EFRAG
sustainability reporting

Public Consultation Questionnaire

ESRS for Certain Non-EU Undertakings in Accordance with Article 40a of the Accounting Directive

ESRS-40a

JULY 2026

Open Consultation

DEADLINE: 31 OCTOBER 2026

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INTRODUCTION

Welcome to the EFRAG Survey on the "ESRS regarding certain non-EU undertakings in accordance with Article 40a of the Accounting Directive", Exposure Draft Standards (ESRS-40a ED). Please submit your answers by ***31 October 2026 at 18:00 CET*** by clicking on the 'Submit' button at the bottom of the survey.

You can save a draft of the survey and return to it at a later time, by clicking the 'Save and continue later' button in the top right corner of the page. EFRAG will only consider surveys for which the 'Submit' button has been used.

For any technical queries about the survey, please contact **esrs-40a@efrag.org**

This questionnaire is open to all interested parties and stakeholder categories, including preparers, users and other interested stakeholders from both EU and non-EU jurisdictions.

The survey can be downloaded as a PDF **here** for convenience, but only online submissions will be considered.

ABOUT the ESRS-40a ED

The ESRS-40a ED has been developed to implement the provisions of Directive 2013/34/EU of the European Parliament and of the Council (the Accounting Directive), as amended by Directive (EU) 2022/2464 (the CSRD) and Directive (EU) 2026/470 (the Omnibus I Directive). The Accounting Directive specifies the characteristics and content of the standardised Disclosure Requirements in ESRS-40a ED by distinguishing it from those applicable to large undertakings under ESRS. Notably, ESRS-40a ED content is aligned with revised ESRS (the European Commission adopted the Delegated Act on revised ESRS for EU undertakings on 3 July 2026), but it excludes reporting related to risks, opportunities, resilience and dependencies from the scope of ESRS-40a ED. Therefore, ESRS-40a ED focuses on impacts in line with Article 40a of the Accounting Directive.

The policy objectives of ESRS-40a reporting are to ensure a level playing field for companies operating in the EU market and to enhance the accountability and transparency of non-EU companies with significant business on the EU Single Market for their impacts on people and the environment.

ESRS-40a ED has the same structure as ESRS (12 standards) and the same articulation in the reporting areas (strategy; governance; impact management through policies and actions; metrics and targets). They have the same content as a starting point, with selected exclusions described in detail in this questionnaire. In particular:

a) disclosures on risks, opportunities, resilience and dependencies have been deleted as per Article 40a of the Accounting Directive, resulting in the deletion of certain datapoints and the amendment of other datapoints to reflect the target reporting objective;

b) other selected adjustments, such as the deletion of datapoints related to the EU taxonomy, which is not applicable to non-EU companies falling under the scope of Article 40a.

In addition, the following new elements have been included:

a) new paragraphs have been added to reflect important provisions in the Accounting Directive and to facilitate understandability;

b) option to limit disclosures for impacts other than climate to EU-related impacts only when certain conditions are met ('mixed approach') and consequential transparency;

c) transparency in the application of concepts and terms derived from EU laws and regulations to operations that are not in scope of those laws and regulations; and

d) flexibility in the application of incorporation by reference from reports issued in accordance with applicable laws or regulations, acknowledging that a substantial part of ESRS-40a disclosures (e.g. general disclosures and information about impacts) may be common with sustainability reports prepared in accordance with applicable jurisdictional sustainability reporting standards.

Regarding point (b), the European Commission (EC) requested EFRAG to explicitly consult on this option, which has been extensively discussed by EFRAG Sustainability Reporting Technical Expert Group (SR TEG) and the EFRAG Sustainability Reporting Board (SRB), and it has triggered a number of concerns described in the Basis for Conclusions, in the section dedicated to EFRAG SR TEG and the EFRAG SRB vote on the ESRS-40a ED.

INTRODUCTION TO THE QUESTIONNAIRE

Purpose of this consultation

EFRAG is performing the ESRS-40a ED exercise following a specific mandate from the EC described in the Accounting Directive (Directive 2013/34/EU), in particular Articles 40a–40d, as amended by Directive (EU) 2022/2464 (the CSRD) and as recently amended by the Omnibus I Directive. In addition, EFRAG is consulting on the mixed approach upon request from the EC.

ESRS are the basis for ESRS-40a ED. The purpose of this public consultation is not to reassess the content of ESRS, which are applicable to companies in scope of the CSRD and are used as a basis for ESRS-40a ED. The consultation focuses on the following aspects, which differentiate the ESRS-40a ED from ESRS:

a) the deletion of disclosures about risks, opportunities, resilience and dependencies. The exclusion of these elements does not imply the exclusion of all types of financial information from the standards, as financial information is also needed for a proper understanding of impacts;
b) challenges, if any, and resulting transparency arising from the application of terms and concepts from EU laws and regulations to operations that are not in scope of those laws and regulations;
c) application challenges and relevance of reporting under a global approach or a 'mixed approach'; and
d) interoperability, i.e. how to avoid double reporting when the undertaking also prepares a sustainability report in accordance with applicable jurisdictional sustainability reporting standards.

