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Cross-Cutting

ID 148 – Scope of consolidation Non-EU and unconsolidated subsidiaries

Question asked

Does the (consolidated) sustainability statement of a parent company have to include all its subsidiaries even if some of them are located out-side of the EU and/or if some are not (financially/legally) consolidated?

ESRS reference

ESRS 1 paragraph 62;

Key terms: Subsidiaries outside the EU; non-consolidated subsidiaries

Background

[Note: The secretariat will address the question asked as being the following: “Does the (consolidated) sustainability statement of a parent company have to include all its subsidiaries even if some of them are located out-side of the EU and/or if some are not consolidated for financial statements purposes?”]

ESRS 1 paragraph 62 states: *“The sustainability statement shall be for the same reporting undertaking as the financial statements. For example, if the reporting undertaking is a parent company required to prepare consolidated financial statements, the sustainability statement will be for the group. ...”*.

ESRS 1 paragraph 90:

“Data and assumptions used in preparing the sustainability statement shall be consistent to the extent possible with the corresponding financial data and assumptions used in the undertaking’s financial statements”.

ESRS 1 paragraph 102:

“When the undertaking is reporting as a consolidated level, it shall perform its assessment of material impacts, risks and opportunities for the entire consolidated group regardless of its group legal structure. ...”.

The scope of consolidation for undertakings organised as a group is determined by either IFRS or national accounting laws, considering the requirements of the Accounting Directive (Directive 2013/34/EU, specifically Article 21). Exemptions from the consolidation of subsidiaries are provided under Article 23 (9) and (10) of the Accounting Directive, as well as in certain provisions such as paragraph 296 (2) of the German Commercial Code (HGB), for instance."

In practice, subsidiaries are sometimes excluded from consolidation, based on materiality considerations, for practical reasons, even though an obligation to consolidate them exists.

Answer

The starting point of the sustainability statement is the perimeter used for financial reporting.

The consolidated sustainability statement of a parent company must include all its subsidiaries even if some of them are located outside of the EU.

The undertaking performs its assessment of material impacts, risks and opportunities for the entire consolidated group. Subsidiaries that are immaterial for financial statements and excluded on an exceptional basis for practical considerations from the scope of consolidation in the financial statements, may still be material from a double materiality point of view and therefore included in the sustainability statement.

See also [IG 1 Materiality assessment FAQ 22: Is a multi-sector group required to include metrics for the entire group or only data related to the material IRO?](#)

ID 185 – Precedence of objective evidence over stakeholders' opinion

Question asked

When evaluating sustainability matters, is the focus on stakeholder opinions or on objective evidence?

[Note: The question is reworded as follows: "When assessing the materiality of a sustainability matter, is the focus on stakeholder opinions or on objective evidence?"]

ESRS reference

ESRS IG1 chapter 3.5 Role of stakeholders in the materiality assessment process, ESRS IG1 FAQ 10 "Should the assessment of impacts, risks or opportunities rely on quantitative information?" ESRS IG1 FAQ 15 "Do the ESRS mandate to actively engage in dialogue with affected stakeholders for the materiality assessment process?", ESRS IG1 FAQ 16 "Can the undertaking prioritise some categories of stakeholders for the materiality assessment process? How?"

Key terms: Materiality assessment; stakeholder opinion vs. objective evidence

Background

ESRS 1 para. 24 states that "*Engagement with affected stakeholders is central to the undertaking's on-going due diligence process (see chapter 4 Due diligence) and sustainability materiality assessment*".

ESRS IG1 FAQ 10 "*Should the assessment of impacts, risks or opportunities rely on quantitative information?*" states (paragraphs 168 to 171):

"Where possible, yes, as quantitative measures of IROs are the most objective evidence of their materiality.

The level of comfort sought by the undertaking from quantitative information depends on whether there are scientific validated data and on consensus reached on the given impact. For example, global reports or industry information on a given topic, such as negative impacts on biodiversity loss, could provide the quantitative information needed without the need for the undertaking to incur additional research or data collection costs.

