESRS 2 General Disclosures and in ESRS E1-11 for their financial years prior to financial year 2027, with the exception of ESRS E1-11 paragraph 38(a)(b) and 39 (a)(b)***~~*.*
~~***(c) quantitative information about anticipated financial effects, required in paragraph 27 of ESRS 2 General Disclosures and in ESRS E1-11 for their financial years prior to financial year 2030, with the exception of ESRS E1-11 paragraph 38(a)(b) and 39 (a)(b);"***~~

ESRS 2 *General Disclosures*

“27.The undertaking ***~~shall~~*** ***may*** *disclose qualitative* ***~~and quantitative~~*** *information on how it expects its financial position, financial performance, and cash flows to change over the short, medium and long term, given its strategy to manage material risks and opportunities (anticipated financial effects).*

~~28.The undertaking need not provide quantitative information about the current financial effects or anticipated financial effects if it determines that:~~

~~(a) the effects are not separately identifiable; or~~

~~(b) the level of measurement uncertainty involved in estimating those effects is so high that the resulting quantitative information would not be useful (see ESRS 1 General Requirements, paragraphs 89 and 90).~~

~~29.The undertaking need not provide quantitative information about the anticipated financial effects of material risks or opportunities if it does not have the skills, capabilities or resources to provide that quantitative information.~~

~~30.In preparing disclosures about its anticipated financial effects, the undertaking shall use all reasonable and supportable information available to it at the reporting date without undue cost or effort (see ESRS 1 General Requirements, paragraphs 94, 95 and 96).~~

~~31.If the undertaking cannot provide quantitative information about the current financial effects or anticipated financial effects of a risk or opportunity in accordance with paragraphs 28 and 29, it shall:~~

~~(a) explain why it has not provided quantitative information;~~

~~(b) provide qualitative information about those financial effects, including identifying line items, totals and subtotals within the related financial statements that are likely to be affected, or have been affected, by that risk or opportunity; and~~

~~(c) provide quantitative information about the combined financial effects of that risk or opportunity with other risks or opportunities and other factors, unless the undertaking determines that quantitative information about the combined financial effects would not be useful.~~

~~32.When providing quantitative information, the undertaking may present single amounts or ranges.”~~

ESRS E1 *Climate Change*

“***~~38. The undertaking shall disclose the anticipated financial effects from material physical risks, including:~~***

~~(a) the carrying amount of assets at material physical risk before considering climate change adaptation actions, including the relevant time horizons;~~

~~(b) the percentage of the (carrying amount of) assets at material physical risk addressed by adaptation actions at the reporting date; and~~

~~(c) the monetary amount of net revenue from its business activities at material physical risk, including the relevant time horizons.~~

~~39. The undertaking shall disclose the anticipated financial effects from material transition risks, including:~~

~~(a) the carrying amount of assets at material transition risk, including the relevant time horizons, and a range of estimated potential stranded assets from the reporting year until the mid-term and long-term time horizons based on a scenario aligned with limiting climate change to 1.5°C;~~

~~*(b) the percentage of the (carrying amount of) assets at material transition risk addressed by mitigation actions;*~~
~~*(c) a breakdown of the carrying amount of its real estate assets that have been used as loan collaterals by energy-efficiency classes;*~~
~~*(d) the estimated potential liabilities related to climate transition that do not meet the accounting recognition criteria at the reporting date but that may have to be recognised in financial statements in future periods; and*~~
~~*(e) the monetary amount of net revenue from its business activities at material transition risk and, if applicable, the net revenue from its customers operating in coal-, oil- and gas-related activities, including the relevant time horizons.*~~
~~*40. The undertaking shall disclose the methodology applied to quantify the amounts disclosed under paragraphs 38 and 39, including the scope adopted in the calculation, critical assumptions, parameters and limitations, including whether the calculation leverages on the process (e.g. scenario analysis) used to identify and assess transition risks.*~~
~~*41. The undertaking shall disclose the amount of assets or revenue from its business activities related with the identified climate-related opportunities, including their associated time horizons.*~~"

3) **The introduction of new datapoints and the moving of some "may" datapoints into "shall" datapoints**

A. What is the issue?

During the work on the revision of ESRS, EFRAG introduced some new datapoints and moved some "may" into "shall" datapoints in the revised technical advice.

