

JBA Comments on the EFRAG Exposure Draft : ESRS for certain non-EU Undertakings (ESRS-40a)

#	Question	Comment	
Part 2 – SURVEY QUESTIONS – HIGH LEVEL FEEDBACK			
TOPIC 1: Revised ESRS as basis for ESRS-40a ED; approach to deleting datapoints or reformulating paragraphs as required by CSRD			
	Do you agree with the way EFRAG has implemented the provisions of the Accounting Directive (Articles 40a–40d), particularly in deleting RORD-related disclosures and financial effects, as well as maintaining financial information that provides useful contextual information to understand the impacts and how they are managed?	Yes	
	(Yesの場合) Please specify why	We agree with the proposed approach, as it would avoids duplication with existing disclosures by third-country undertakings applying ISSB Standards.	
	(Noの場合) Because you answered "No" in the previous question, answering in Excel in Part 4 of this questionnaire is required. [FEEDBACK AT DR/DATAPOINT LEVEL]. There you can comment on whether you would retain any disclosure requirements that have been removed, or if you have comments on added (i.e., not in the revised ESRS) or amended paragraphs.		
TOPIC 2 – Mixed approach: option to limit the ESRS-40a sustainability report transparency to EU-related impacts only (paragraphs 28–30 of the ESRS-40a 1 ED)			
	As an alternative to reporting on a global scope for all material sustainability topics, undertakings have the option to limit their disclosures on topics other than climate to EU-related impacts only. In this case, they apply the ‘mixed approach’, i.e. they report on a global scope for climate, and they report on their EU-related impacts for one or more topics other than climate.		
	Background and context: According to EFRAG’s proposal, EU-related impacts are those arising from one or both of the following: (a) products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties (downstream value chain actors such as distributors and traders). This component of the EU-related impacts is referred to as the ‘customer component’; (b) impacts of the undertaking’s EU activities, if not already included in point (a). This component of the EU-related impacts is referred to as the ‘location-based component’. Impacts captured in point (a) and impacts captured in point (b) above are all to be covered as EU-related impacts. The definition of impacts is not limited to impacts of own operations but also includes upstream and downstream value chain impacts, wherever they arise (i.e. inside or outside the EU). The option allows the undertaking to apply this ‘EU-related impacts’ scope at different levels of granularity: topic, sub-topic, or a group of impacts that are within a topic or sub-topic. However, companies may only apply the mixed approach under the following condition: Paragraph 29 of the ESRS-40a 1 ED states: ‘[...] only where a meaningful identification of the EU-related impacts enabling a faithful representation of those impacts for the purpose of the ESRS-40a ED reporting, aligned with: (a) how the undertaking’s own operations, its products and its service offering are structured or managed; and (b) how its upstream and downstream value chain or chains are structured and operate.’ The mixed approach was introduced into the ESRS-40a ED at the request of the EC. Its introduction in the ESRS-40a ED was extensively discussed during the standard-setting process. Members expressed broadly shared reservations about the mixed approach, as it may weaken the level playing field for European companies, it may limit relevance and completeness of the information, it may reduce comparability, and it raises implementation challenges. These concerns are described in the Basis for Conclusions (Section Approval of the ESRS-40a Exposure Draft). While concerns were identified, seeking stakeholder feedback is an important first step before reaching conclusions.		
	Do you support the inclusion of a ‘mixed approach’ option in the ESRS-40a ED, which allows limiting disclosures to EU-related impacts only for some topics?		
	Please select from this list of reasons (choose one or more):	✓	It captures impacts that have a link with the EU
		✓	It provides a proportionate approach to third-country groups without imposing excessive costs connected to global reporting for all topics
✓		It provides relevant information thanks to the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED)	

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			✓	It does not impair comparability and auditability of sustainability reporting
		(Yesの場合) Other reasons (please specify):		
		Please explain your reasoning behind selecting them and, if applicable, provide suggested improvements	We support the mixed approach, as requiring third-country undertakings to identify, collect, aggregate and disclose impact information across their global operations and the entire value chain would impose a significant practical burden. However, in applying this approach, undertakings should be permitted to report impacts related to upstream and downstream value chains only to the extent that such impacts can be realistically and reasonably identified and the information necessary for their disclosure can be obtained. Requiring the disclosure of information with an excessively high degree of uncertainty may potentially mislead users of the sustainability report. We believe that this approach would help ensure the comparability and verifiability, while avoiding an excessive reporting burden.	
	(Noの場合)	Please select from this list of reasons (choose one or more):		It fails to secure level-playing field for EU companies.
				Despite the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED), it does not result in relevant and complete information, or it conflicts with faithful representation of impacts.
				It results in mixed scopes in the same report (global for climate, EU-related for one or more groups of impacts/sub-topics/topics), making it difficult for users to understand and use the information;
				The condition in AR 6 for paragraph 29 (ESRS-40a 1 ED) is too narrow and will have narrow application.
				The flexibility in paragraph 30 (ESRS-40a 1 ED) is too broad, as impacts are managed consistently at topical level.
				The flexibility in paragraph 30 (ESRS-40a 1 ED) is too broad, and it will result in lack of comparability across companies.
				Reporting on EU-related impacts raises significant practical challenges.
		Other reasons (please specify)		
		Please explain your reasoning behind selecting them and, if applicable, provide suggested improvements.		
	Definition of EU-related impacts. Paragraph 28(a) of the ESRS-40a 1 ED refers to EU-related impacts (customer component) as: ‘impacts that arise from products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties (downstream value chain actors such as distributors and traders)’. Do you agree with this formulation, which remains at the principles-based level?		No	
		(Noの場合) Please recommend alternative factors to be considered by the undertaking that could be included in the Standard.	We recommend defining EU-related impacts as impacts arising from EU subsidiaries and branches meeting the thresholds set out in Article 40a of the Accounting Directive. The proposed definition is extremely difficult to apply in practice and would undermine the intended simplification for third-country undertakings.	
	For preparers, Do you intend to apply the mixed approach?		Yes	
		(Yesの場合) i. To which topic/sub-topic or group of impacts do you intend to apply the mixed approach?	Subject to the adoption of a practicable definition of EU-related impacts that allows them to be identified and captured, we would consider applying the mixed approach according to the topic and the undertaking's characteristics.	
		(Yesの場合) ii. How would you apply it?	Subject to the adoption of a practicable definition of EU-related impacts that allows them to be identified and captured, we would consider applying the mixed approach in a manner that takes into account the topic and the undertaking's characteristics.	