Quantitative information is not always available or may result in additional costs. Whenever a qualitative analysis is sufficient for the undertaking to reasonably conclude that a matter is "not material" or is "material", additional quantitative information would not add value to the materiality assessment. As the materiality assessment process evolves over time, the undertaking may redefine the balance between qualitative or quantitative information.

Quantitative information would however be of interest where a topic is on the edge of being material/non-material based on qualitative information and/or where there are diverse views. In

that case, quantification could corroborate the conclusion. This could include impact valuation, which has the advantage to make different impacts comparable.”

ESRS IG1 FAQ 15 “Do the ESRS mandate to actively engage in dialogue with affected stakeholders for the materiality assessment process?” states (paragraph 186):

“The ESRS require disclosure on the assessment and its outcomes but do not mandate specific behaviour on stakeholder engagement or the due diligence process.”

ESRS IG1 FAQ 16 “Can the undertaking prioritise some categories of stakeholders for the materiality assessment process? How?” states (paragraph 189):

“Engagement with affected stakeholders helps the undertaking to understand which sustainability matters are sources of concern for the respective stakeholders and how they are affected. This information may be useful input to the assessment”.

Answer

To the maximum extent possible, the materiality assessment should be based on objective information.

Elements useful to address this question can be found in IG 1 Materiality assessment:

- Paragraph 186: the ESRS require disclosure on the materiality assessment and its outcomes but do not mandate specific behaviour on stakeholder engagement or the due diligence process;
- Paragraph 188: stakeholder engagement informs the identification and assessment of material impacts;
- Paragraph 28: The materiality assessment should be based upon supportable evidence and rely to the maximum extent possible on objective information.

ID 293 – Relationship of strategy and policy

Question asked

What is developed first: the strategy or the policy related to sustainability matters?

ESRS reference

Disclosure Requirement SBM-1 and MDR-P of ESRS 2; definition of policies in the Defined terms

Key terms: Setting strategy and defining policies

Background

ESRS 2 paragraph 38:

“The undertaking shall disclose the elements of its strategy that relate to or impact sustainability matters, its business model and its value chain.”

ESRS 2 paragraph 63:

“The undertaking shall apply the minimum disclosure requirements defined in this provision when it discloses the policies it has in place with regard to each sustainability matter identified as material.”

A policy according to the Defined Terms is:

“A set or framework of general objectives and management principles that the undertaking uses for decision-making. A policy implements the undertaking’s strategy or management decisions related to a material sustainability matter. ...”

Answer

It depends on the undertaking's managerial approach. The development of a strategy or policy related to sustainability matters is determined by the undertaking's governance bodies. While ESRS set disclosure requirements, they do not prescribe behavioural obligations in respect to strategy and policies.

However, as a policy “implements the undertaking’s strategy or management decisions related to sustainability matter” (per Annex II of the delegated act), it is reasonable to say that the strategy is developed first. Nevertheless, it cannot be excluded that some undertakings may set a policy first and develop a strategy thereafter.

ID 335 – Applicability of EU datapoints – Appendix B

Question asked

Are ESRS 2 Appendix B datapoints (other EU legislation) applicable for all undertakings or for financial institutions only?

ESRS reference

ESRS 2 Appendix B; ESRS 1 chapter 10.2, paragraphs 35 and 133;

Key terms: Appendix B (other EU legislation) datapoints; non-financial undertakings

Background

The question initially received by EFRAG from the submitter was referring to ESRS 1 chapter 10.2, paragraph 133 and read as follows:

“What is the rationale for making the exception to the transitional provision for datapoints that have their origin in certain EU-legislation (Appendix B of ESRS 2) applying to a very specific set of companies (e.g. financial institutions)? Why not make a separate list of datapoint exceptions with an explanation of why these datapoints are an exception?”