Those additions/movings are not consistent with the simplification objective and they could represent an additional burden for current preparers (wave 1). Indeed, in most cases, those disclosures are costly to produce. For example, the disclosure on secondary microplastics could become a highly burdensome information because it may involve multiple layers down the value chain (as noted in the AR4[1]). This makes assessment very challenging, especially since there are still no well-recognized methodologies for evaluating this topic. This could lead to non-comparable, uncertaint and potentially misleading disclosures. Another example is the information on other pollutants that an undertaking measures or monitors (other than the E-PRTR list). Even though the reference to "material" pollutants is welcomed, to assess the materiality, ESRS E2 does not refer to the business model, activity, or sector of the undertaking. Instead, it requires undertakings to consider the E-PRTR list together with other pollutants that the undertaking measures or monitors. This could lead to collecting data on over hundreds of pollutants across all sites just to define which are material—representing a significant burden. It should be defined at central level which pollutants are material for companies and then establish a consolidation process for those pollutants according to the type of activities.

[1] ESRS E2 para AR4: "*Secondary microplastics can, for example, result from the breakdown of larger plastic items from the undertaking's products in its downstream value chain (e.g. wear and tear of car tyres or synthetic textiles), or be unintentionally released through the product life cycle. The information about secondary microplastics to be reported under paragraph 15(b) can be qualitative.*"

B. Possible solutions/How to solve the issue

For the reasons above, therefore, we suggest to delete all new datapoints and to change the status from “shall” to previuos “may” datapoints.

Find below the list of the main additions:

- para 125 of ESRS 1 regarding the exclusion from phase-in on anticipated financial effects of certain disclosures related to DR E1-11 *Anticipated financial effects from material physical and transition risks and potential climate-related opportunities* (ie para 38 a)-b) and 39 a)-b) of ESRS E1);
- para AR36 of ESRS 1 requiring an undertaking to include entity-specific metrics to cover its value chain, when necessary as the metrics defined in ESRS topical standards only cover own operations (with the exception of GHG emissions);
- para 19 and AR8 of ESRS E2 requiring manufacturers, importers or users of articles that contain SVHC to disclose the names of the substances that are present in a concentration above 0.1% weight by weight, as per Article 33 of Regulation 1907/2006;
- para AR2 of ESRS E2 requiring an undertaking to disclose also other pollutants that it measures or monitors (not only the E-PRTR list) therefore expanding the list of pollutants to be reported;
- para AR3 of ESRS E2 requiring that transfers of water pollutants to external treatment plants qualify as pollution within the undertaking’s downstream value chain and, therefore, when they are material, the undertaking is expected to report on transfers as entity-specific disclosures;
- para 15b) and para AR4 of ESRS E2 regarding secondary microplastics;
- para AR5 of ESRS E4 regarding the site’s area of influence;
- para 13c) of ESRS E5 requiring an undertaking to disclose a breakdown of each key material, expressed in weight or as a percentage of the total weight of all key materials;
- para 15c) of ESRS E5 requiring an undertaking to disclose the designed recyclability rate of its key products and their packaging;
- para 1 of ESRS S1 regarding the materiality of DR ESRS S1-5 and ESRS S1-6;
- para 19 of ESRS S1 regarding the disclosure of the total number of employees by headcount and breakdowns by gender and by country for the countries in which it has 50 or more employees representing at least 10% of its total number of employees;
- para 11 of ESRS G1 requiring an undertaking to disclose the number of sanctions for violation of anti-corruption and anti-bribery laws during the reporting period.

Moreover, find below the list of the main movings from “*may*” into “*shall*” datapoints:

- Para 15 c) of ESRS E3 regarding the total water withdrawal;

- Para 15 d) of ESRS E3 regarding the total water discharge;
- Para 10 of ESRS E4 regarding the biodiversity and ecosystems transition plan.

4) Level of aggregation and disaggregation of information

A. What is the issue?

Even though the DMA process has been streamlined compared to Set 1 and the July Exposure Draft, in the EFRAG revised technical advice is not clear—both for materiality and for the topical standards—how data are expected to be disaggregated. Indeed, new ESRS pose a lot of emphasis on the concept of "geographies" (ESRS 1 para 33, 53, AR10, AR31). Moreover, new ESRS place considerable focus on requiring site-level disclosures (e.g. ESRS E2 para8, ESRS E3 para 7, ESRS E4 para 7).

