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Summary of key recommendations

Eurosif broadly supports the overall alignment of the European Sustainability Reporting Standard for non-EU companies (ESRS-40a) Exposure Draft with the revised ESRS.

Positive elements include the **retention of the fair presentation principle**, the **definition of users of information** and coverage of **environmental, social and governance** topics beyond climate change. Removing Risks and Opportunities, Resilience and Dependencies (RORD)-related disclosures and financial effects is also consistent with the purpose of ESRS-40a, which is to report material impacts. Allowing companies to reference other international reporting frameworks should also further promote interoperability and consistency across jurisdictions.

Eurosif nevertheless has strong concerns regarding two proposals: **the “mixed approach” to the reporting scope** and the **complete exclusion of EU Taxonomy-related disclosures from ESRS-40a**.

Proposed “mixed approach” to the reporting scope:

The “mixed approach” would allow non-EU companies to limit disclosures to EU-related impacts for topics other than climate change.

This approach is inconsistent with the revised Corporate Sustainability Reporting Directive (CSRD) and Article 40a of the Accounting Directive, which does not provide for different reporting scopes for third-country companies.

Importantly, the proposed approach would create a diverging treatment between EU and non-EU companies and result in incomplete and potentially misleading disclosures, as well as create significant operational difficulties. Our key concerns are:

- **Incomplete and potentially misleading information, creating additional costs for investors.** Investors need a comprehensive view of impacts across global operations and value chains to assess risks, make informed decisions and comply with regulatory obligations, including under the Sustainable Finance Disclosure Regulation (SFDR). Limiting reporting to EU-related impacts could obscure serious environmental damage and adverse impacts on workers and communities, which are more likely to occur outside Europe. Moreover, many impacts arising from global operations and value chains cannot be reliably attributed to a particular market. Where ESRS-40a reports do not provide the information required for investment decisions and regulatory compliance, financial market participants may need to purchase supplementary data, creating additional costs.
- **Less consistent reporting, leading to usability challenges.** The proposed approach would allow non-EU companies to apply several reporting scopes within a single sustainability report. Users would therefore need to determine whether each topic, sub-topic or group of impacts is reported on a global or EU-related basis before interpreting the disclosed information. Furthermore, differences in the reporting scopes applied by each company would

make non-EU reports more difficult to understand and compare, undermining the consistency and usefulness of ESRS-40a reporting.

- **Higher costs and an unlevel playing field for reporting companies.** It is extremely complex to separate impacts generated through global operations and value chains between EU and non-EU markets. Companies may therefore need to introduce new systems and controls to identify, verify and report EU-related impacts. This would complicate reporting and assurance, increase costs and create a greater risk of inconsistent application. Furthermore, EU companies' sustainability reports could present greater adverse impacts than those of non-EU companies reporting under ESRS-40a simply because their disclosures cover a broader geographical scope. This disparity would place EU companies at a disadvantage, weaken comparability and create an unlevel playing field between EU and non-EU companies.

Eurosif, therefore, strongly recommends removing the “mixed approach” from EFRAG’s final technical advice, retaining only the options to report at a global level against ESRS-40a or to apply the full ESRS.

Exclusion of EU Taxonomy-related disclosures from ESRS-40a:

We recognise that non-EU companies within the scope of the CSRD are not directly subject to the reporting requirements under Article 8 of the EU Taxonomy Regulation. However, the complete exclusion of EU Taxonomy-related disclosures from ESRS-40a reports would create significant information gaps for users of sustainability reporting.

Financial market participants rely on Taxonomy-alignment disclosures to assess environmentally sustainable investments and comply with their own EU disclosure obligations, including under the SFDR. A non-EU parent may already consolidate information from EU subsidiaries required to report their Taxonomy-aligned turnover, capital expenditure or operating expenditure. Excluding that information from its ESRS-40a report would prevent investors from easily accessing such existing data and could force them to obtain such disclosures at additional cost from data providers.

ESRS-40a should therefore enable non-EU companies to report consolidated Taxonomy-alignment information voluntarily where subsidiaries are already required to disclose it.

Part II: survey questions – high-level feedback

Please note: Eurosif’s responses to the consultation are highlighted in blue boxes. Text on white background is part of EFRAG’s questionnaire.

TOPIC 1: Revised ESRS as basis for ESRS-40a ED; approach to deleting datapoints or reformulating paragraphs as required by CSRD

Questions

- 21) **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 impacts and how they are managed?**

☒ Yes.

☐ No.