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		<p>For users, Considering the transparency requirements for applying the mixed approach in paragraph 4(a) and AR 1 of the ESRS-40a 2 ED, and the specific provisions added in paragraphs 28–30, AR 6 and AR 7 of the ESRS-40a 1 ED, do you expect to be able to understand and compare a sustainability report that applies different reporting boundaries (e.g. global vs EU-related scope) across topics or sub-topics?</p> <p>Please find the paragraphs mentioned above here.*</p> <p>https://widgixeu-library.s3.amazonaws.com/library/90007349/Attachment2Listofmixedapproachrelatedparagraphs.pdf</p>	Yes
		(Noの場合) Please explain why.	
		(Noの場合) Please suggest possible amendments.	
PART 3 – SURVEY QUESTIONS – DETAILED FEEDBACK If necessary, please refer to the text of the ESRS-40a ED in Annex 1 and the text of the Basis for Conclusions for the ESRS-40a ED in Annex 2.			
TOPIC 1 – Revised ESRS as the basis for the ESRS-40a ED and approach to deleting datapoints or reformulating paragraphs as required by the CSRD			
		Despite the focus on impacts and the deletion of RORD, do you agree with the reference to fair presentation in the reporting objective of the ESRS-40a ED in paragraph 5 of the ESRS-40a 1 ED: ‘the objective of the ESRS-40a ED sustainability report, taken as a whole, is to present fairly (see Chapter 2) all the undertaking’s material sustainability-related impacts and how the undertaking manages them’? For further considerations, please refer to the Basis for Conclusions (BC87–BC90).	No
		(Noの場合) Please explain .	We do not oppose fair presentation in principle. However, a common understanding and established practice for complete, neutral and accurate impact reporting do not yet exist. Making it mandatory could impose an excessive communication burden on preparers, users and assurance providers.
TOPIC 2 – Mixed approach: option to limit the ESRS-40a ED sustainability report transparency to EU-related impacts only (paragraphs 28–30 of the ESRS-40a 1 ED			
		Under the ED, companies can also apply the mixed approach option when reporting about human rights impacts. This means that they can restrict reporting to EU-related human rights impacts. Do you think human rights impacts should be excluded from the mixed approach and reported globally, regardless of where they occur or whether they are connected to products and services sold to the EU? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)	No, reporting can be limited to EU-related impacts.
		Please explain, also with reference to the specific circumstances you have in mind.	<p>We do not support requiring human rights impacts to be reported on a global basis.</p> <p>In the case of climate change, it is difficult to establish a clear and individual casual link between greenhouse gas emissions attributable to a particular actor and temperature increases in a particular region. Climate-related impacts are therefore more appropriately assessed on an aggregate basis, and a global reporting scope is more suitable.</p> <p>By contrast, in relation to human rights, it is generally possible to identify, to a certain extent, the party causing the incident and the location where it occurred, as well as the persons affected and the location to which they belong. In addition, we also consider that the intended users of ESRS disclosures are likely to place greater emphasis on information relevant to the European context. If a large volume of information, including information with only limited relevance to Europe, were disclosed, it could become more difficult for users to identify the impacts that are truly material. We therefore consider that limiting disclosure to impacts with a closer nexus to the European context would be effective.</p> <p>Accordingly, since EU-related human rights impacts can be identified and that reporting such impacts would provide meaningful information to users, the mixed approach should be permitted in relation to human rights impacts.</p>

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		Under the ED, companies can limit the disclosure to EU-related impacts without considering whether the impacts can be geographically contained (both in terms of where the impacts occur and where their effects are experienced). Do you agree with this approach? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)	Yes	
			Please explain, also with reference to the specific circumstances you have in mind.	
		Do you think that fair presentation can be achieved under the mixed approach? (see Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)	No	
			Please explain.	
		Do you agree with the flexible formulation of the option, which allows companies to choose the scope of reporting (global or EU-related impacts) at topic, sub-topic or group-of-impacts level, irrespective of how other topics, sub-topics or groups of impacts within the same topic are treated?	Yes	
		i. Please explain	We support allowing undertakings to select the reporting scope flexibly by topic, sub-topic or group of impacts, according to their circumstances.	
		(Yesの場合)ii. SUB-QUESTION FOR PREPARERS: If you replied 'Yes.' to the above question, are you considering, within the same topic, reporting at EU-related level for some groups of impacts or sub-topics, and reporting at global level for some other groups of impacts or sub-topics?	Yes	
		(II がYesの場合)iii. Please explain for which topic this would happen and the rationale behind this choice.	The specific topics have not yet been determined.	
		For preparers and assurance providers, do you anticipate implementation challenges when applying the mixed approach?	Yes	
		i. If "Yes.", please select one or more of the following.	✓	How to demonstrate the condition in AR 6 for paragraph 29 of ESRS-40a 1 ED
			✓	How to identify the products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties;
			✓	How to perform a materiality assessment focused on EU-related only impacts (chapter 3 of ESRS-40a 1 ED)
			✓	How to report on policies, actions and targets for EU-related impacts
			✓	How to identify the most appropriate allocation key and report on metrics
			✓	How to report in accordance with ESRS-40a 2 ED.
			✓	How to report in accordance with ESRS-40a E2 ED
			✓	How to report in accordance with ESRS-40a E3 ED
			✓	How to report in accordance with ESRS-40a E4 ED
			✓	How to report in accordance with ESRS-40a E5 ED

#		Question	Comment	
			✓	How to report in accordance with ESRS-40a S1 ED
			✓	How to report in accordance with ESRS-40a S2 ED
			✓	How to report in accordance with ESRS-40a S3 ED
			✓	How to report in accordance with ESRS-40a S4 ED
			✓	How to report in accordance with ESRS-40a G1 ED
			✓	Providing transparency on the use, assumptions and results of the mixed approach (paragraph 4(a), AR 1 for paragraph 4(a) of ESRS-40a 2 ED)
				Others - Write In
		Because you identified as a challenge above, please explain why and, if applicable, suggest improvements.	The current definition would make EU-related impacts difficult to identify and capture in practice. We therefore recommend defining them as impacts arising from the activities of EU subsidiaries and branches meeting the thresholds set out in Article 40a of the Accounting Directive.	
		ESRS-40a 2 ED BP-1, paragraph 4(a), requires the undertaking to disclose whether the sustainability report has been prepared using the mixed approach and, if so, to explain – per topic, sub-topic, or group of impacts – how EU-related impacts were determined and how the conditions set out in the ESRS-40a 1 ED, paragraphs 29 and 30, and AR 6 have been met. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of when and how the mixed approach is applied?		No
		(Noの場合)Please include your suggestions, if any, on how these requirements can be improved	Under the current definition, EU-related impacts would be difficult to identify and capture in practice, making it equally difficult to provide the required explanation.	
		Do you agree with the specifications in the ESRS-40a 2 ED that provide guidance on how to apply this Standard when reporting on EU-related impacts?		No
		i. If 'No.' to the previous question, please select one or more of the specifications below with which you disagree:	✓	GOV 1 (AR 11)
			✓	GOV 2 (AR 12)
		Please explain why you selected them and, if applicable, provide suggestions for improvement.	✓	GOV 3
			✓	GOV 4
			✓	SBM 1
			✓	SBM 2 (AR 19)
			✓	SBM 3 (AR 21)
			✓	I-1 (AR 23)
			✓	I-2 (AR 27)
			✓	GDR-P (AR 34)
			✓	GDR-A (AR 36)
			✓	GDR-M (AR 44 to AR 47)
			✓	GDR-T (AR 52)
			Undertakings should be allowed to choose the scope that best reflects their specific circumstances, rather than being required to apply a uniform EU-related or global scope prescribed for each disclosure requirement.	
		Do you agree with the specifications in the ESRS-40a ED topical standards that provide guidance on how to apply this Standard when reporting on EU-related impacts		No
				ESRS-40a E2 ED AR 4 (primary microplastics)
				ESRS-40a E2 ED AR 9 and 10 (SoC and SVHC)
				No specifications in ESRS-40a E3 ED (specification in GDR-M applies)
				No specifications in ESRS-40a E4 ED (specification in GDR-M applies)