ESRS 1 paragraph 133 states:

“For the first 3 years of its sustainability reporting under the ESRS, in order to take account of the difficulties that undertakings may encounter in gathering information from actors throughout their value chain and in order to limit the burden for SMEs in the value chain:

...

(b) when disclosing metrics, the undertaking is not required to include upstream and downstream value chain information, except for datapoints derived from other EU legislation, as listed in ESRS 2 Appendix B.”

ESRS 2 Appendix 2 includes the List of datapoints in cross-cutting and topical standards that derive from other EU legislation. These datapoints provide information from all undertakings subject to ESRS for financial institutions to support them in financing the transition according to the “green deal”.

ESRS 1 paragraph 35 states: “If the undertaking omits the information prescribed by a datapoint that derives from other EU legislation listed in Appendix B of ESRS 2, it shall explicitly state that the information in question is “not material”.

ESRS 2 IRO2 paragraph 56 states:

“The undertaking shall also include a table of all the datapoints that derive from other EU legislation as listed in Appendix B of this standard, indicating where they can be found in the sustainability statement and including those that the undertaking has assessed as not material, in which case the undertaking shall indicate “Not material” in the table in accordance with ESRS 1 paragraph 35.”

As similar questions related to “Other EU legislation datapoints” have been received by EFRAG, the question answered in this explanation was modified to be more generally applicable as stated above.

Answer

Yes, appendix B datapoints (other EU legislation) are applicable for all undertakings in scope of the CSRD/ESRS.

ESRS do not specify that datapoints listed in Appendix B of ESRS 2 are exclusively applicable to undertakings in specific sectors, such as financial institutions. This is because these datapoints enable financial institutions to meet their obligations under the SFDR, thereby assisting them in financing the transition in alignment with the EU Green Deal, as they are designed to support the availability of information regarding their investees and clients.

Datapoints that derive from other EU legislation listed in Appendix B of ESRS 2 must be provided irrespective of the materiality assessment if the corresponding requirement is in ESRS 2 (e.g., ESRS 2 GOV-1, Board gender diversity). If the corresponding requirement is in topical standards, they are subject to the materiality assessment.

In all cases, the undertaking should publish a table containing all the information required by other EU legislations, specifying the page of the sustainability statement where this information is located or indicating "not material" if the company has deemed it as such, as required by ESRS 2 IRO2.

ID 461 – Sustainability statements – ESRS 1 Flowchart E and Disclosure of transition plans and processes

Question asked

What is the logic according to Flowchart E of ESRS 1 for determining Disclosure Requirements for transition plans and processes?

[The question will be reworded as follows to be clearer: why in the Flowchart in appendix E of ESRS 1 transition plans are mentioned together with policies, actions and targets?]

ESRS Reference

ESRS 2 paragraph 62 *If the undertaking cannot disclose the information on policies and actions required under relevant ESRS, because it has not adopted policies and/or actions with reference to the specific sustainability matter concerned, it shall disclose this to be the case, and provide reasons for not having adopted policies and/or actions. The undertaking may disclose a timeframe in which it aims to adopt them.*

ESRS 2 paragraph 72 *If the undertaking cannot disclose the information on targets required under the relevant topical ESRS, because it has not set targets with reference to the specific sustainability matter concerned, it shall disclose this to be the case, and provide reasons for not having adopted targets. The undertaking may disclose a timeframe in which it aims to adopt them.*

ESRS 1 Appendix E: Flowchart for determining disclosures under ESRS

Disclosure Requirements related to climate change transition plan: ESRS E1 Disclosure Requirement E1-1

(Note: the disclosure of the transition plan related to biodiversity is voluntary (ESRS E4 Disclosure Requirement E4-1); as such it is not in the scope of this explanation).