Comments that go beyond the EFRAG ESRS-40a ED mandate, such as questioning the content of the CSRD or requesting modifications to the ESRS-40a ED that are not compatible with the ESRS-40a ED mandate, will not be considered.
In preparing feedback to this questionnaire, the undertaking may refer to the ESRS-40a ED and the Basis for Conclusions for the ESRS-40a ED.

List of useful documents

- **ESRS-40a ED**
- **Basis for Conclusions for the ESRS-40a ED.** This document explains the reasoning behind the content of the ED. It provides an overview of the methodological approach taken, the main content of the ED and the key aspects discussed by the EFRAG SRB and EFRAG SR TEG in preparing the standards. The Basis for Conclusions is also accompanied by a comparison of the ESRS-40a ED and revised ESRS.
- **Attachment 1:** Articles 40a–40d, as amended by Directive (EU) 2022/2464 (the CSRD)
- **Attachment 2:** List of Mixed-approach-related paragraphs.

Structure of the questionnaire and consent to publication

This invitation to comment includes 23 main questions across four sections, in addition to those necessary to capture the profile of the respondent.

The questionnaire is structured as follows:

Part 1 – Profile of the respondent (fields marked with * are mandatory)
Part 2 – High-level feedback (fields marked with * are mandatory)

> **Topic 1** – Revised ESRS as the basis for the ESRS-40a ED and approach to removing datapoints, or reformulating or adding paragraphs as required by the CSRD
>
> **Topic 2** – Disclosure of perimeter: Global or Mixed approach

Part 3 – Detailed feedback (optional)

> **Topic 1** - Revised ESRS as the basis for the ESRS-40a ED and approach to removing datapoints, or reformulating or adding paragraphs as required by the CSRD
> **Topic 2** – Mixed approach
>
> **Topic 3** – Interoperability, presentation and incorporation by reference
>
> **Topic 4** – References to EU laws and regulations
>
> **Topic 5** – Any other comment

Part 4 – Feedback at the level of DR [or paragraph of the ED] (optional).

Parts 1 and 2 contain questions about respondent information and high-level questions; these parts are mandatory. **Parts 3 and 4** are optional; respondents are encouraged to complete them also where possible.

You may complete **Part 3** of the questionnaire if you have detailed comments on the following topics: Mixed approach; Interoperability, presentation and incorporation by reference; References to EU law and regulations; Any other comment.

You may complete **Part 4** if you wish to comment on specific Disclosure Requirements (DRs) or [paragraphs] of a standard. Completing Part 4 becomes mandatory if you answer "no" to the first question in Topic 1, Part 2. This scenario is explained again below. In this case, you will be asked to submit an XLS file with your comments, specifying the paragraph of the standard to which they relate. To do so, you will need to download the Excel file, complete it, and then upload the document.

Please do not repeat the same comment in two or more parts/questions.

Comments to each question are limited to 300 words.

You will receive an email confirming receipt of your response upon submission. Please check your spam folder if you do not see the confirmation email.

Do you provide your consent to publish your responses? Please select 'No' below if you do not want your responses to be made public; in this case, your feedback will be treated anonymously.*

( ) Yes

( ) No

PART 1 – SURVEY PARTICIPANT INFORMATION

1) First Name:*

____

2) Last Name:*

____

3) Name of the organisation:*

____

4) Country of headquarters:*

5) Sector: [more detailed information about sector classification] - *It is possible to select multiple sectors.**

[ ] Accommodation and food service activities

[ ] Activities of extraterritorial organisations and bodies

[ ] Administrative and support service activities

[ ] Agriculture, forestry and fishing

[ ] Arts, sports and recreation

[ ] Construction

[ ] Electricity, gas, steam and air conditioning supply

[ ] Financial and insurance activities

[ ] Human health and social work activities

[ ] Manufacturing

[ ] Mining and quarrying

[ ] Other service activities

[ ] Professional, scientific and technical activities

[ ] Publishing, broadcasting, and content

[ ] Real estate activities

[ ] Transportation and storage

[ ] Telecommunication, computer programming, consulting, computing infrastructure and other information service activities

[ ] Water supply; sewerage; waste management and remediation activities

[ ] Wholesale and retail trade

6) Please enter your email.*

____

7) Which of the following stakeholder types do you represent?*

<u>Company (Preparers)</u>

( ) Preparer (financial or non-financial undertaking)

( ) Business association (financial or non-financial institution)

<u>Users</u>

( ) Investor

( ) National supervisory authority or regulator

( ) User (analyst, data provider, rating agency, etc.)