#	Question		Comment		
		i. If 'No.' to the previous question, please select the specifications below with which you disagree.		No specifications in ESRS-40a E5 ED (specification in GDR-M applies)	
			✓	ESRS-40a S1 ED (paragraph 8, AR 1, AR 2, AR 20, AR 39)	
				ESRS-40a S2 ED (paragraph 8)	
				ESRS-40a S3 ED (paragraph 7)	
				ESRS-40a S4 ED (paragraph 7)	
				ESRS-40a G1 ED (paragraph AR 7 metric for corruption and bribery)	
				ESRS-40a G1 ED (paragraph AR 7 11 metric for political influence)	
				ESRS-40a G1 ED (paragraph AR 7 13 metric for payment practices)	
		Please explain why you selected them and, if applicable, provide suggestions for improvement.	The current definition would make EU-related impacts difficult to identify and capture. We therefore recommend defining them as impacts arising from EU subsidiaries and branches meeting the Article 40a thresholds. For example, for own workforce, including workers located outside the EU within the scope would be impracticable.		
	Breakdown for own workforce. Do you think it would be useful for users of sustainability reports if companies that opt for the mixed approach were required to disaggregate the quantitative metrics in Disclosure Requirements S1-6 to S1-16 – e.g. health and safety metrics such as number and rate of work accidents – by workforce inside and outside the EU? (A company's workforce includes employees and non-employees.)		No		
		i. If 'Yes.', should all quantitative metrics in S1-6 to S1-16 have to be disaggregated in that way or only some?			
		ii. If for 'Only some.', please specify which ones.			
	TOPIC 3: Interoperability, presentation and incorporation by reference				
	<p>Background and context</p> <p>The presentation requirements in ESRS-40a ED are carried forward from ESRS without modifications.</p> <p>Several jurisdictions whose law governs the ultimate third-country parent company subject to Article 40a reporting, have introduced, or are in the process of introducing, mandatory sustainability reporting supported by standards based on IFRS S1 and IFRS S2. In general, these standards cover sustainability-related financial risks and opportunities and are complementary, and in some cases underpin the information provided in accordance with ESRS-40a ED.</p> <p>EFRAG acknowledges that the ESRS-40a ED and jurisdictional requirements based on IFRS S1 and IFRS S2 include a significant number of common disclosure requirements. To ease reporting and avoid double-reporting, the current ESRS-40a ED allows incorporation by reference. However, it was acknowledged that clear requirements shall be set for when incorporation by reference is acceptable, so that undertakings disclose meaningful and auditable information (language, same assurance level, etc.) In addition, considering the difference between materiality approaches (ISSB standards on financial materiality, while the ESRS-40a ED focuses on impact materiality), structuring these different disclosures while enabling understandability is critical.</p> <p>Further details are provided in Chapter 9.3 Incorporation by Reference of the ESRS-40a 1 ED.</p>				
	Do you agree with the presentation requirements in ESRS-40a ED?		Yes		
		i. If "No.", please explain why.			
		ii. If 'No.', please provide suggested amendments.			
	Do you agree with the provisions in Chapter 9.3 on incorporation by reference, including as a possible way to achieve efficient reporting and to deal with double reporting when the group prepares a sustainability report in accordance with jurisdictional requirements based on IFRS S1 and IFRS S2, or in accordance with IFRS S1 and IFRS S2?		No		
		i. If 'No.', please specify if you disagree with.		Examples of sources (paragraph 120)	
✓			Conditions for incorporation by reference (paragraphs 121–123)		
			Additional flexibility made available in the ED to third-country groups when incorporating by reference a substantial part of the ESRS-40a ED reported information (paragraph 124)		

#		Question	Comment	
				Requirement to add a content table (paragraph 125)
		ii. If "No", please explain and, if applicable, provide suggested improvements.	<p>We support the concept of incorporation by reference as a means of improving reporting efficiency and avoiding duplicate reporting of the same information. However, we do not support the proposed conditions for incorporation by reference.</p> <p>Where disclosures have already been made in accordance with the ISSB Standards, or equivalent national or jurisdictional reporting standards, additional disclosure through incorporation by reference should not be required, for the following reasons:</p> <ul style="list-style-type: none">• In relation to sustainability-related disclosures, investors are seeking globally aligned reporting standards from the perspective of comparability, and the ISSB Standards are internationally recognised reporting standards.• The Basis for Conclusions states that jurisdictional requirements based on IFRS S1 and IFRS S2 include a significant number of disclosure requirements that are in common with ESRS-40a. Accordingly, ESRS-40a and the ISSB Standards do not differ to a material extent.• Requiring undertakings to provide separate disclosures on the same matter under different standards may create confusion for users of the information and hinder their understanding. It would also duplicate the reporting efforts and impose an undue burden on undertakings, as additional resources would be required. <p>If additional disclosures are nevertheless required, the differences between ESRS-40a and the ISSB Standards should be identified in a limited and targeted manner, so as to minimise the need for third-country undertakings to establish new processes for analysis, aggregation, calculation or drafting processes. In particular, the reporting items, data points and other elements that differ should be identified narrowly.</p> <p>In addition, where information included in a sustainability report prepared in accordance with a third-country sustainability reporting standard is already subject to assurance at a level and scope equivalent to, or exceeding , the assurance required under ESRS-40a, it should be clarified that such assurance may be relied upon for the purposes of meeting the assurance requirements under ESRS-40a.</p>	
	For preparers, If you are in scope of the ESRS-40a ED and, at the same time, (will) prepare (from YE2028) a sustainability report in accordance with jurisdictional standards based on IFRS S1 and IFRS S2, do you anticipate:			To be able to avoid double reporting, by using incorporation by reference from the sustainability report prepared at group level in accordance with jurisdictional requirements.
				To be able to comply in a single report with the two frameworks, ensuring clear identification of the information that meets respectively the requirements in each of the two sets of standards, including the information that meets the requirements that are common to the two sets of standards.
			✓	Not to be able to avoid double reporting, which means having to produce the same information in two standalone reports.
		<p>【To be able to comply in a single report with the two frameworks, ensuring clear identification of the information that meets respectively the requirements in each of the two sets of standards, including the information that meets the requirements that are common to the two sets of standards.を選んだ場合】</p> <p>In this case, please specify how you plan to support understandability and identification of disclosures that meet the disclosure requirements in the respective frameworks.</p>		
		<p>【Not to be able to avoid double reporting, which means having to produce the same information in two standalone reports.を選んだ場合】</p> <p>Please explain why and illustrate the challenges you anticipate</p>	Even where a report complies with the SSBJ Standards in Japan, certain information, such as Scope 3 Category 15, may fall outside the assurance scope and would therefore be ineligible for incorporation by reference, resulting in duplicate reporting.	
		<p>【Not to be able to avoid double reporting, which means having to produce the same information in two standalone reports.を選んだ場合】</p> <p>Please provide suggestions for amendments.</p>	To avoid imposing an excessive burden on third-country undertakings, information disclosed under home-jurisdiction requirements should be eligible for incorporation by reference without additional conditions, such as a requirement to obtain further assurance.	
	Do you find the requirements for incorporation by reference sufficient to lead to an understandable and auditable report?		No	
		If applicable, please provide suggested improvements.	As noted above, information disclosed under home-jurisdiction requirements should be eligible for incorporation by reference without the need for additional assurance. The treatment of assurance should also be clarified to avoid duplicative work when this mechanism is used.	