B. Possible solutions/How to solve the issue

As first best solution we suggest to align the wording of paragraphs on aggregation/disaggregation of information to ISSB Standards. Otherwise, as second best, we propose that disaggregation should be balanced with the quantity of information to report and therefore site-specific information should be reported only if extremely relevant for stakeholders.

C. Possible amendments to ESRS 1 *General Requirements*, ESRS E2 *Pollution*, ESRS E3 *Water* and ESRS E4 *Biodiversity and ecosystems*

ESRS 1 *General Requirements*

First best
~~**33.For geographies identified under paragraph 32(b)[2], the undertaking shall consider the specific context to assess the materiality of impacts, risks, or opportunities.**~~
53.~~**The undertaking shall aggregate or disaggregate the information in a way that reflects the level at which significant variations of material impacts, risks or opportunities arise, such as by topic, sector, subsidiary, geography, asset.**~~ The undertaking shall consider ~~**relevant**~~ **all** facts and circumstances **and decide how to aggregate and disaggregate information in its sustainability statement** ~~**to determine the level of aggregation that supports faithful representation of its impacts, risks or opportunities**~~. **The undertaking shall not reduce the understandability of its sustainability statement by obscuring material**

[2] ESRS 1 para 32: "*In its double materiality assessment, the undertaking:*
(a) shall use reasonable and supportable evidence available to the undertaking at the reporting date without undue cost or effort (see Chapter 7.4);
(b) it is not required to assess every possible impact, risk or opportunity across all areas of its operations and upstream and downstream value chain, but (39 amended) shall focus on areas where material impacts, risks or opportunities are deemed likely to arise based on the undertaking's strategy and business model, geographies, sectors, business relationships, nature of the activities, or other factors."

information with immaterial information or by aggregating material items of information that are dissimilar to each other. Information shall be aggregated if items of information have shared characteristics. The undertaking might need to disaggregate information, for example, by geographical location or in consideration of the geopolitical environment. For example, to ensure that material information is not obscured, an undertaking might need to disaggregate information about its use of water to distinguish between water drawn from abundant sources and water drawn from water-stressed areas.

~~**54. The undertaking shall ensure that the level of aggregation and disaggregation does not obscure material information.**~~

~~**55.The disaggregation used to present a given disclosure shall reflect the level that provides the most relevant information to *users*, i.e. *topic*, group of *impacts*, *risks* or *opportunities*, individual impact, risk or opportunity. This should reflect factors such as the nature of the impacts, risks or opportunities in question or the way the undertaking manages them.**~~

Second best

~~**33.For geographies identified under paragraph 32(b), the undertaking shall consider the specific context to assess the materiality of impacts, risks, or opportunities.**~~

53.The undertaking shall aggregate or disaggregate the information in a way that reflects the level at which significant variations of material impacts, risks or opportunities arise~~**, such as by topic, sector, subsidiary, geography, asset**~~. The undertaking shall consider relevant facts and circumstances to determine the level of aggregation that supports faithful representation of its impacts, risks or opportunities.

AR10.Geographies or geographic contexts can be analysed at different levels (country, region, water basin, ecosystem or site) according to their relevance for the assessment. (Para AR10 includes a definition and therefore it should be moved into the Glossary.)

ESRS E2 *Pollution*

For the following paragraph it would be better to delete it as the focus of the disclosures should be at consolidated level. Otherwise, the second-best alternative would be to maintain it with the following amendments.

First best

~~**8. Context-specific considerations are particularly important in relation to *pollution*. If material *impacts*, *risks* or *opportunities* are related to specific *geographies*, it is important to consider appropriate aggregation or disaggregation of the reported information in accordance with ESRS 1 *General Requirements*, Chapter 3.3.2 *Level of Aggregation, Disaggregation*.**~~

Second best

8. Context-specific considerations are particularly important in relation to *pollution*. If material *impacts*, *risks* or *opportunities* are related to specific *geographies*, it is important to consider appropriate aggregation or disaggregation of the reported

information~~, eg by site, area with water stress or other level~~ in accordance with ESRS 1 *General Requirements*, Chapter 3.3.2 *Level of Aggregation, Disaggregation*.