Key terms: Disclosure of transition plans, minimum disclosure requirements

Background

ESRS 1 Appendix E - *Flowchart for determining disclosures under ESRS* presents the reasoning to determine disclosures when a topic covered by a topical standard is material. In such case, the related policies, actions and targets shall be disclosed, or it shall be stated that the undertaking does not have policies, actions and/or targets related to the material sustainability matter. The undertaking may report a timeframe in which it aims to have these in place (ESRS 1 paragraph 33).

ESRS 1 Appendix E - *Flowchart for determining disclosures under ESRS* does not include information on the Disclosure Requirements related to transitions plans (E1-1 and E4-1). It does not either include information on the Disclosure requirements related to the processes in the ESRS S1 to S4: Processes for engaging with stakeholders about impacts (S1-2, S2-2, S3-2 and S4-2) and processes to remediate negative impacts and channels for stakeholders to raise concerns (S1-3, S2-3, S3-3 and S4-3).

ESRS E1-1 paragraph 17:

“In case the undertaking does not have a transition plan in place, it shall indicate whether and, if so, when it will adopt a transition plan”.

Answer

The Flowchart E of ESRS 1 provides an illustration of the provisions in ESRS on materiality.

The Flowchart refers to transition plans as an area of disclosure that has characteristics in common with policies, targets and actions, i.e.: when climate change is material and the undertaking does not have a transition plan in place, it shall indicate whether and, if so, when it will adopt a transition plan.

This is similar to the provision in ESRS 2 for policies, actions and targets: if the undertaking cannot disclose the information about policies, actions and targets related to a material matter because it has no such policies, actions and targets in place, it shall disclose this to be the case and it may disclose a timeframe in which it aims to have such a process in place.

Environment

ID 208 – GHG emission calculation

Question asked

The undertaking shall disclose in metric tonnes of CO₂eq its: (a) gross Scope 1 GHG emissions; (b) gross Scope 2 GHG emissions; (c) gross Scope 3 GHG emissions; and (d) total GHG emissions. the question is, how could this be done? What methodologies should be used and where can they be found? what exactly are the equivalents for the calculation. Interesting concrete examples.

ESRS reference

ESRS E1 paragraph 44, ESRS E1 paragraph AR39

GHG protocol

Background

ESRS E1 paragraph 44 states that “the undertaking shall disclose in metric tonnes of CO₂eq its gross Scope 1 GHG emission, gross Scope 2 GHG emission, gross Scope 3 GHG emission and total GHG emission”.

The Disclosure Requirements E1-6 – Gross Scopes 1,2,3 and Total GHG emission gives some details on the calculation guidance of GHG emission. ESRS E1 AR39 states that the undertaking shall consider the principles, requirements and guidance provided by the GHG Protocol Corporate Standard (version 2004). The undertaking may consider Commission Recommendation (EU) 2021/2279 or the requirements stipulated by EN ISO 14064-1:2018.

CO₂e is a unit used in GHG accounting and that reflects the amount of carbon dioxide (CO₂) emission that would cause the same integrated radiative forcing or temperature change, over a given time horizon, as an emitted amount of a greenhouse gas (GHG) or a mixture of GHGs. To calculate emissions in CO₂e, the different Global Warming Potential (GWP) of GHGs should be used. GWPs are used to evaluate releasing (or avoiding releasing) different greenhouse gases on a common basis – commonly, one tonne of CO₂. As per ESRS E1 AR39 when reporting emissions the undertaking shall “use the most recent Global Warming Potential (GWP) values published by the [IPCC](#) based on a 100-year time horizon to calculate CO₂eq emissions of non-CO₂ gases”.

Answer

How can GHG emissions be calculated and what methodologies can be use?

The undertaking shall consider the principles, requirements and guidance provided by the GHG Protocol Corporate Standard (version 2004). The undertaking may consider Commission Recommendation (EU) 2021/2279 or the requirements stipulated by EN ISO 14064-1:2018. This gives further details on GHG emission calculation guidance.