#	Question		Comment
	TOPIC 4: References to EU laws and regulations and their feasibility		
	<div>Background and context</div> <p>This questionnaire seeks stakeholders’ views on the use of references to EU laws and regulations in the ESRS-40a ED for third-country undertakings. The current ESRS-40a ED approach relies on references to terms and concepts in EU laws and regulations, reflecting the expectation that third-country undertakings with significant EU activities have sufficient knowledge of those terms and concepts at group level. Accordingly, EU regulatory references are carried forward from ESRS, while also considering the level playing field, as ESRS reporters also have to apply these references when reporting on operations located outside the EU. Please note that the ESRS-40a ED only references certain terms and concepts in EU law for reporting purposes and does not impose these laws on non-EU groups.</p> <p>Where EU references contain concepts and terms that are not applicable in the jurisdictions where the undertaking operates, undertakings may have to adjust their reporting processes to adopt such concepts and terms and, if relevant, are expected to disclose methodologies, assumptions and estimates to ensure comparability. Reliefs in Chapter 7.3 and 7.4 are applicable.</p>		
	<div>For preparers,</div> <div>Do you think that referring to terms and concepts from EU legislation as the default framework is feasible?</div>		No
		<div>If not, please specify which disclosure requirements you are referring to.</div> <div>Please find attached an Excel file containing a list of disclosure requirements where you can provide your comments. Please note that comments are also allowed on disclosure requirements not mentioned in this file - there is a specific tab for it in the Excel file.</div> <div>Please download the file here.</div> <div>A practical note: to correctly use the Excel file, please download it, complete the fields, and then upload the document.</div> <div>Please upload the populated Excel File in this box.</div>	Please see the file "(Part3 Topic4 for preparers)EUREferencesExcellforPublicConsultation".
	<div>ESRS-40a 2 ED BP-1, paragraph 7, requires undertakings to disclose, where EU-derived concepts are applied to third-country operations using approximations or estimations, which disclosures are affected, how the information was prepared, what limitations arise, and which parts of the reporting boundary are concerned. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of how the undertaking treats differences between EU-derived concepts and other third-country concepts?</div>		No
		<div>If no, please explain your reasoning.</div>	<div>We do not support establishing EU-derived concepts as the default framework, as this may give rise to significant practical difficulties for third-country undertakings, particularly where such concepts cannot be directly applied in their home jurisdiction or where no equivalent local concepts exist. Such an approach may also entail undue financial costs, including costs associated with verification.</div> <div>Rather than being required to third-country undertakings to apply EU legal concepts on the basis of assumptions and subject to limitations, third-country undertakings should be permitted to use internationally recognised standards or locally applicable equivalent concepts as substitutes, without any additional disclosure and conditions, where these provide information that is substantially comparable, or where approximations or estimates are used in applying such concepts.</div>
TOPIC 5: Any other comment			

#		Question	Comment
		<p>Please provide any other comments or suggested improvements on ESRS-40a ED not covered in the questions above.</p>	<p>- Third-country undertakings, whose head offices are not located in the EU, generally do not have organisational arrangements and internal frameworks that are based on European legal systems, concepts or approaches. As a result, establishing the necessary data infrastructure, internal controls, governance arrangements and assurance-ready operational processes will require a considerable amount of time.</p> <p>Accordingly, requiring third-country undertakings to apply the requirements at an early stage and on a strict basis may undermine the quality of disclosures and data.</p> <p>We therefore request that sufficient time and transitional measures be provided to facilitate implementation for third-country undertakings, and that incorporation by reference be permitted to the fullest extent possible in relation to reporting and assurance under national or jurisdictional standards.</p> <p>- We request clarification on whether, if the parent does not provide the necessary information and the subsidiary reports all available information and discloses that fact under ESRS-40a 1 paragraphs 10–12, any unmet disclosure requirements would not constitute non-compliance or trigger penalties.</p> <p>- We also request clarification on matters relating to third-party assurance, including whether the assurance should be provided by an EU or a non-EU assurance provider, and whether the associated costs should be borne by the EU entity or by the ultimate parent undertaking.</p> <p>-In addition, where a third-country undertaking has multiple subsidiaries or branches in the EU, we request clarification that only one subsidiary or branch is required to publish the ESRS-40a report.</p>
PART 4 – DETAILED FEEDBACK PER STANDARD & PARAGRAPH			
		<p>This field is mandatory if you indicated disagreement with EFRAG’s implementation of the Accounting Directive; otherwise, it is optional. Therefore, if an error occurs, please upload the Excel file and include the required detailed feedback.</p> <p>Answer in Excels for Part 2 - Topic 1 - Question 1.</p> <p>1. Would you retain any deleted datapoints?</p> <p>2. Do you have comments on deleted, amended or new paragraphs?</p> <p>Please note that comments are not allowed on paragraphs that remained unchanged.</p> <p>A practical note, to correctly use the Excel file, please download it, complete the fields, and then upload the document.</p> <p>Please download the file Excel here</p> <p>NOTE: The Excel File contains several validations. Please make sure to not break those validations. Only files with intact validations and not corrupted will be considered as valid by EFRAG Secretariat.</p> <p>Please upload the populated Excel File in this box.</p>	