( ) User Association

<u>Financial institutions</u>

( ) Bank

( ) Asset manager/Investor

( ) Insurance

( ) Association of financial institutions

Other stakeholders

( ) Consultant (including software vendor)

( ) Assurance provider

( ) (National/Jurisdictional) standard setter, regulator or supervisory authority

( ) NGO

( ) Trade unions

( ) Academia

( ) Other - Write In: ____

8) For preparers, are you:*

(i) a European company in scope of Articles 19a or 29a of the Accounting Directive that is a subsidiary of a third-country parent group in scope of Article 40a of the same Directive;

(ii) an EU branch or a European company not in scope of Articles 19a or 29a of the Accounting Directive that is a subsidiary of a third-country parent group in scope of Article 40a of the same Directive;

(iii) a third-country parent group with significant activity in the EU and with a subsidiary or branch in scope of Article 40a of the Accounting Directive;

(iv) an EU company or group that is not a subsidiary of a third-country parent group in scope of Article 40a, but is in scope of ESRS reporting;

(v) an EU company or group that is not a subsidiary of a third-country parent group in scope of Article 40a, but is not in scope of ESRS reporting;

(vi) none of the above

9) If none of the above, please specify.*

____

10) Please specify the country of headquarters of the ultimate parent company.*

11) i. Please specify the country of headquarters.*

12) ii. If you have selected point (iii) to the question for preparers above, please provide your feedback, if possible, on (these questions apply only to undertakings in scope of Article 40a of the Accounting Directive):

How many subsidiaries in your group are in scope of Articles 19a or 29a of the Accounting Directive?*

____

13) iii. Please provide the location of your subsidiaries *

____

14) iv. Please list the subsidiaries that are already reporting under Articles 19a or 29a of the Accounting Directive.*

____

15) v. If you have selected point (iii) to the question for preparers above, do you plan to report according to ESRS (as enacted by the EC in July 2026) for the whole group (double materiality)?*

( ) Yes.

( ) We are considering it/ we have not yet decided.

( ) No.

16) vi. Please select one or more of the reasons listed below for planning to report according to the ESRS (as enacted by the EC in July 2026) for the whole group (double materiality).*

[ ] To qualify for the subsidiary exemption (benefits of applying full ESRS: if the third-country ultimate parent company applies full ESRS, the subsidiaries of that third-country company falling under Articles 19a or 29a could benefit from subsidiary exemption, but only if the third-country parent company applies full ESRS (double materiality));

[ ] For strategic or managerial reasons.

[ ] Other, please specify.: ____

17) Do you/does your (or will by FY2028) ultimate parent group report in accordance with jurisdictional standards based on ISSB standards on a group level?*

( ) Yes.

( ) No.

18) Because you answered "Yes" to the previous question, please indicate if you report on:

( ) Climate only, in accordance with jurisdictional standards based on ISSB Standards

( ) Climate and other topics, in accordance with jurisdictional standards based on ISSB Standards

( ) In accordance with other standards (Please specify)____________

19) Do you/does your (or will by FY2028) ultimate parent group report voluntarily on a group level? *

( ) Yes.

( ) No.

20) Because you answered "Yes" to the previous question, please indicate if you report on:*

( ) Climate only, in accordance with ISSB Standards

( ) Climate and other topics, in accordance with ISSB Standards

( ) In accordance with GRI

( ) In accordance with other standards (please specify which standard):____

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

Background and context

EFRAG has developed the ESRS-40a ED in accordance with the EC's mandate and guidance, with a focus on transparency regarding impacts of third-country groups with significant activities in the EU. The use of the revised ESRS text as the basis for the ESRS-40a ED was identified as the most appropriate way to implement the provisions of the CSRD, as well as a pragmatic solution, enabling consistency and supporting a level playing field between EU and non-EU companies providing products and services to EU customers.

For all the standards in the ESRS-40a ED (other than the Standard ESRS-40a 1 ED), an analysis of all datapoints in revised ESRS was performed to determine whether:

a. the datapoint covers an aspect pertaining to areas that should be excluded from the ESRS-40a ED, i.e. risks, opportunities, resilience and dependencies (RORD) and financial effects;
b. the datapoint covers an aspect to be included as it relates to impacts;
c. the datapoint covers aspects – including financial information – maintained in the text as they provide useful contextual information to understand the impacts and how they are managed; and
d. the datapoint covers impacts, risks and opportunities and should be reformulated so that only information related to impacts are included in the ESRS-40a ED.

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.

22) i. If no, would you retain any disclosure requirements that have been removed?*

( ) Yes.

( ) No.

Because you answered "Yes." in the previous question, answering in Excel in Part 4 of this questionnaire is required. [FEEDBACK AT DR/DATAPOINT LEVEL] .

23) ii. Do you have comments on added (i.e. not in revised ESRS) or amended paragraphs?*

( ) Yes.

( ) No.

Because you answered "Yes." in the previous question, answering in Excel in Part 4 of this questionnaire is required. [FEEDBACK AT DR/DATAPOINT LEVEL] .

24) i. If yes, Please specify why*

____

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.

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.

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.

26) i. 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).

[ ] It does not impair comparability and auditability of sustainability reporting.

[ ] Other reasons (please specify): ____

27) i. 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) 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): ____

28) ii. Please explain your reasoning and, if applicable, provide suggested improvements. *

____

29) ii. Please explain your reasoning and, if applicable, provide suggested improvements. *

____

30) iii. Please specify why and which challenges you anticipate.*

____

AR 6 for paragraph 29 (Meaningful identification of EU-related impacts)	**(New)** When assessing whether a meaningful identification of EU-related impacts is possible, the following are examples of factors that the undertaking may consider:

	a) existence of a separate business segment dedicated to serving the EU market; b) products or services specifically designed for the EU market; c) separate management of EU-related impacts; or d) value chains dedicated to products and services that were or are reasonably assumed to be sold or provided in the EU market.