ESRS E3 *Water*

For the following paragraph it would be better to delete it as the focus of the disclosures should be at consolidated level. Otherwise, the second-best alternative would be to maintain it with the following amendments.

First best
~~**7. Context-specific considerations are particularly important in relation to water. If material *impacts, risks* or *opportunities* are connected to specific *geographies,* it is important to consider appropriate aggregation or disaggregation of the reported information in accordance with ESRS 1 *General Requirements*, Chapter 3.3.2 *Level of Aggregation, Disaggregation*.**~~

Second best
7. Context-specific considerations are particularly important in relation to water. If material *impacts, risks* or *opportunities* are connected to specific *geographies,* it is important to consider appropriate aggregation or disaggregation of the reported information~~**, eg by site, basin, area with water stress or any other level**~~ in accordance with ESRS 1 *General Requirements*, Chapter 3.3.2 *Level of Aggregation, Disaggregation*.

ESRS E4 *Biodiversity and ecosystems*

For the following paragraph it would be better to delete it as the focus of the disclosures should be at consolidated level. Otherwise, the second-best alternative would be to maintain it with the following amendments.

First best
~~**7. Context-specific considerations are particularly important in relation to *biodiversity* and *ecosystems*. If material *impacts*, *risks* or *opportunities* are related to specific *geographies,* it is important to consider appropriate aggregation or disaggregation of the reported information in accordance with ESRS 1 *General Requirements*, Chapter 3.3.2 *Level of Aggregation, Disaggregation*.**~~

Second best
7. Context-specific considerations are particularly important in relation to *biodiversity* and *ecosystems*. If material *impacts*, *risks* or *opportunities* are related to specific *geographies,* it is important to consider appropriate aggregation or disaggregation of the reported information~~**, ie by site, ecosystem or another level**~~ in accordance with ESRS 1 *General Requirements*, Chapter 3.3.2 *Level of Aggregation, Disaggregation*.

5) **The application of the new reliefs introduced**

A. What is the issue?

In the revised technical advice EFRAG has introduced new reliefs for companies but the conditions under which those reliefs can be applied are not well specified or what kind of additional information is required, even more taking into account how the relief concept may fit to the newly introduced fair presentation principle. For example, with regard to acquisitions and disposals, it has introduced the possibility of deferring the inclusion of a newly acquired subsidiary to the subsequent reporting period. However, if the company uses this relief, it shall disclose information on significant events that affected the subsidiary during the current reporting period. It is not clear what significant events are. Another example is the relief for preparing ESRS sustainability statement using partial data. EFRAG has introduced the possibility of providing partial metrics on own operations and value chain. It is not clear which information shall be reported in order to clearly represent the limitation of relevant information when applying such relief.

B. Possible solutions/How to solve the issue

A possible solution could be to better specify the conditions under which those reliefs can be applied or what kind of additional information is expected to disclose and to provide a definition of “significant events” in the glossary to limit the cases in which the company shall provide information that affected during the reporting period the subsidiary or business acquired or sold since acquisition or until disposal.

C.Possible amendments to ESRS 1 *General Requirements* and Glossary

ESRS 1 *General Requirements*

> 5.4. Relief for acquisitions and disposals
> 75. If the undertaking acquires a subsidiary or a business in the reporting period, it may defer the inclusion of the subsidiary or business in the materiality assessment and in the sustainability statement to the subsequent reporting period. If the undertaking loses control over a subsidiary or business in the reporting period, it may adjust the scope of the materiality assessment and the reporting boundary as from the beginning of the current reporting period. **The undertaking shall disclose if this relief is used.**
> 76. If the undertaking uses the relief of paragraph 75, it shall ~~**use available information to**~~ disclose significant events **based on readily available information** that affected during the reporting period the subsidiary or business acquired or sold since acquisition or until disposal, if this has an effect on the group’s exposure to material *impacts*, *risks* and *opportunities*.

Glossary

> **Significant events are major extraordinary events, such as natural catastrophic events and major incidents.**

ESRS 1 *General Requirements*

> 7.3. Reliefs for preparing the ESRS sustainability statement
> 91.The undertaking may exclude activities from metric calculations if, due to their nature, they are not a significant driver of the impacts, risks or opportunities that the metric purports to represent, and if their exclusion from the calculation is not expected

to impair the relevance and faithful representation of the reported information. The undertaking shall disclose if this relief is used, **explaining the specific circumstances** and include any relevant information to enable users to understand the scope limitations resulting from it.