We support the overall alignment of the ESRS-40a Exposure Draft with the revised ESRS, including the retention of the fair presentation principle, the definition of users of information and coverage of environmental, social and governance topics beyond climate change. Removing RORD-related disclosures and financial effects is also consistent with the purpose of ESRS-40a, which is to report material impacts.

We recognise that non-EU companies within the scope of the CSRD are not directly subject to the reporting requirements under Article 8 of the EU Taxonomy Regulation. However, the complete exclusion of EU Taxonomy-related disclosures from ESRS-40a would create significant information gaps for users of sustainability reporting.

Financial market participants rely on Taxonomy-alignment disclosures to assess environmentally sustainable investments and comply with their own EU disclosure obligations, including under the SFDR. A non-EU parent may already consolidate information from EU subsidiaries required to report their Taxonomy-aligned turnover, capital expenditure or operating expenditure. Excluding that information from its ESRS-40a report would prevent investors from using existing data and could require them to obtain supplementary data at additional cost.

ESRS-40a should therefore enable non-EU companies to report consolidated Taxonomy-alignment information voluntarily where subsidiaries are already required to disclose it.

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 I ED)

Questions

25) 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?

☐ Yes.

☒ No.

27) i. Please select from this list of reasons (choose one or more):

☒ It fails to secure level-playing field for EU companies.

Allowing non-EU companies operating in the EU to report only EU-related impacts would place them on a different footing from EU companies subject to the CSRD, which must report impacts across their global operations. For example, an EU and a non-EU clothing company could source from the same supplier outside the EU, but only the EU company might report the supplier’s labour-related impacts. EU companies could consequently appear to have greater adverse impacts simply because their disclosures cover a broader reporting scope, creating an unlevel playing field and putting EU companies at a disadvantage. This would also weaken comparability and reduce users’ confidence in the reported information.

☒ Despite the condition in AR 6 for paragraph 29 (ESRS-40a I ED), it does not result in relevant and complete information, or it conflicts with faithful representation of impacts.

The conditions in AR 6 for paragraph 29 do not adequately ensure faithful representation of impacts. The examples focus on a company’s intention to sell products or services in the EU, but intention does not necessarily

reflect where those products or services are ultimately sold or used. For example, a manufacturer may sell components to a distributor outside the EU without knowing whether they will subsequently be incorporated into products sold in the EU.

Moreover, the non-exhaustive nature of the examples and the use of undefined language such as “reasonably assumed” leave considerable room for interpretation. This could result in inconsistent application across companies, where the same “EU-only” reporting scope could cover a different range of activities, leading to different reporting between companies with similar value chains.

[X] 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 proposed option could introduce several reporting scopes within a single sustainability report. A non-EU company might report climate impacts globally, biodiversity impacts only for EU-linked operations and workforce impacts using another interpretation of the EU-related reporting scope.

Users would need to determine, for every topic, sub-topic or group of impacts, whether the information follows a global or EU-related reporting scope. This would make reports more difficult and costly to analyse and would undermine their internal consistency. Differences in the reporting scopes applied by non-EU companies would also make reports difficult to compare, weakening a core purpose of common European sustainability reporting standards.

This variation in reporting scope could obscure material impacts, reduce confidence in sustainability disclosures and increase the risk of incomplete reporting.

[] The condition in AR 6 for paragraph 29 (ESRS-40a I ED) is too narrow and will have narrow application.

[] The flexibility in paragraph 30 (ESRS-40a I ED) is too broad, as impacts are managed consistently at topical level.

[X] The flexibility in paragraph 30 (ESRS-40a I) is too broad, and it will result in lack of comparability across companies.

The flexibility provided by paragraph 30 would allow reporting companies to apply the “mixed approach” at the level of individual topics, sub-topics or groups of impacts. This means that two different non-EU companies with similar global supply chains could report workforce impacts using different geographical reporting scopes.

Users would first need to identify and reconcile those reporting scopes before comparing the disclosed information. Even where each company explains its approach, transparency about different reporting scopes would not make the underlying data consistent or comparable.

The flexibility would therefore substantially weaken comparability across companies and reduce users’ confidence in ESRS-40a reporting.

[X] Reporting on EU-related impacts raises significant practical challenges.

Many impacts arising through global operations and value chains cannot be attributed reliably to a particular market. As an example, water use or labour impacts at a factory producing goods for several regions may not be separable between EU and non-EU sales.

Separating EU-related impacts would therefore complicate reporting, increase the likelihood of inconsistent application and reduce confidence in the reliability of disclosed information. These estimates would also be difficult to verify and assure, particularly where products pass through distributors or other downstream actors before reaching the EU market.