Paragraph 30, ESRS-40a 1

(New) The undertaking may apply the option in paragraph 28 either:

(a) to all the impacts related to a specific topic (e.g. all impacts related to ESRS-40a E2 Pollution);
(b) to all the impacts related to a specific sub-topic (e.g. all the impacts related to pollution to air);
(c) to a group of impacts related to a topic or sub-topic.

31) 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? *

( ) Yes.

( ) No.

32) Please recommend alternative factors to be considered by the undertaking that could be included in the Standard.*

____

33) For preparers, Do you intend to apply the mixed approach?*

( ) Yes.

( ) No.

34) i. To which topic/sub-topic or group of impacts do you intend to apply the mixed approach?

____

35) ii. How would you apply it?*

____

36) 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?

Please find the paragraphs mentioned above here.

( ) Yes.

( ) No.

37) Please explain why.*

____

38) 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

39) 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–BC 90).

( ) Yes

( ) No

40) Please explain.

____

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

41) 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)

( ) Yes, human rights impacts should be reported on a global scope.

( ) No, reporting can be limited to EU-related impacts.

42) Please explain, also with reference to the specific circumstances you have in mind.

____

43) 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.

( ) No.

44) Please explain, also with reference to the specific circumstances you have in mind.

____

45) 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)

( ) Yes.

( ) No.

46) Please explain.

____

47) 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.

( ) No.

48) i. Please explain

____

49) 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.

( ) No.

50) iii. Please explain for which topic this would happen and the rationale behind this choice.

____

51) For preparers and assurance providers, do you anticipate implementation challenges when applying the mixed approach?

( ) Yes.

( ) No.

52) 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

[ ] 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: ____

53) ii. Please explain why and, if applicable, suggest improvements.

____

54) iii. Because you identified as a challenge 'How to identify the most appropriate allocation key and report on metrics', please specify which metrics you are referring to. Please specify why.

____

55) 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?

( ) Yes.

( ) No.

56) Please include your suggestions, if any, on how these requirements can be improved.

____

57) 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?

( ) Yes.

( ) No.

58) 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)

[ ] 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)

59) ii. Please explain why you selected this option and, if applicable, provide suggestions for improvement.

____

60) 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?

( ) Yes.

( ) No.

61) i. If 'No.' to the previous question, please select the specifications below with which you disagree.

[ ] ESRS-40a E2 AR 4 (primary microplastics)

[ ] ESRS-40a E2 AR 9 and 10 (SoC and SVHC)

[ ] No specifications in ESRS-40a E3 (specification in GDR-M applies)

[ ] No specifications in ESRS-40a E4 (specification in GDR-M applies)

[ ] No specifications in ESRS-40a E5 (specification in GDR-M applies)

[ ] ESRS-40a S1 (paragraph 8, AR 1, AR 2, AR 20, AR 39)

[ ] ESRS-40a S2 (paragraph 8)

[ ] ESRS-40a S3 (paragraph 7)

[ ] ESRS-40a S4 (paragraph 7)

[ ] ESRS-

40a G1 (paragraph AR 7 metric for corruption and bribery)

[ ] ESRS-40a G1 (paragraph AR 7 11 metric for political influence)

[ ] ESRS-40a G1 (paragraph AR 7 13 metric for payment practices)

62) ii. Per each item selected, please explain why and, if applicable, provide suggestions for improvement.

____

63) 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.)

( ) Yes.

( ) No.

64) i. If 'Yes.', should all quantitative metrics in S1-6 to S1-16 have to be disaggregated in that way or only some?

( ) All.

( ) Only some.

65) ii. If for 'Only some.', please specify which ones.

____

Topic 3: Interoperability, presentation and incorporation by reference

Background and context

The presentation requirements in ESRS-40a ED are carried forward from ESRS without modifications.

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.

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.

Further details are provided in Chapter 9.3 *Incorporation by Reference* of the ESRS-40a 1 ED.

66) Questions

Do you agree with the presentation requirements in ESRS-40a ED?

( ) Yes.

( ) No.

67) i. If "No.", please explain why.

____

68) ii. If 'No.', please provide suggested amendments.

____

69) 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?

( ) Yes.

( ) No.

70) 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)

[ ] Requirement to add a content table (paragraph 125)

71) ii. If "No", please explain and, if applicable, provide suggested improvements.

____

72) 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.

73) In this case, please specify how you plan to support understandability and identification of disclosures that meet the disclosure requirements in the respective frameworks.

____

74) Please explain why and illustrate the challenges you anticipate.

____

75) Please provide suggestions for amendments.

____

76) Do you find the requirements for incorporation by reference sufficient to lead to an understandable and auditable report?

( ) Yes.

( ) No.

77) If applicable, please provide suggested improvements.