(Part3 Topic4 for preparers)EUReferencesExcellforPublicConsultation

Standard	DR	Para	Paragraph Text from ESRS-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
ESRS-40a E1-E5 – List of References					
ESRS-40a E1	Objective	5	(ESRS E1, para. 5) This Standard takes into account the EU regulatory frameworks and other relevant frameworks, including the EU Climate Law (Regulation (EU) 2021/1119), the Climate Benchmark Standards Regulation (Regulation (EU) 2020/1818), the Sustainable Finance Disclosure Regulation (SFDR) (Regulation (EU) 2019/2088), the EU Taxonomy Regulation (Regulation (EU) 2020/852) and so-called ‘Pillar 3’ disclosures under the Capital Requirements Regulation (Regulation (EU) 2022/2453).	No	Rather than requiring third-country undertakings to apply EU legal concepts on the basis of assumptions and subject to limitations, EFRAG should assess what additional disclosures are necessary when reports are prepared based on home-jurisdiction law. (The same applies to all items below.)
ESRS-40a E1	Objective	7	(ESRS E1, para. 7) <i>Climate change mitigation</i> relates to the undertaking’s efforts to limit the increase in the global average temperature to 1.5°C above pre-industrial levels in line with the Paris Agreement and the objectives of the European Climate Law (Regulation (EU) 2021/1119). This Standard covers DRs related to how the undertaking addresses its <i>GHG emissions</i> and the associated <i>impacts</i> of its transition to a low-carbon economy.	No	
ESRS-40a E1	E1-1	11	(ESRS E1, para. 11) The objective of this DR is to enable an understanding of the undertaking’s past, current and future mitigation efforts to ensure that its strategy and <i>business model</i> are compatible with the transition to a sustainable economy and with limiting global warming to 1.5°C in line with the Paris Agreement and the objectives of the European Climate Law (Regulation (EU) 2021/1119), including achieving climate neutrality by 2050.	No	
ESRS-40a E1	E1-1	Footnote 1 for para. 11(b)	The CapEx amounts considered are related to the following NACE codes: (a) B.05 Mining of coal and lignite, B.06 Extraction of crude petroleum and natural gas (limited to crude petroleum), B.09.1 Support activities for petroleum and natural gas extraction (limited to crude petroleum), (b) C.19 Manufacture of coke and refined petroleum products, (c) D.35.1 - Electric power generation, transmission and distribution, (d) D.35.3 - Steam and air conditioning supply (limited to coal-fired and oil-fired power or heat generation), (e) D.46.81 - Wholesale of solid, liquid and gaseous fuels and related products (limited to solid and liquid fuels).	No	
ESRS-40a E1	E1-4	Footnote 2 for para. 18	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 (SFDR) because it is derived from an additional indicator related to principal adverse impacts as set out by indicator #4 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments (“Investments in companies without carbon emission reduction initiatives”). This information is also consistent with the requirements in Commission Implementing Regulation (EU) 2022/2453 template 3: Banking book – Climate change transition risk: alignment metrics; and is aligned with the Commission Delegated Regulation (EU) 2020/1818 (Climate Benchmark Regulation), Article 6.	No	
ESRS-40a E1	E1-7	Footnote 3 for para. 20(a)	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts, as set out by Indicator #5 in Table 1 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments (‘Share of non- renewable energy consumption and production’). The breakdown serves as a reference for an additional indicator related to principal adverse impacts as set out by Indicator #5 in Table 2 of the same Annex (‘Breakdown of energy consumption by type of non-renewable sources of energy’).	No	
ESRS-40a E1	E1-7	Footnote 4 for para. 22	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by Indicator #5 in Table 1 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments (‘Share of non-renewable energy consumption and production’).	No	
ESRS-40a E1	E1-7	Footnote 5 for AR 14	Based on Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.	No	
ESRS-40a E1	E1-8	Footnote 6 for para. 24(a)	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicators #1 and #2 in Table 1 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments (“GHG emissions” and “Carbon footprint”). This information is aligned with Commission Delegated Regulation (EU) 2020/1818 (Climate Benchmark Regulation), Articles 5 (1), 6 and 8 (1); Article 449a; Regulation (EU) No 575/2013; Commission Implementing Regulation (EU) 2022/2453 Template 1: Banking book – Climate change transition risk: Credit quality of exposures by sector, emissions and residual maturity.	No	
ESRS-40a E1	E1-8	Para. 24(a)i.	scope 1 GHG emissions, including the percentage of scope 1 GHG emissions from the EU Emission Trading System (EU ETS) if it has emissions from this system;	No	
ESRS-40a E1	E1-8	AR 16 (for paras. 23 and 24)	When preparing the information for reporting GHG emissions, the undertaking shall: (a) consider the GHG Protocol Corporate Accounting and Reporting Standard (2004). The undertaking may also consider Commission Recommendation (EU) 2021/22797 or EN ISO 14064-1:2018. In all cases, the requirements of ESRS take precedence over the above-mentioned GHG accounting standards (e.g. regarding reporting boundaries);	No	
ESRS-40a E1	E1-8	Footnote 7 for AR 16	Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 471, 30.12.2021, p. 1)PF1	No	
ESRS-40a E1	E1-8	AR 17 (for para. 24(a))	For activities covered by the EU Emissions Trading System (ETS), the undertaking shall report on scope 1 <i>emissions</i> following the EU ETS methodology. The EU ETS methodology may also be applied to activities in <i>geographies</i> and sectors that are not covered by the EU ETS provided the methodology is aligned with local jurisdictional rules and relevant for the undertaking.	No	

Standard	DR	Para	Paragraph Text from ESRS-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
ESRS-40a E1	E1-8	AR 18 (for para. 24(a))	When preparing the information on the percentage of scope 1 GHG emissions from EU ETS required under paragraph 24(a), the undertaking shall: (a) consider GHG emissions from its emission sources that are subject to EU ETS; (b) ensure the same accounting period for gross scope 1 GHG emissions and GHG emissions regulated under the ETS; and (c) calculate the share by using the following formula: %= GHG emissions (tCO2eq)/from emission sources subject to EU ETS Scope 1 GHG emissions (tCO2eq)	No	
ESRS-40a E1	E1-8	AR 19 (for para. 24(b))	When preparing the information on gross scope 2 GHG emissions required under paragraph 24, the undertaking shall: (a) consider the GHG Protocol scope 2 Guidance (Version 2015), particularly the scope 2 quality criteria in Chapter 7.1 relating to contractual instruments. The undertaking may also consider Commission Recommendation (EU) 2021/2279 or the relevant requirements for the quantification of indirect GHG emissions from imported energy in EN ISO 14064-1:2018; and (b) in accordance with ESRS 2 GDR-M, provide information about any contractual instruments that is necessary to inform users' understanding of the undertaking's scope 2 market based GHG emissions.	No	
ESRS-40a E1	E1-8	AR 20 (for para. 24(c))	When preparing the information on gross scope 3 GHG emissions required under paragraph 24, the undertaking shall: (a) consider the GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard (Version 2011). The undertaking can also consider Commission Recommendation (EU) 2021/2279 or the relevant requirements for the quantification of indirect GHG emissions from EN ISO 14064-1:2018;	No	
ESRS-40a E1	E1-9	Footnote 8 for para. 27	This information is aligned with the Regulation (EU) 2021/1119 of the European Parliament and of the Council (EU Climate Law), Article 2 (1).	No	
ESRS-40a E1	E1-9	Footnote 9 for para. 28	This information is aligned with the Regulation (EU) 2021/1119 of the European Parliament and of the Council (EU Climate Law), Article 2 (1).	No	
ESRS-40a E1	E1-9	AR 23 (for para. 27)	GHG removals and storage include both nature-based solutions as well as technological removals and storage. When preparing information on its projects, the undertaking shall: (a) apply consensus methods on accounting for GHG removals, such as the EU Carbon Removals and Carbon Farming Certification (CRCF) Regulation	No	
ESRS-40a E2	Objective	5	(ESRS E2, para. 5) This Standard takes account of EU regulatory frameworks, including: the EU Action Plan 'Towards a Zero Pollution for Air, Water and Soil'; the Chemicals Strategy for Sustainability Towards a Toxic-Free Environment; the Kyiv Protocol on Pollutant Release and Transfer Registers; the E-PRTR (Regulation (EC) No 166/2006 on the European Pollutant Release and Transfer Register) and the IEPR amendments (Regulation (EU) 2024/1244 on the Industrial Emissions Portal); the IED (Directive 2010/75/EU on the Industrial Emissions Directive) and the IED 2.0 amendments (Directive (EU) 2024/1785 on the Industrial and Livestock Rearing Emissions); the REACH (Regulation (EC) No 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals) and SPM amendments (Commission Regulation (EU) 2023/2055 on Synthetic Polymer Microparticles); and the CLP (Regulation (EC) No 1272/2008 on the Classification, Labelling and Packaging of Substances and Mixtures).	No	
ESRS-40a E2	E2-4	Footnote 10 for para. 15	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #8 in Table 1 and indicators #1, #2 and #3 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Emissions to water', 'Emissions of inorganic pollutants', 'Emissions of air pollutants' and 'Emissions of ozone-depleting substances').	No	
			(ESRS E2, AR 2) Material emissions of pollutants shall be identified through a managerial assessment that considers the undertaking's activities and sector of operation. The pollutants listed in Annex II of Regulation (EC) No 166/2006 (E-PRTR), Regulation (EU) 2024/1244 (IEPR) and subsequent amendments that apply to the undertaking, together with other pollutants that the undertaking measures or monitors, are a valuable input for this assessment. When determining whether the emission of a specific pollutant is material, the undertaking can consider the thresholds for releases mentioned in Annex II of Regulation (EU) 2024/1244.	No	
			(New) If the undertaking has exercised the option under N-ESRS 1 paragraph 28, when reporting in accordance with paragraph 16, the undertaking shall report the amounts of primary microplastics , covering: (a) primary microplastics manufactured from own operations in the EU, and those manufactured from own operations outside of the EU when they were or are assumed to be sold or provided in the EU Market; (b) the use of primary microplastics in products from own operations in the EU, and in products from operations outside of the EU that were or are assumed to be sold or provided in the EU Market; and (c) primary microplastics directly released into the environment from own operations in the EU, and those released from own operations outside of the EU where the direct release relates to products that were or are assumed to be sold or provided in the EU market. When disclosing the above information, the undertaking may consider, as a valuable input for its disclosure, the obligations in Regulation (EU) 2025/2365 and Regulation (EC) No 1907/2006.	No	
ESRS-40a E2	E2-5	20	(ESRS E2, para. 20) Manufacturers of articles, importers of articles or users of articles that contain SVHC shall disclose the names of the substances that are present in a concentration above 0.1% weight by weight (w/w), as per Article 33 of Regulation (EC) No 1907/2006 (REACH), in:	No	
ESRS-40a E2	E2-5	AR 6 for paras. 18 and 19	(ESRS E2, AR 5) Undertakings reporting under paragraphs 18 or 19 shall present SVHC grouped by hazard class (as per CLP Regulation 1272/2008/EC). This implies that a single substance needs to be counted under all applicable hazard classes. However, in the total amounts of procured, manufactured, sold and released substances, double counting shall be avoided.	No	
ESRS-40a E2	E2-5	AR 8 for paras. 18, 19 and 20	(ESRS E2, AR 7) The information provided under this DR may refer to information the undertaking is already required to report under other legislation (e.g. Directive 2010/75/EU, Regulation (EC) No 166/2006, their subsequent amendments, etc.).	No	