92.Except when reporting ESRS E1-8 metrics, if the undertaking can provide without incurring undue cost or effort reliable direct or estimated data only for an objectively defined part of its own operations or its upstream or downstream value chain, it shall disclose that it has identified material impacts, risks or opportunities but that the corresponding metric can currently only be reported on a partial reporting scope or for a subset of the value chain. In this circumstance, the undertaking shall **clearly** disclose **the part of its own operations or its upstream or downstream value chain excluded**, the actions it has taken to increase the coverage and quality of reported information in future periods, ~~and~~ the progress made compared to the previous period, **considering that** ~~T~~the coverage ~~of reported information~~ is expected to increase over time, particularly for metrics in own operations. This paragraph applies without prejudice to the applicability of the provisions in Sub-Chapter 7.4.

6) Other points

Find below the list of the most other critical points:

a. **ESRS E2 Pollution (Substance of concerns (SOCs) and Substance of very high concerns (SVHCs))** – measuring the quantity of SVHCs/SOCs and their trends over time is highly complex to consolidate, especially for SOCs, as they are not clearly identified and there is a significant risk of double counting. In addition, letter (b) of para 18 introduces a new requirement not mentioned by EFRAG during the public consultation: reporting the total weight of SVHCs released into the environment (as opposed to the current ESRS E2, which requires reporting the amount of substances leaving facilities as part of products).

   Moreover, para AR5 provides that some disclosures on SOCs/SVHCs are only required by undertakings operating in the chemical sector. Those sector-specific disclosures should be deleted from sector-agnostic standards.

b. **ESRS E3 Water (Freshwater)** - without the specific mentioning of “freshwater” in DR E3-4 *Water Metrics*, the disclosures are far less relevant. From an environmental perspective, freshwater indicators are the only ones that truly matter when assessing water-related impacts. Furthermore, referring to “water” in general—without specifically distinguishing “freshwater”—greatly undermines comparability, as each company could adopt its own interpretation of “water.” As a result, the related disclosures risk becoming entirely meaningless. As such companies will have not only to report on the Total water metrics which are now more compared to Set 1, but report all of them twice as they will also need to report with a freshwater breakdown as these are the material KPIs.

c. **Social Standards (Severity of human rights)** - the revised technical advice requires in para AR36 of ESRS S1 (and also in the other social standards) that the human rights incidents in the scope of the disclosure in para 42b) are “*understood as the* *number of substantiated instances of judicial and non-judicial proceedings that have been initiated (such as cases before domestic courts and tribunals, mediation and complaints filed with the National Contact Points for OECD Multinational Enterprises) and/or incidents registered by the undertaking, including those it identified through its internal processes*". This is critical because it seems that every allegation in court could be defined as a human rights incident and it does not referred only to confirmed cases, but all cases initiated which may be extremely detailed, burdensome and also misleading as an information. Moreover, with the addition of OECD complaints, the requirement goes beyond formal legal processes.

d. **ESRS S1 Own workforce (Gender Pay Gap)** - it would be preferable to leave flexibility to use either "adjusted" or "un-adjusted" indicator being transparent and providing adequate context, as the un-adjusted pay gap is not always the most meaningful.

e. **ESRS S1 Own workforce (Adequate wage)** - there are some difficulties in applying this disclosure requirement especially because of the linkage with ILO principles. It would be important to develop, as soon as possible, a free reference/database to ease the burden on companies, allowing them to calculate the metric more easily, and to limit this metric to the most relevant countries.

f. **Concept of "shall consider"** – this concept is used in some paragraphs of the revised technical advice. ESRS 1 para 18 requires that "*ARs use the term 'shall consider' to indicate issues, resources or methodologies that the undertaking is expected to take into account or to use in the preparation of a given disclosure*". For example, para AR10 of ESRS E1 provides that "*When disclosing on its capacity to adjust its strategy and business model in accordance with paragraph 18(c), the undertaking shall consider*" some aspects.

   We believe that the meaning of this concept is not clear (e.g. are the aspects listed in para AR10 examples or minimum requirements?)