____

Topic 4: References to EU laws and regulations and their feasibility

Background and context

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.

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.

78) For preparers, Do you think that referring to terms and concepts from EU legislation as the default framework is feasible?

( ) Yes.

( ) No.

79) If not, please specify which disclosure requirements you are referring to.

Please find attached an Excel file containing a list of disclosure requirements where you can provide your comments. Please note that comments are allowed also on disclosure requirements not mentioned in this file.

Please, download the file here.

A practical note, to correctly use the Excel file, please download it, complete the fields, and then upload the document.

Please upload the populated Excel File in this box.

________1

80) 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?

( ) Yes.

( ) No.

81) If no, please explain your reasoning.

____

Topic 5: Any other comment

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

____

PART 4 – DETAILED FEEDBACK PER STANDARD & PARAGRAPH

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.

Answer in Excels for Part 2 - Topic 1 - Question 1.

1. Would you retain any deleted datapoints?
2. Do you have comments on deleted, amended or new paragraphs?

Please note that comments are not allowed on paragraphs that remained unchanged.

A practical note, to correctly use the Excel file, please download it, complete the fields, and then upload the document.

Please download the file Excel here

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.

Please upload the populated Excel File in this box.

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Thank you for taking our survey. Your contribution is very important to us.

You will receive an email with your submission in a few minutes. Please, also check your spam folder.

Attachment 1: Articles 40a–40d, as amended by Directive (EU) 2022/2464 (the CSRD)

Disclaimer

This document is intended to serve as a supporting resource for readers. It includes Articles 40a–40d, as amended by Directive (EU) 2022/2464 (CSRD).

When reading the thresholds, readers should also take into consideration Directive (EU) 2026/470 (the Omnibus I Directive).

REPORTING CONCERNING THIRD-COUNTRY UNDERTAKINGS

Article 40a

Sustainability reports concerning third-country undertakings

1. A Member State shall require that a subsidiary undertaking established in its territory whose ultimate parent undertaking is governed by the law of a third country publish and make accessible a sustainability report covering the information specified in points (a)(iii) to (a)(v), points (b) to (f) and, where appropriate, point (h) of Article 29a(2) at the group level of that ultimate third-country parent undertaking.

   The first subparagraph shall only apply to large subsidiary undertakings and to small and medium-sized subsidiary undertakings, except micro undertakings, which are public-interest entities as defined in point (a) of point (1) of Article 2.

   A Member State shall require that a branch located in its territory, and which is a branch of an undertaking governed by the law of a third country, which is either not part of a group or is ultimately held by an undertaking that is formed in accordance with the law of a third country publish and make accessible a sustainability report covering the information specified in points (a)(iii) to (a)(v), points (b) to (f) and, where appropriate, point (h) of Article 29a(2), at the group level, or, if not applicable, the individual level, of the third-country undertaking.

   The rule referred to in the third subparagraph shall only apply to a branch where the third-country undertaking does not have a subsidiary undertaking as referred to in the first subparagraph, and where the branch generated a net turnover of more than EUR 40 million in the preceding financial year.

   The first and third subparagraphs shall only apply to the subsidiary undertakings or branches referred to in those subparagraphs where the third-country undertaking, at its group level, or, if not applicable, the individual level, generated a net turnover of more than EUR 150 million in the Union for each of the last two consecutive financial years.

Member States may require subsidiary undertakings or branches referred to in the first and third subparagraphs to send them information about the net turnover generated in their territory and in the Union by the third-country undertakings.

2. Member States shall require that the sustainability report communicated by the subsidiary undertaking or branch as referred to in paragraph 1 is drawn up in accordance with the standards adopted pursuant to Article 40b.
   By way of derogation from the first subparagraph of this paragraph, the sustainability report referred to in paragraph 1 of this Article may be drawn up in accordance with the sustainability reporting standards adopted pursuant to Article 29b or in a manner equivalent to those sustainability reporting standards, as determined in accordance with an implementing act on the equivalence of sustainability reporting standards adopted pursuant to the third subparagraph of Article 23(4) of Directive 2004/109/EC.

   Where the information required to draw up the sustainability report referred to in the first subparagraph of this paragraph is not available, the subsidiary undertaking or branch referred to in paragraph 1 shall request the third- country undertaking to provide them with all information necessary to enable them to meet their obligations.

   In the event that not all the required information is provided, the subsidiary undertaking or branch referred to in paragraph 1 shall draw up, publish and make accessible the sustainability report referred to in paragraph 1, containing all information in its possession, obtained or acquired, and issue a statement indicating that the third- country undertaking did not make the necessary information available.

3. Member States shall require that the sustainability report referred to in paragraph 1 is published accompanied by an assurance opinion expressed by one or more person(s) or firm(s) authorised to give an opinion on the assurance of sustainability reporting under the national law of the third-country undertaking or of a Member State.

   In the event that the third-country undertaking does not provide the assurance opinion in accordance with the first subparagraph, the subsidiary undertaking or branch shall issue a statement indicating that the third-country undertaking did not make the necessary assurance opinion available.

