

This paper has been prepared by the EFRAG Secretariat for discussion at a public meeting of EFRAG SR TEG. The paper forms part of an early stage of the development of a potential EFRAG position. Consequently, the paper does not represent the official views of EFRAG or any individual member of the EFRAG SRB or EFRAG SR TEG. The paper is made available to enable the public to follow the discussions in the meeting. Tentative decisions are made in public and reported in the EFRAG Update. EFRAG positions, as approved by the EFRAG SRB, are published as comment letters, discussion or position papers, or in any other form considered appropriate in the circumstances.

V2

DRAFT EUROPEAN SUSTAINABILITY REPORTING STANDARD

LSME ESRS – SECTION 5 BUSINESS CONDUCT

DISCLAIMER (to be revised)

Section 5 *Business conduct* of this [Draft] ESRS is set out in paragraphs 1 to **Error! Reference source not found.** and Appendices A: *Defined terms* and Appendix B: *Application Requirements*. Appendices A and B have the same authority as the main body of the [draft] Standard. Each Disclosure Requirement is stated in a bold paragraph, followed by a paragraph that illustrates the objective of the disclosures. The [draft] Standard also uses terms defined in other [draft] ESRS and should be read in the context of its objective.

CONTENT AND STATUS OF THIS DRAFT

This draft has to be read in conjunction with the Agenda Papers on LSME discussed in SR TEG and SRB meeting in January 2023.

This draft has been developed as a markup from [draft] ESRS G1 (November 2022).

Parts in grey are to be discussed pending a decision from EC.

To reflect the principle of proportionality, the following key simplifications have been implemented in this document (on the basis of the SR TEG discussions/ approach presented by the EFRAG Secretariat at those meetings):

- The text of SET 1 standards has been integrally considered and amended where appropriate, so that LSME will be a standalone document.
- EFRAG will consult on the applicability of each Sector specific ESRS to LSMEs, as part of the consultation on that ESRS. A question on the general approach to sector standards in LSME will also be included in LSME Exposure Draft. Pending the definition of such an approach, in this draft the references to sector-specific ESRS has been eliminated.
- The reporting covers material impacts and risks. Opportunities are voluntary.
- The undertaking shall disclose negative impacts. Positive impacts are voluntary.
- The approach to entity-specific disclosure is unchanged from Set 1 ('shall').
- Targets are disclosed on voluntary basis. There will be a requirement to disclose whether the undertaking has targets, and if it has targets, the requirement to specify whether they are science-based. The undertaking may additionally report on how they are calculated and implemented.
- The working paper for Section 5 has been defined according to:
 - the decision tree presented previously to the SR TEG, including only DRs that are defined in SFDR PAIs and Benchmark Regulations;
 - CSRD Art. 29 b (2) provisions. DRs has been included for "protection of whistle-blowers and animal welfare", " lobbying activities", "payment practices"
 - SR TEG meeting held on 02 February 2023 (breakout session)
- Parts in yellow has been integrated in Section 2.
- G1-2 and G1-6 defined in ESRS G1 has been simplified and merged in G1-1 of this draft section.
- G1-3 and G1-4 defined in ESRS G1 has been simplified and merged in G1-2 of this draft section.
- Appendixes:
 - Appendix A "Defined terms", to be merged with the other sections;
 - Appendix B "Application requirements", still working in progress pending the final decision on the related DRs.

Table of Contents

Table of Contents	3
Objective	4
Interaction with other ESRS	4
Disclosure Requirements	4
ESRS 2 General disclosures	4
Disclosure Requirement related to ESRS 2 GOV-1 – The role of the administrative, supervisory and management bodies	4
Disclosure Requirement related to ESRS 2 IRO-1 – Description of the processes to identify and assess material impacts, risks and opportunities	5
Impact, risk and opportunity management	5
Disclosure Requirement G1-1– Corporate culture and business conduct policies	5
Disclosure Requirement G1-2 – Management of relationships with suppliers	5
Disclosure Requirement G1-3 – Prevention and detection of corruption or bribery	5
Metrics and targets	6
Disclosure Requirement G1-4 – Confirmed incidents of corruption or bribery	6
Disclosure Requirement G1-5 – Political influence and lobbying activities	6
Disclosure Requirement G1-6 – Payment practices	8
Appendix A: Defined terms	7
Appendix B: Application Requirements	8
Impact, risk and opportunity management	8
Disclosure Requirement G1-1 – Corporate culture and business conduct policies	10
Disclosure Requirement G1-2 – Management of relationships with suppliers	8
Disclosure Requirement G1-3 – Prevention and detection of corruption and bribery	8
Metrics and targets	8
Disclosure Requirement G1-5 – Political influence and lobbying activities	8
Disclosure Requirement G1-6 – Payment practices	12