Standard	DR	Para	Paragraph Text from ESRs-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
ESRS-40a E2	E2-5	AR 9 for para. 18	(New) If the undertaking has exercised the option under N-ESRS 1 paragraph 28, when reporting in accordance with paragraph 18, the undertaking shall report the total weights of SoC on their own or in mixtures, and separately the total weights of SVHC on their own or in mixtures, covering: (a) substances procured within own operations in the EU; (b) substances manufactured within own operations in the EU; (c) substances that were or are assumed to be sold or provided in the EU market from own operations in the EU and from operations outside the EU; and (d) substances directly released into the environment from own operations in the EU, as well as substances directly released to the environment from operations outside of the EU where the direct release relates to products that were or are assumed to be sold or provided in the EU market. When disclosing the above information, the undertaking may consider as a valuable input for its disclosure the obligations in Regulation (EC) No 1907/2006.	No	
ESRS-40a E2	E2-5	AR 10 for para. 20	(New) If the undertaking has exercised the option under N-ESRS 1 paragraph 28, when reporting in accordance with paragraph 20, the SVHC that are present in articles in a concentration above 0.1% weight by weight (w/w), it shall report the names of the substances : (a) in procured components or articles from own operations in the EU; (b) in components or articles from own operations in the EU, as well as those from operations outside the EU but that were or are assumed to be sold or provided in the EU market. When disclosing the above information, the undertaking may consider as a valuable input for its disclosure the obligations in Regulation (EC) No 1907/2006.	No	
ESRS-40a E3	Objective	5	(ESRS E3, para. 5) This Standard takes account of EU regulatory frameworks and other relevant frameworks, including EU Water Framework Directive (Directive 2000/60/EC), EU Drinking Water Directive (Directive 2020/2184/EU), Industrial Emissions Directive (Directive 2010/75/EU), EU Water Resilience Strategy, the Eco-Management and Audit Scheme (EMAS) Regulation (Regulation 1221/2009/EC), UN Watercourses Convention (1997) and UNECE Water Convention (1992).	No	
ESRS-40a E3	E3 – 1	Footnote 11 for para. 10	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #7 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Investments in companies without water management policies').	No	
ESRS-40a E3	E3 – 1	Footnote 12 for para. 11	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #8 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Exposure to areas of high water stress').	No	
ESRS-40a E3	E3 – 4	Footnote 13 for para. 16e	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #6.2 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Weighted average percentage of water recycled and reused by investee companies').	No	
ESRS-40a E4	Objective	5	(ESRS E4, para. 5) This Standard takes account of EU regulatory frameworks and other relevant frameworks, including the vision of the Kunming-Montreal Global Biodiversity Framework and its relevant goals and targets , relevant aspects of the EU Biodiversity Strategy for 2030, EU Birds and Habitats Directives (Directive 2009/147/EC of the European Parliament and of the Council and Council Directive 92/43/EEC), the Marine Strategy Framework Directive (Directive 2008/56/EC of the European Parliament and of the Council), the 2023 EU Marine Action Plan, the EU Water Framework Directive (Directive 2000/60/EC of the European Parliament), and the Nature Restoration Regulation (Regulation (EU) 2024/1991 of the European Parliament and of the Council).	No	
ESRS-40a E4	E4-2	13(b)	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #14.2 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Share of investments in investee companies without a biodiversity protection policy covering operational sites owned, leased, managed in, or adjacent to, a protected area or an area of high biodiversity value outside protected areas').	No	
ESRS-40a E4	E4-2	AR 3 for para.12	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from mandatory indicators related to principal adverse impacts as set out by indicators #11, #12, and #15 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Investments in companies without sustainable land/agriculture practices', 'Investments in companies without sustainable oceans/seas practices', and 'Deforestation').	No	
ESRS-40a E4	E4-5	Footnote 16 for para. 19c	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #7 in Table 1 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Activities negatively affecting biodiversity- sensitive areas').	No	
ESRS-40a E4	E4-5	AR 9 for para.20	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from mandatory indicators related to principal adverse impacts as set out by indicators #10 and #14.1 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Land degradation, desertification, soil sealing' and 'Share of investments in investee companies whose operations affect threatened species').	No	
ESRS-40a E5	Objective	5	(ESRS E5, para. 5) This standard takes account of EU policy and regulatory frameworks, including the EU Circular Economy Action Plan (2020), the European Clean Industrial Deal (2025), the Eco-design for Sustainable Products Regulation (Regulation (EU) 2024/1781), the Waste Framework Directive (Directive 2008/98/EC), the Right to Repair Directive (EU) 2024/1799) and the Critical Raw Materials Act (Regulation (EU) 2024/1252).	No	