4. Member States may inform the Commission on an annual basis of the subsidiary undertakings or branches of third-country undertakings that fulfilled the publication requirement laid down in Article 40d and of the cases where a report was published but where the subsidiary undertaking or branch has acted in accordance with the fourth subparagraph of paragraph 2 of this Article. The

Commission shall make publicly available on its website a list of the third-country undertakings that publish a sustainability report.

Article 40b

Sustainability reporting standards for third-country undertakings

The Commission shall adopt by 30 June 2024 a delegated act in accordance with Article 49 supplementing this Directive to provide for sustainability reporting standards for third-country undertakings that specify the information that is to be included in the sustainability reports referred to in Article 40a.

Article 40c

Responsibility for drawing up, publishing and making accessible sustainability reports concerning third- country undertakings

Member States shall provide that the branches of third-country undertakings are responsible for ensuring, to the best of their knowledge and ability, that their sustainability report is drawn up in accordance with Article 40a, and that that report is published and made accessible in accordance with Article 40d.

Member States shall provide that the members of the administrative, management and supervisory bodies of the subsidiary undertakings referred to in Article 40a have collective responsibility for ensuring, to the best of their knowledge and ability, that their sustainability report is drawn up in accordance with Article 40a, and that that report is published and made accessible in accordance with Article 40d.

Article 40d

Publication

1. The subsidiary undertakings and branches referred to in Article 40a(1) of this Directive shall publish their sustainability report, together with the assurance opinion and, where applicable, the statement mentioned in the fourth subparagraph of Article 40a(2) of this Directive, within 12 months of the balance sheet date of the financial year for which the report is drawn up, as provided for by each Member State, in accordance with Articles 14 to 28 of Directive (EU) 2017/1132 and, where relevant, in accordance with Article 36 of that Directive.

2. Where the sustainability report together with the assurance opinion and, where applicable, with the statement published in accordance with paragraph 1 of this Article, are not made accessible, free of charge, to the public on the website of the register referred to in Article 16 of Directive (EU) 2017/1132, Member States shall ensure that the sustainability report together with the assurance opinion and, where applicable, with the statement published by the undertakings in accordance

with paragraph 1 of this Article, are made accessible to the public in at least one of the official languages of the Union, free of charge, no later than 12 months after the balance sheet date of the financial year for which the report is drawn up, on the website of the subsidiary undertaking or the branch as referred to in Article 40a(1) of this Directive.';

Attachment 2: Mixed approach related paragraphs

Disclaimer

This document includes the list of paragraphs related to the mixed approach

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ESRS-40a 1 ED – *General Requirements*

28. (New) Regardless of the provisions of paragraph 27, provided that the condition in paragraph 29 is met, for ***impacts*** other than those that are climate-related, the undertaking may limit the reported information to:

a. 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); and
b. impacts of the undertaking's European Union activities, if not already included in 28 (a),

collectively defined as the undertaking's ***EU-related impacts***.

29. (New) The option to limit the scope of reported information in paragraph 28 is applicable only where a meaningful identification of the ***EU-related impacts*** is possible, enabling a faithful representation of those ***impacts*** for the purpose of ESRS-40a 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.

30. (New) The undertaking may apply the option in paragraph 28 either:

(a) to all the ***impacts*** related to a specific ***topic*** (e.g. all impacts related to ESRS-40a E2 *Pollution*);
(b) to all the impacts related to a specific sub-topic (e.g. all the impacts related to ***pollution*** to air); or
(c) to a group of impacts related to a topic or sub-topic.

31. (New) ***Impacts*** in paragraph 28 are those defined in paragraph 52 of ESRS-40a 1.

APPLICATION REQUIREMENTS – ARs

AR 6 for paragraph 29 **(Meaningful identification of EU-related impacts)**	(New) When assessing whether a meaningful identification of ***EU-related impacts*** is possible, the following are examples of factors that the undertaking may consider: (a) existence of a separate business segment dedicated to serving the EU market; (b) products or services specifically designed for the EU market; (c) separate management of EU-related ***impacts***; or ***value chains*** dedicated to products and services that were or can be reasonably assumed to be sold or provided in the EU market.

AR 7 for paragraph 30 (c) **(Group of impacts)**	(New) A group of ***impacts*** refers to impacts within the same ***topic*** or sub-topic that may be considered together for reporting purposes. For example, an undertaking may limit reporting on: (a) air ***pollution*** to ***EU-related impacts*** only but may report on ***microplastics*** on a global scope; or (b) diversity and ***equal treatment*** to EU-related impacts only but may report on gender equality on a global scope.

ESRS-40a 2 ED – *General Disclosures*

Disclosure Requirement BP-1 – *Basis for preparation of the ESRS-40a sustainability report*

3. The objective of this DR is to enable an understanding of the basis for preparation of the ***ESRS-40a sustainability report***, including the disclosures required by ESRS-40a 1 ED *General Requirements* in specific circumstances.