Companies may also need to introduce new systems and controls to identify and substantiate EU-linked impacts throughout their global operations and value chains. This would increase reporting complexity and costs.

This would increase reporting costs and the likelihood of inconsistent application, while reducing confidence in the reliability of the disclosed information.

[X] Other reasons (please specify):

Restricting reporting scopes to EU-related impacts would deprive users of material information about impacts occurring outside the EU.

An EU-only reporting scope could obscure serious environmental damage or adverse impacts on workers and communities outside the EU. Deforestation linked to raw-material production, pollution at a non-EU manufacturing site or adverse impacts on workers could be excluded even where they create financial, reputational or supply-chain risks for investors. Investors and other financial market participants need a comprehensive view of impacts across global operations and value chains to assess risks and make informed capital-allocation decisions.

This information is also necessary for compliance with their own disclosure obligations, including under the SFDR. This is for example the case of Principal Adverse Impact (PAI) indicators on GHG emissions, negative impacts on biodiversity-sensitive areas or violations of the UN Global Compact principles, which are measured at the global level of investee companies, without any geographical limitation. This information will still be necessary following the SFDR review, as it will inform the PAI indicators established in line with products' sustainability related objectives. A scope limited to EU-related activities, combined with the exclusion of consolidated Taxonomy information, would therefore weaken the data needed for regulatory compliance.

Similarly, large EU listed banks must report financed emissions under the Pillar 3 ESG disclosures required by Article 449a of the Capital Requirements Regulation (CRR). ESRS-40a reports from non-EU groups would be an essential source of data for these exposures. An EU-related scope would remove this information precisely where most of the relevant data is concentrated.

Where ESRS-40a reports do not provide this information, market participants would need to purchase supplementary data, creating additional costs and a competitive disadvantage compared to non-EU actors.

Definition of EU-related impacts. Paragraph 28(a) of the ESRS-40a I 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?

☐ Yes.

☒ No.

The principles-based definition of EU-related impacts does not provide sufficient clarity to ensure consistent application. In particular, the reference to products and services that “can be reasonably assumed” to be sold or provided in the EU leaves substantial room for judgement regarding the evidence required, the role of downstream value-chain actors and the point at which an impact should be considered EU-related.

This lack of precision is likely to result in a wide range of interpretations. Companies with similar activities could apply different reporting scopes depending on their assumptions, methodologies and access to value-chain information, leading to inconsistent reporting across non-EU companies.

Such variation would be detrimental to users of sustainability information. It would weaken the completeness and faithful representation of reported impacts, make assurance more difficult and reduce comparability across companies. Users would also need to assess the assumptions and methodologies applied to determine whether each impact is EU-related before they could interpret and compare the disclosed information.

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 scopes (for example, global or EU-related) across topics or sub-topics?

☐ Yes.

☒ No.

Applying different reporting scopes across topics, sub-topics or groups of impacts would create significant uncertainty for users. Before interpreting the disclosed information, investors would need to determine whether each disclosure covers global impacts or only EU-related impacts. Where reporting scopes differ within the same report, it may also be unclear whether variations in reported impacts reflect differences in companies’ sustainability performance or simply the reporting scope applied.

This flexibility would substantially weaken comparability. Companies could apply different reporting scopes to similar impacts based on their assumptions, methodologies and access to value-chain information. Comparisons among non-EU companies would therefore become less reliable, while comparisons with EU companies reporting on their global impacts would be particularly difficult.

The transparency requirements in the Exposure Draft would not adequately address these concerns. Explaining the reporting scope would help users identify differences but would not make the underlying information consistent or comparable.

Investors would consequently need to devote additional resources to identifying, assessing and reconciling the reporting scopes used across reports. They may also need to obtain supplementary information from companies or third-party data providers to fill gaps and establish a comparable global view of impacts. This would increase analytical complexity and costs while reducing confidence in the usefulness and reliability of ESRS-40a reporting.

Any other comment - Please provide any other comments or suggested improvements on ESRS-40a ED not covered in the questions above.

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Financial market participants rely on Taxonomy-alignment disclosures to assess environmentally sustainable investments and comply with their own EU disclosure obligations, including under the SFDR. A non-EU parent may already consolidate information from EU subsidiaries required to report their Taxonomy-aligned turnover, capital expenditure or operating expenditure. Excluding that information from its ESRS-40a report would prevent investors from using existing data and could require them to obtain supplementary data at additional cost.

ESRS-40a should therefore enable non-EU companies wishing to report consolidated Taxonomy-alignment information voluntarily where subsidiaries are already required to disclose.