Objective

1. The objective of this section of this [draft] Standard is to specify disclosure requirements which will enable users of the undertaking's sustainability statements to understand the undertaking's strategy and approach, processes and procedures as well as its performance in respect of business conduct.
2. In general, the actions of an undertaking cover a wide range of behaviours that support transparent and sustainable business practices to the benefit of all stakeholders. This section of this [draft] Standard focusses on the following practices specified by the Corporate Sustainability Reporting Directive (CSRD), indicated in this section as 'business conduct or business conduct matters':
 - (a) corporate culture;
 - (b) management of relationships with suppliers;
 - (c) avoiding corruption and bribery;
 - (d) engagement by the undertaking to exert its political influence including lobbying;
 - (e) protection of whistle-blowers;
 - (f) animal welfare; and
 - (g) payment practices, specifically with regard to late payment to small and medium enterprises (SMEs¹).

Interaction with other ESRS

3. The content of this section on general disclosures as well as impact and risk management and metrics shall be read in conjunction respectively with [draft] section 1 *General principles* and section 2 *General requirements*.

Disclosure Requirements

Section 2 General disclosures

4. The requirements of this section should be read in conjunction with and reported alongside the disclosures required by Section 2 on Governance (GOV), Strategy (SBM) and Management of impacts and risks (IR).

Governance

Disclosure Requirement related to ESRS 2 GOV-1 – The role of the administrative, supervisory and management bodies

5. When disclosing on leadership on business conduct, the undertaking shall cover the following aspects:
 - (a) the role of the administrative, management and supervisory bodies related to business conduct; and
 - (b) the expertise of the administrative, management and supervisory bodies on business conduct matters.

Impact and risk management

¹ Per article 3 of the [accounting directive](#) (2013/34/EU) but, for the avoidance of doubt, including micro-enterprises as defined in the same directive.

Disclosure Requirement related to ESRS 2 IRO-1 – Description of the processes to identify and assess material impacts, risks and opportunities

6. The undertaking shall include all relevant criteria used in the assessment including location, activities, sector and transactions.

Impact and risk management

Disclosure Requirement G1-1– Corporate culture and business conduct policies

7. The undertaking shall disclose its initiatives to establish, develop and promote a corporate culture as well as its policies with respect to business conduct matters.
8. The undertaking shall disclose:
- (a) whether it has policies on anti-corruption or anti-bribery;
 - (b) where the undertaking has policies on anti-corruption or anti-bribery, if they are consistent with the United Nations Convention against Corruption²
 - (c) where the undertaking has no policies, it shall state this and whether it has plans to implement them and the timetable for implementation.
 - (d) whether it has policies on the protection of whistle-blowers;
 - (e) where the undertaking has no policies on the protection of whistle-blowers³, it shall state this and whether it has plans to implement them and the timetable for implementation;

Disclosure Requirement G1-1 – Management of relationships with suppliers

9. The undertaking shall provide information about the management of its relationships with its suppliers and its impacts on its supply chain.
10. This disclosure requirement should be read in conjunction with Section 2 IR 3, where the undertaking shall state whether it has a supplier code of conduct.
11. The undertaking may disclose information on its purchasing practice / procedure and whether it considers also ESG criteria.
12. The undertaking shall disclose whether it has established a practice / procedure to monitor late payments.

Disclosure Requirement G1-2 –Anti-corruption and anti-bribery

13. The undertaking shall provide information about its system to prevent and detect, investigate, and respond to allegations or incidents relating to corruption and bribery including the related training.
14. The undertaking shall disclose:

² This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #15 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosures rules on sustainable investments (respectively “Lack of anti-corruption and anti-bribery policies”).

³ This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #6 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosures rules on sustainable investments (respectively “Insufficient whistleblower protection”).

- (a) whether it has assessed the effectiveness of actions taken to address breaches in procedures and standards of anti-corruption and anti-bribery⁴;
- (b) the number of convictions and the amount of fines for violation of anti-corruption and anti-bribery laws⁵.

Metrics and targets

Disclosure Requirement G1-3 – Political influence and lobbying activities

- 15. **The undertaking shall provide information on the activities and commitments related to its political influence, including its lobbying activities related to its material impacts.**
- 16. The disclosure required by paragraph 15 shall include:
 - (a) if applicable, the representative(s) responsible in the administrative, management and supervisory bodies for the oversight of these activities;
 - (b) on financial or in-kind political contributions:
 - i. the total monetary value of financial and in-kind political contributions made directly and indirectly by the undertaking aggregated by country or geographical area where relevant, as well as type of recipient/beneficiary; and
 - ii. where appropriate, how the monetary value of in-kind contributions is estimated.
 - (c) the main topics covered by its lobbying activities and the undertaking's main positions on these in brief.