4. The undertaking shall disclose:

   (a) whether the ***ESRS-40a sustainability report*** has been prepared in accordance with paragraph 27 or 28 of ESRS-40a 1 ED. If the report has been prepared in accordance with paragraph 28 of ESRS-40a 1 ED, the undertaking shall describe, per each topic, sub-topic or group of ***impacts*** for which option in paragraph 28 the report is applied, how it has concluded that the conditions in paragraph 29 are met and how it has determined the ***EU-related impacts***, specifying the applicable options defined in ESRS-40a 1 ED, paragraph 30; and

APPLICATION REQUIREMENTS FOR BP-1

AR 1 for para. 4(a)	(New) The description of how ***impacts*** were determined to be 'EU-related' for topical standards other than ESRS-40a E1 ED *Climate Change* includes the methodology and parameters used to estimate the reporting boundary. It also includes the assumptions and inputs used to develop estimates to limit the disclosure to: (a) impacts connected with the undertaking's own operations and its upstream and downstream ***value chain*** in relation to products and services that are sold or provided in the EU; and (b) impacts of own operations based in the EU, if not already covered in (a), as well as the resulting level of accuracy of the estimates. The undertaking may consider the linkages that exist between paragraph 4(a) and I-1, paragraph 29(a), to present the content in a way that avoids duplications and facilitates an understanding of the information reported in accordance with these paragraphs. Paragraph 4(a) focuses on reporting how impacts were determined to be EU-related. I-1, paragraph 29(a), focuses on a description of the process and decision-making steps it follows to identify those impacts with their related ***topics*** and to

	assess their ***materiality***, including the approach to covering its own operations and its upstream and downstream value chain.

APPLICATION REQUIREMENTS FOR GOV-1

AR 11 for para. 15	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 15 shall enable an understanding of the aspects of the Disclosure Requirement that concern monitoring, managing and overseeing the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR GOV-2

AR 12 for para. 17	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 17 shall enable an understanding of the aspects of the Disclosure Requirement that concern the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR SBM-2

AR 19 for para. 25	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 25 shall enable an understanding of the aspects of the Disclosure Requirement that concern the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR SBM-3

AR 21 for para. 27	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 27 shall enable an understanding of the aspects of the Disclosure Requirement that concern the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR I-1

AR 23 for para. 29(a)	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 29(a) shall enable an understanding of the aspects of the Disclosure Requirement that concern the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR I-2

AR 27 for para. 31(a)	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 31(a) shall enable an understanding of the aspects of the Disclosure Requirement that relate to the material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised, as defined in ESRS-40a 1 ED paragraph 30.

APPLICATION REQUIREMENTS FOR GDR-P

AR 34 for para. 36	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 36 shall focus on ***policies*** adopted to manage its material ***impacts*** that are EU-related for the ***topics***, sub-topics or group of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR GDR-A

AR 36 for para. 39	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 39 shall focus on actions implemented to manage its material ***impacts*** that are EU-related for the ***topics***, sub-topics or groups of impacts for which the option is exercised.

APPLICATION REQUIREMENTS FOR GDR-M

AR 44 for para. 43	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required in paragraph 43 shall cover the estimation of the ***metric*** for ***impacts*** that are EU-related. In this case, the contextual information of paragraph

	43(c) shall also include the specification that the metric only covers EU-related impacts.
AR 45 for para. 43	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the calculation of the ***metrics*** shall reflect only its material ***impacts*** that are EU-related, for the ***topics***, sub-topics or groups of impacts for which the option is exercised.
AR 46 for para. 43	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, without prejudice to specific provisions at the disclosure requirement level in topical standards, the undertaking shall base the estimation of the ***metrics*** for the ***EU-related impacts*** using an allocation key that best supports a faithful representation of the EU-related ***impacts***.
AR 47 for para. 43	(New) In selecting an allocation key that best supports a faithful representation of ***EU-related impacts***, the undertaking may consider the following factors: a) the nature of the ***impact***; and b) the geographical context where the impact arises.

APPLICATION REQUIREMENTS FOR GDR-T

AR 52 for para. 45	(New) If the undertaking has exercised the option under ESRS-40a 1 ED, paragraph 28, the information required under paragraph 45 shall focus on ***targets*** that the undertaking has set to manage its material ***EU-related impacts*** for the ***topics***, sub-topics or group of ***impacts*** for which the option is exercised.

ESRS-40a E2 ED – *Pollution*

APPLICATION REQUIREMENTS – ARs

AR 4 for para. 16	(New) If the undertaking has exercised the option under ESRS-40a 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 can be reasonably 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 can be reasonably 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 can be reasonably 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.

APPLICATION REQUIREMENTS – ARs

AR 9 for para. 18	(New) If the undertaking has exercised the option under ESRS-40a 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 can be reasonably 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 can be reasonably 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.
AR 10 for para. 20	(New) If the undertaking has exercised the option under ESRS-40a 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 that were or can be reasonably 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.

ESRS-40a S1 ED *Own Workforce*

Objective

8. (new) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, its ***own workforce*** is understood to comprise:

(a) ***employees*** and ***non-employees*** who are employed by, provide labour to or are provided to the undertaking's own operations located in the EU; and
(b) those employees and non-employees who are employed by, provide labour to or are provided to the undertaking's own operations located outside the EU and who are involved in the production of the ***products*** or services that were or can be reasonably assumed to be sold or provided on the EU market.

