July 7, 2023

European Commission
1049 Brussel, Belgium

Japanese Bankers Association

JBA comments on the draft delegated regulation for the European sustainability reporting standards by the European Commission (EC)

Dear Sirs/Madams:

The Japanese Bankers Association[1] (JBA) appreciates the opportunity to provide our comments on the draft delegated regulation for the European sustainability reporting standard[2] proposed by the European Commission (EC) on June 9, 2023. We hope that our comments will contribute to further discussions in the EC.

General Comments

Materiality assessment

Since the European Sustainability Reporting Standards (ESRS) currently under public comment have been expanded to include listed SMEs, transitional measures have been taken according to the attributes of the companies, and it is stipulated that the undertaking is not required to disclose non-material items based on materiality assessments except for the General Disclosures Standard (ESRS2) which is mandatory. The determination of the scope of disclosure obligations with due consideration of the feasibility of these measures should be very much welcomed. Taking the materiality assessment as a baseline promotes dialogue with internal and external stakeholders and prioritises those issues that are crucial and within the sphere of influence of the reporting company.

However, the Sustainable Finance Disclosures Regulation (SFDR), the standards for financial institutions which are already in place, have no provisions for limited disclosure of materiality. Therefore, there is a possibility that there will be a data gap between financial institutions and the companies in their portfolios as the former has stricter disclosure rules. Additional data gaps may also occur between companies in their portfolios depending on the criteria for determining materiality.

We expect that the requirements as well as the standards of SFDR, ESRS and the International Sustainability Standards Board (ISSB)'s standards will realize consistency and interoperability in the future, with due consideration on feasibility and safe harbour rules.

[1] The Japanese Bankers Association is the leading trade association for banks, bank holding companies and bankers associations in Japan. As of July 7, 2023, JBA has 114 Full Members (banks), 3 Bank Holding Company Members (bank holding companies), 76 Associate Members (banks & bank holding companies), 51 Special Members (regionally-based bankers associations) and one Sub-Associate Member for a total of 245 members. Several of its largest member banks are active participants in the EU financial markets.
[2] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13765-European-sustainability-reporting-standards-first-set_en

Interoperability

Comparable non-financial information across firms on a global scale enables a level playing field and fair treatment of all counterparties. We encourage changes that harmonise the Corporate Sustainability Reporting Directive (CSRD) with other reporting standards such as ISSB, Task Force on Climate-related Financial Disclosures (TCFD) and Taskforce on Nature-related Financial Disclosures (TNFD).

We understand that the European Financial Reporting Advisory Group (EFRAG) and the ISSB have done further work to ensure that the climate related reporting standards of both EFRAG and the ISSB are interoperable. While this is welcomed, it would be helpful to clearly understand whether third country banking institutions can assume that for the elements or data points assigned and acknowledged by both EFRAG and ISSB as 'interoperable', whether these can indeed be used by financial institutions doing sustainability reporting as interchangeable. This clarification may result in enabling financial institutions not only to fully utilize the expertise and knowledge from extensive voluntary sustainability reporting, but also centralize and consolidate its sustainability reporting efforts across various jurisdictions where the institution operates.

Implementation date

In general, the financial sector as a stakeholder has concerns on the implementation date and warns that it remains difficult to implement the ESRS on a very tight time schedule. Expecting to provide stakeholders with sufficient time to prepare for implementation given the widespread impact of regulations on operations of the stakeholders.

Specific Comments on Annex I

Standard	Paragraph etc.	Comment
ESRS 1	Para 7.6	[Consolidated reporting and subsidiary exemption] Article 7.6 of the ESRS provides for an exemption from reporting for EU subsidiaries, provided that these subsidiaries are included in 'consolidated' reporting efforts. In order for companies or financial firms to determine whether they may consider providing centrally coordinated reporting to satisfy the EU reporting obligations, it would be helpful to i) have further detail on the scope of 'group-wide material impacts, risks and opportunities for the entire consolidated group' to ensure that 'all subsidiaries are covered' and ii) which entity would be responsible for providing the required information in the event that consolidated reporting is currently performed by an entity outside the EU.
ESRS 1	AR 16	[Sustainability matters to be included in the materiality assessment] We understand that the list described as Topical ESRS is a tool to support the undertaking's materiality assessment, as described in AR16, and that the scope of assessment is not limited to the Topical ESRS described in this

Standard	Paragraph etc.	Comment
		list. However, if these environmental issues, which are consistently listed from the EU taxonomy, are expanded to include other key items (noise, vibration, odours, land subsidence, etc.) that need to be reviewed under the globally pervasive international standards of the Environmental and Social Risk Management (ESRM) (e.g., IFC Performance Standards), it is welcomed as this enables supporting the assessment of impact materiality and enhances interoperability with international standards related to ESRM.
ESRS 2	Para 17	[Use of phase-In provisions] If an undertaking omits information on a material item from its disclosures this would breach local accounting standards in many jurisdictions. We therefore encourage the addition that undertakings should publish relevant information on material topics during the phase-in period.
ESRS E1	Appendix A AR1 to AR6	[Transition plan for climate change mitigation] We invite the European Commission and the co-legislators to recognise that net-zero transition planning is a group level consolidated activity, which financial institutions use to ensure their business model and operations align with a net-zero economy. Prescriptive requirements to introduce transition plans at the subsidiary level in the EU might therefore interfere with the ability of an international financial institution headquartered outside the EU to implement a groupwide transition plan, which could be subject to home country regulations. Since other jurisdictions are currently discussing mandatory requirements to introduce transition plans, the European Commission should discuss with international partners how to ensure compatibility between different obligations to avoid conflicting requirements, which could be detrimental to overall decarbonisation efforts.

*　*　*

We thank the EC for the opportunity to comment on the draft delegated regulation for the European sustainability reporting standards and hope our comments will contribute to further consideration in the EC.

Yours faithfully,

Japanese Bankers Association