Standard	DR	Para	Paragraph Text from ESRS-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
ESRS-40a E5	E5-4	AR 2 for para.13(a)	(ESRS E5, AR 2) Critical raw materials and strategic raw materials , as identified in Annex I and Annex II of the Critical Raw Materials Act (Regulation (EU) 2024/1252), may be part of the undertaking's key materials . Where this is the case, the undertaking shall specify so. For example, an undertaking may identify a battery as a key material for its operations and specify that it contains lithium, which is classified as a critical and strategic raw material.	No	
ESRS-40a E5		Footnote 1 for para. 16(d)	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #13 in Table 2 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Non-recycled waste ratio').	No	
ESRS-40a E5		Footnote 2 for para. 16(d)	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #9 in Table 1 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Hazardous waste and radioactive waste ratio').	No	
ESRS-40a E5	E5-5	17	(ESRS E5, para. 17) The undertaking shall disclose the total amount of radioactive waste it generates, in accordance with the definition of radioactive waste in Article 3(7) of Council Directive 2011/70/Euratom.	No	
ESRS-40a E5	E5-5	Footnote 3 for para. 17	This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory indicator related to principal adverse impacts as set out by indicator #9 in Table 1 of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Hazardous waste and radioactive waste ratio').	No	
ESRS-40a E5	E5-5	AR 4 for para.16(a)	(ESRS E5, AR 4) When reporting in accordance with paragraph 16(a) on waste streams , it is sufficient to provide a name (for example, in accordance with the European List of Waste under Commission Decision 2000/532/EC) and an indication of the key materials that are included in the waste stream, such as biomass, metals, non-metallic minerals, plastics, textiles, critical raw materials , rare earths, etc.	No	
ESRS-40a E5	E5-5	AR 6 for para. 16(c)(iii)	(ESRS E5, AR 6) A list of recovery operations is found in Annex II, Directive 2008/98/EC on waste (Waste Framework Directive). 'Other recovery operations' should meet the definitions and requirements of the WFD. When reporting Waste in accordance with paragraph 16(c)(iii), the undertaking shall specify, if relevant, what these 'other recovery operations' are. Incineration with energy recovery is considered an 'other recovery operation' only when it meets the conditions of point R1 in Annex II 'Recovery operations' of the WFD.	No	
ESRS-40a E5	E5-5	AR 7 for para. 16(d)(iii)	(ESRS E5, AR 7) A list of disposal operations is found in Annex I, Directive 2008/98/EC on waste (Waste Framework Directive).	No	
ESRS-40a S1 – List of References					
ESRS-40a S1	Objective	7	(ESRS S1, para. 7) The undertaking's own workforce includes (i) people who are in an employment relationship with the undertaking (' employees ') and (ii) people who, for the purposes of reporting under ESRS-TC-40a, are called ' non-employees ' in the undertaking's own workforce. The latter comprise people with contracts with the reporting undertaking to supply labour ('self-employed people') or people provided by undertakings primarily engaged in 'employment activities' (NACE Code 078). Information about the persons referred to as 'non-employees' in the undertaking's own workforce in accordance with this Standard shall not affect their status under applicable labour law. This Standard does not cover workers in the undertaking's upstream or downstream value chain . These workers are covered in ESRS-TC-40a S2 <i>Workers in the Value Chain</i> .	No	
ESRS-40a G1 – List of References					
ESRS-40a G1	G1-1	AR 2 for para. 7(b)	Undertakings that are subject to legal requirements under national law transposing Directive (EU) 2019/1937, or to equivalent legal requirements with regard to the protection of whistleblowers, can comply with the disclosure specified in paragraph 6(b) by stating that they are subject to those legal requirements.	No	
Annex II – List of References					
Annex II		Article (for the purposes of ESRS E2)	An object, which during production is given a special shape, surface or design that determines its function to a greater degree than does its chemical composition (Regulation (EC) No 1907/2006).	No	
Annex II		Circular economy service	As per Annex II of the EU Taxonomy (Commission Delegated Regulation (EU) 2023/2486 supplementing Regulation (EU) 2020/852). The following economic services activities (CEY 5.1 – CEY 5.6) are considered to substantially contribute to the transition towards a circular economy : (a) maintenance and repair; (b) reuse and redistribution; (c) product-as-a-service; (d) recycling and resource recovery ; and (e) sustainable design and consultation services.	No	
Annex II		Critical raw materials	Critical raw materials are materials that have high economic importance and are subject to supply risk , due to factors such as geographic concentration, economic or geopolitical limitations, low end-of-life recycling input rates or difficulties in substitution. Critical raw materials are those listed in Annex II, Section 1 in the Critical Raw Materials Acts (2023).	No	

Standard	DR	Para	Paragraph Text from ESRS-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
Annex II		Eco-design requirement	Performance or information requirements aimed at making a product , including the processes taking place throughout the product’s value chain , more environmentally sustainable. The requirements include: (a) improving product durability , reusability, upgradability and reparability; (b) enhancing the possibility of product maintenance and refurbishment; (c) making products more energy and resource-efficient; (d) addressing the presence of substances that inhibit circularity ; (e) increasing recycled content; (f) making products easier to remanufacture and recycle; (g) setting rules on carbon and environmental footprints; (h) limiting the generation of waste ; and (i) improving the availability of information on product sustainability. The complete list is in Regulation (EU) 2024/1781 of the European Parliament and of the Council.	No	
Annex II		Emission	The direct or indirect release of substances , vibrations, heat or noise from individual or diffuse sources into air, water or soil (Directive (EU) 2024/1785).	No	
Annex II		Family-related leave	Family-related leave includes maternity leave, paternity leave, parental leave and carers’ leave that is available under national law or collective agreements . For the purpose of ESRS-TC-40a, these concepts are defined as: a. maternity leave (also called pregnancy leave): employment-protected leave of absence for employed women directly around the time of childbirth (or, in some countries, adoption); b. paternity leave: leave from work for fathers or, where and in so far as recognised by national law, for equivalent second parents, on the occasion of the birth or adoption of a child for the purposes of providing care; c. parental leave: leave from work for parents on the grounds of the birth or adoption of a child to take care of that child, as defined by each Member State; and d. carers’ leave from work: leave for workers to provide personal care or support to a relative, or a person who lives in the same household, in need of significant care or support for a serious medical reason, as defined by each Member State.	No	
Annex II		Freshwater	Groundwater and surface water with a mean annual salinity of < 0.5 ‰ (i.e. the limit mentioned in Annex II of the Water Framework Directive (Directive 2000/60/EC of the European Parliament and of the Council).	No	
Annex II		Greenhouse Gases (GHGs)	The gases listed in Part 2 of Annex V of Regulation (EU) 2018/1999 of the European Parliament and of the Council. These include Carbon dioxide (CO ₂), Methane (CH ₄), Nitrous Oxide (N ₂ O), Sulphur hexafluoride (SF ₆), Nitrogen trifluoride (NF ₃), Hydrofluorocarbons (HFCs) and Perfluorocarbons (PFCs).	No	
Annex II		Harassment	A situation where an unwanted conduct related to a protected ground of discrimination (for example, gender under Directive 2006/54/EC of the European Parliament and of the Council, or religion or belief, disability, age or sexual orientation under Council Directive 2000/78/EC) occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	No	
Annex II		Hazardous waste	Waste which displays one or more of the hazardous properties listed in Annex III of the Waste Framework Directive (2008/98/EC).	No	
Annex II		High climate impact sectors	Sectors that are listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council (as defined in Commission Delegated Regulation (EU) 2022/1288).	No	
Annex II		Importer	Any natural or legal person who is responsible for import (i.e. physical introduction into the customs territory). The import of substances on their own or in mixtures includes the wholesale distribution of chemical substances as per NACE code G46.85 (Rev. 2.1).	No	
Annex II		Landfill	A waste disposal site for the deposit of waste onto or into land (see Council Directive 1999/31/EC on the landfill of waste).	No	
Annex II		Manufacturer of articles	Any natural or legal person making or assembling an article (see Regulation (EC) No 1907/2006).	No	
Annex II		Manufacturer of substances	Any natural or legal person manufacturing substances (i.e. producing or extracting substances in the natural state) (see Regulation (EC) No 1907/2006).	No	
Annex II		Microplastics	Synthetic polymer microparticles that are solid and which fulfil both of the following conditions: (a) are contained in particles and constitute at least 1% by weight of those particles; or build a continuous surface coating on particles; and (b) at least 1% by weight of the particles referred to in point (a) fulfil either of the following conditions: i. all dimensions of the particles are equal to or less than 5 mm; or ii. the length of the particles is equal to or less than 15 mm and their length to diameter ratio is greater than 3. The following polymers are excluded from this designation: (a) polymers that are the result of a polymerisation process that has taken place in nature, independently of the process through which they have been extracted, which are not chemically modified substances ; (b) polymers that are degradable as proved in accordance with Appendix 15 of Commission Regulation (EU) 2023/2055; (c) polymers that have a solubility greater than 2 g/L as proved in accordance with Appendix 16 of Commission Regulation (EU) 2023/2055; and (d) polymers that do not contain carbon atoms in their chemical structure. Please refer to Regulation (EU) 2023/2055 for a list of derogations. Microplastics are typically categorised into primary and secondary types. Primary microplastics are intentionally produced and added to products (e.g. microbeads, glitter or stabilisers in cosmetics), resulting in a direct release into the environment during the use phase of the product or at their end-of-life. Secondary microplastics derive from the breakdown of larger pieces of plastics (e.g. plastic waste , such as packaging or fishing nets).	No	