⁴ This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts set out in indicator #16 of Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosures rules on sustainable investments (respectively “Cases of insufficient action taken to address breaches of standards of anti-corruption and anti-bribery”).

⁵ This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts set out in indicator #17 of Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosures rules on sustainable investments (respectively “Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws”) and benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator “Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws” in section 1 and 2 of Annex 2.

Appendix A: Defined terms

This appendix is an integral part of the [draft] ESRS G1 and has the same authority as the other parts of the [draft] Standard.

Bribery	Dishonestly persuading someone to act in your favour by giving them a gift of money or another inducement.
Corporate culture	Corporate culture expresses goals through values and beliefs. It guides the undertaking's activities through shared assumptions and group norms such as values or mission statements or a code of conduct.
Confirmed incident of corruption or bribery	An incident of corruption or bribery that has been found to be substantiated. Confirmed incidents of corruption do not include incidents of corruption that are still under investigation at the end of the reporting period. The determination of potential non-compliance cases as substantiated may be made either by the undertaking's compliance officer or similar function or an authority. A determination as substantiated by a court of law is not required.
Corruption	Abuse of entrusted power for private gain, which can be instigated by individuals or organisations. It includes practices such as facilitation payments, fraud, extortion, collusion, and money laundering. It also includes an offer or receipt of any gift, loan, fee, reward, or other advantage to or from any person as an inducement to do something that is dishonest, illegal, or a breach of trust in the conduct of the undertaking's business. This can include cash or in-kind benefits, such as free goods, gifts, and holidays, or special personal services provided for the purpose of an improper advantage, or that can result in moral pressure to receive such an advantage.
Lobbying activities	Refers to activities carried out with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of governments, governmental institutions, regulators, European Union institutions, bodies, offices and agencies or standard setters. Such activities include (non-exhaustive list): <ul style="list-style-type: none"> • organising or participating in meetings, conferences, events; • contributing to/participating in public consultations, hearings or other similar initiatives; • organising communication campaigns, platforms, networks, grassroots initiatives; • preparing/commissioning policy and position papers, opinion polls, surveys, open letters, research work as per the activities covered by transparency register rules.

Appendix B: Application Requirements

This appendix is an integral part of the [draft] ESRS G1 *Business conduct*. It supports the application of the disclosure requirements set forth in paragraphs 1 to **Error! Reference source not found.** and has the same authority as the other parts of the [draft] Standard.

Impact, risk and opportunity management

Disclosure Requirement G1-1 – Management of relationships with suppliers

- AR 1. For purposes of this standard, management of relationships with its suppliers may include the following:
- (a) how its practices, including activities to avoid or minimise the impacts of disruptions to its supply chain, support its strategy and risk management as well as transparency;
 - (b) the screening and evaluation of social and environmental performance of suppliers;
 - (c) how its practices deal with vulnerable suppliers;
 - (d) its main communication and relationship management targets and actions; and
 - (e) how the outcomes of these practices are evaluated, including supplier visits, audits or surveys.
- AR 2. 'Vulnerable suppliers' includes suppliers that are exposed to significant economic, environmental and/or social risks.

Disclosure Requirement G1-2 – Anti - corruption and anti - bribery

- AR 3. 'Functions-at-risk' means those functions deemed to be at risk of corruption and bribery as a result of its tasks and responsibilities.
- AR 4. Disclosures may include high-level details about the risk assessments and/or mapping as well as monitoring programmes and/or internal control procedures performed by the undertaking to detect such events.
- AR 5. The undertaking may present the required information about training on its anti-bribery and corruption policies using the following table:

Anti-corruption and bribery training illustrative example

During the 20XY financial year ABC provided training to its at-risk own workers in terms of its policy (see note x).. Details of its training during the year is as follows:

	<i>Managers</i>	<i>Other employees</i>
<i>Training coverage</i>		
<i>Total</i>	5	50
<i>Total receiving training</i>	3	42
<i>Total hours of training</i>	6	84
<i>Frequency</i>		
<i>How often training is required</i>	<i>Annually</i>	<i>Annually</i>

Metrics and targets

Disclosure Requirement G1-3 – Political influence and lobbying activities

- AR 6. For purposes of this [draft] Standard 'political contribution' means financial or in-kind support provided directly to political parties, their elected representatives or persons seeking political office. Financial contributions can include donations, loans, sponsorships, retainers, or the purchase of tickets for fundraising events and other similar actions. In-kind contributions can

include advertising, use of facilities, design and printing, donation of equipment, provision of board membership, employment or consultancy work for elected politicians or candidates for office.



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