(c) APPLICATION REQUIREMENTS – ARs

AR 1 for para. 8(b) **(Employees and non-employees outside the EU)**	(New) If the undertaking exercises the option under paragraph 28 of ESRS-40a 1 *General Requirements* it shall include all ***employees*** and ***non-employees*** that work on or for any of the undertaking's ***sites*** that produce ***products*** or services that were or can be reasonably assumed to be sold or provided in the EU market. The undertaking may deviate from this rule if it has reasonable and supportable evidence that another allocation basis is more appropriate for faithfully representing ***EU-related impacts***. Employees involved in the production of products or services for the EU market also include those in supporting functions such as procurement or marketing.
AR 2 for para. 8(b) **(Employees and non-employees outside the EU)**	(New) Some DRs in this Standard allow undertakings to present certain ***metrics*** about the undertaking's ***employees*** either in terms of headcount or full-time equivalents (FTE). FTE converts the actual working time of an employee into a proportion of the full-time working hours. What counts as full-time working hours depends on applicable law or practice. FTE shall not be interpreted as referring to the proportion of an employee's time allocated to producing ***products*** or services that were or can be reasonably assumed to be sold or provided on the EU market.

Disclosure Requirement S1-8 – *Gender diversity in top management*

APPLICATION REQUIREMENTS

AR 20 for para. 28 **('Top management'**	(New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, 'top management level' refers to the management level that is responsible for ***EU-related impacts*** (for example top management for the EU segment or the EU subsidiaries).

definition for EU-related impacts)	

Disclosure Requirement S1-15 – *Remuneration metrics*

APPLICATION REQUIREMENTS – ARs

AR 39 for para. 42(b) **('Highest-paid individual' if EU-related impacts are reported)**	(New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, the 'highest-paid individual' means the highest-paid individual among the ***employees*** disclosed under ESRS-40a S1-5 in accordance with the definition in paragraph 8 of ESRS-40a S1.

ESRS-40a S2 ED *Workers in the Value Chain*

Objective

8. (New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, '**workers in the value chain**' is understood to comprise:

(a) ***value chain*** workers in the EU; and
(b) workers in the undertaking's upstream and downstream ***value chain*** outside the EU if they are involved in producing inputs to any ***products*** or services that were or can be reasonably assumed to be sold or provided on the EU market.

ESRS-40a S3 ED *Affected Communities*

Objective

7. (New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, '***affected communities*** by the undertaking's own operations or through its upstream and downstream ***value chain'*** is understood to comprise:

(a) affected communities located in the EU; and
(b) affected communities outside the EU affected by those of the undertaking's own operations or actors in its upstream and downstream value chain that are involved in producing the ***products*** or services that were or can be reasonably assumed to be sold or provided on the EU market.

ESRS-40a S4 ED – *Consumers and End-users*

Objective

7. (New) If the undertaking exercises the option under ESRS-40a 1, paragraph 28, '***consumers*** and ***end-users***' is understood to comprise:

   (a) consumers and end-users of the undertaking's products or services that were or can be reasonably assumed to be sold or provided on the EU market; and

   (b) consumers and end-users of the ***products*** or services that the undertaking produces in the EU.

ESRS-40a G1 ED – *Business Conduct*

Disclosure Requirement G1-4 – *Metrics related to corruption or bribery*

APPLICATION REQUIREMENTS – ARs

AR 7 for para. 12	(New) Unless another allocation key better supports a faithful representation of the ***EU-related impacts***, if the undertaking has exercised the option under ESRS-40a 1, paragraph 28, when reporting in accordance with paragraph 12, the information to be disclosed refers to the aggregation of convictions, sanctions and fines issued: (a) by EU and member-state authorities involving any entity or individual within the undertaking; and (b) in cross-border cases outside the EU involving juridical and natural persons located in the EU.

Disclosure Requirement G1-5 – *Metrics related to political influence, including lobbying activities*

APPLICATION REQUIREMENTS – ARs

AR 11 for paras. 14 and 15	(New) Unless another allocation key better supports a faithful representation of the ***EU-related impacts***, if the undertaking has exercised the option under ESRS-40a 1, paragraph 28, when reporting in accordance with paragraph 14 and 15, the information to be disclosed refers to the aggregation of activities of political influence, including ***lobbying***, performed: (a) by EU subsidiaries or branches; or otherwise linked to the undertakings' EU activities; and

	(b) in relation to products and services that were and can be reasonably assumed to be sold or provided in the EU market, regardless of where and how such activities are performed.

Disclosure Requirement G1-6 – *Metrics related to payment practices*

APPLICATION REQUIREMENTS – ARs

AR 13 for para. 18	(New) Unless another allocation key better supports a faithful representation of the ***EU-related impacts***, if the undertaking has exercised the option under ESRS-40a 1, paragraph 28, the information to be disclosed refers to ***standard payment terms*** applied to ***suppliers*** from EU jurisdictions, as well as to the legal proceedings for late payments to such suppliers.

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