Standard	DR	Para	Paragraph Text from ESR5-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
Annex II		Non-employees	Non-employees in an undertaking's own workforce include both individual contractors supplying labour to the undertaking ('self-employed people') and people provided by undertakings primarily engaged in 'employment activities' (NACE Code O78).	No	
Annex II		Packaging	Products made of any materials of any nature to be used for the containment, protection, handling, delivery, storage, transport and presentation of goods, from raw materials to processed goods, from the producer to the user or consumer (see Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste).	No	
Annex II		Placed on the market	Supplying or making available to a third party, whether in return for payment or free of charge. Import shall be deemed to be placing on the market (see Regulation (EC) No 1907/2006).	No	
Annex II		Pollutant	A substance , vibration, heat, noise, light or other contaminant present in air, water or soil which may be harmful to human health and/or the environment, which may result in damage to material property, or which may impair or interfere with amenities and other legitimate uses of the environment (see Regulation (EU) 2020/852).	No	
Annex II		Pollution	The direct or indirect introduction, as a result of human activity, of pollutants into air, water or soil which can be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment (see Directive (EU) 2024/1785).	No	
Annex II		Product	Products are any physical goods that are placed on the market or put into service (Regulation (EU) 2024/1781 of the European Parliament and of the Council establishing a framework for the setting of eco-design requirements for sustainable products).	No	
Annex II		Recycling	Any recovery operation by which waste materials are reprocessed into products , materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations (see Waste Framework Directive (2008/98/EC)).	No	
Annex II		Renewable energy	Energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogas (Article 2(1) Directive (EU) 2018/2001 of the European Parliament and of the Council on the promotion of the use of energy from renewable sources).	No	
Annex II		Soil	The top layer of the Earth's crust situated between the bedrock and the surface. The soil is composed of mineral particles, organic matter, water, air and living organisms (see Directive (EU) 2010/75).	No	
Annex II		Soil sealing	Covering soil in a way that makes the covered area impermeable (e.g. a road). This non-permeability can create environmental impacts as described in Commission Regulation (EU) 2018/2026.	No	
Annex II		Strategic raw materials	A subset of critical raw materials that are essential for green and digital technologies, defence, and space applications (see Annex I, Section 1, Regulation (EU) 2024/1252 of the European Parliament and of the Council).	No	
Annex II		Substance	Any chemical element and its compounds, in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition and with the exception of the following substances: (a)substances as defined in Article 1 of Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation; (b)genetically modified micro-organisms as defined in Article 2(b) of Directive 2009/41/EC of the European Parliament and the Council on the contained use of genetically modified micro-organisms; and (c)genetically modified organisms as defined in point 2 of Article 2 of Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms (Directive 2010/75/EU). Besides substances on their own, there are also substances present in mixtures, which are solutions composed of two or more substances.	No	
Annex II		Substances of concern (SoC)	A substance that: (a)meets the criteria laid down in Article 57 of Regulation (EC) No 1907/2006 and is identified in accordance with Article 59(1) of that Regulation; and/or (b)is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 in one of the following hazard classes or hazard categories: i.carcinogenicity categories 1 and 2; ii.germ cell mutagenicity categories 1 and 2; iii.reproductive toxicity categories 1 and 2; iv.endocrine disruption for human health categories 1 and 2; v.endocrine disruption for the environment categories 1 and 2; vi.persistent, mobile and toxic or very persistent, very mobile properties; vii.persistent, bioaccumulative and toxic or very persistent, very bioaccumulative properties; viii.respiratory sensitisation category 1; ix.skin sensitisation category 1; x.hazard to the aquatic environment – categories chronic 1 to 4; xi.hazardous to the ozone layer; xii.specific target organ toxicity – repeated exposure categories 1 and 2; or xiii.specific target organ toxicity – single exposure categories 1 and 2.	No	
Annex II		Substances of very high concern (SVHC)	Substances that meet the criteria laid down in Article 57 of Regulation (EC) No 1907/2006 (REACH) and were identified in accordance with Article 59(1) of that Regulation.	No	

Standard	DR	Para	Paragraph Text from ESR5-40a ED	Question: Do you think that referring to terms and concepts from EU legislation as the default framework is feasible? Please (Yes/No)	Please add your comment
Annex II		Threatened species or ecosystems	<i>Threatened species</i> refer to endangered species, including flora and fauna, listed in the European Red List or the IUCN Red List of Threatened Species as referred to in Section 7 of Annex II to Commission Delegated Regulation (EU) 2021/2139. <i>Threatened ecosystems</i> refer to the <i>ecosystems</i> categorised as critically endangered, endangered and vulnerable by the IUCN Red List of Ecosystems.	No	
Annex II		User of articles	Any natural or legal person who uses an <i>article</i> during their industrial or professional activities. For the purposes of these standards, the notion of ‘user’ is adapted from Regulation (EC) No 1907/2006 (REACH) downstream users.	No	
Annex II		User of substances	Any natural or legal person, other than the manufacturer, <i>formulator</i> , or <i>importer</i> , who uses a <i>substance</i> , either on its own or in a mixture, during their industrial or professional activities, excluding the final <i>consumer</i> . For the purposes of these standards, this notion is adapted from Regulation (EC) No 1907/2006 (REACH) downstream users.	No	
Annex II		Waste	Any <i>substance</i> or object which the holder discards, intends to discard, or is required to discard (see Directive 2008/98/EC of the European Parliament and of the Council on waste).	No	