If further support is needed the [GHG Protocol website](#) also provides further guidance, calculation tools and online training on GHG accounting. The [GHG Management Institute](#) provides courses and diplomas that are recognized by leading organizations, namely the United Nations Framework Convention on Climate Change (UNFCCC).

What exactly are the CO₂ equivalents used for the calculation?

When expressing its GHG emissions, the user shall make it in units of tCO₂e, using the latest Global Warming Potential (GWP) values published by the IPCC based on a 100-year time horizon. CO₂eq is the universal unit of measurement to indicate the global warming potential (GWP) of each greenhouse gas, expressed in terms of the GWP of one unit of carbon dioxide. It is used to

evaluate releasing (or avoiding releasing) different greenhouse gases on a common basis. GWP is a factor describing the radiative forcing impact (degree of harm to the atmosphere) of one unit of a given GHG relative to one unit of CO₂. The current list is the one in the IPCC's 6th Assessment Report, [Chapter 7SM3](#).

ID 350 – Gross risk

Question asked

ESRS E1 paragraph 20 b (ii) and 20 c (ii) make reference to "Gross" risk, yet "Gross Risk" (or comparable) is not included in the ESRS Glossary (i.e. is not clearly defined). Is it correct to say that climate risk and scenario analysis/assessments processes should be done on an inherent/gross (i.e. pre control/mitigation strategy) risk (not a residual/net risk - post control/mitigation) basis?

ESRS reference

ESRS E1 paragraph 20 b (ii), ESRS E1 paragraph 20 c (ii)

Background

ESRS E1 paragraph 20 b (ii) states that the undertaking shall describe the process to identify and assess climate-related impacts, risks and opportunities. This description shall include its process in relation to:

(b) climate-related physical risks in own operations and along the upstream and downstream value chain, in particular:

ii. the assessment of how its assets and business activities may be exposed and are sensitive to these climate-related hazards, creating **gross physical risks** for the undertaking.

(c) climate-related transition risks and opportunities in own operations and along the upstream and downstream value chain, in particular:

ii. the assessment of how its assets and business activities may be exposed to these climate-related transition events, creating **gross transition risks** or opportunities for the undertaking.

IRO-1 details the processes to identify and assess climate-related impacts risks and opportunities. It requires the assessment of gross material risks. This process allows to respond to SBM-3 which introduces the description of business resilience in relation to climate change. The actions and resources to mitigate material risks will lead to a residual, net risks. The climate risk and scenario analysis/assessments processes should be done on a gross basis.

Answer

As stated in ESRS E1 paragraph 20, the undertaking shall describe the process to identify and assess climate-related impacts, risks and opportunities. This assessment refers to gross physical and transition risks. The gross risks means that the undertaking should not consider the effects of the actions and resource to mitigate the material risk, when assessing it.

When disclosing the information required under ESRS E1 paragraphs 20 (b) and 20 (c), the undertaking shall explain how it has used climate-related scenario analysis, including a range of climate scenarios, to inform the identification and assessment of physical risks and transition risks and opportunities over the short-, medium- and long-term.

The assessment of material climate-related impacts, risks and opportunities is performed looking at the gross risk, i.e. before any mitigating actions. The same apply to scenario analysis when they are used to support the identification and assessment of material impacts, risks and opportunities.

ID 432 – Net zero target and GHG removals

Question asked

This paragraph mentions the words "after approximately 90-95% of GHG reduction". I have the following 2 questions regarding interpretation: 1. Does this mean that under ESRS, my claim to net-zero will not be recognized if I neutralize 20% of my total reduction target to reach net-zero through removal techniques. 2) Is capturing and storing CO2 emitted through my own operations considered to be "reduction" or "removal"?

ESRS Reference

ESRS E1 paragraph

ESRS EA paragraph 56 (a)

Glossary: Net-zero target definition, GHG removal and storage definition

Background

Regarding the net-zero target, ESRS E1 paragraph 60 states that in the case where the undertaking discloses a net-zero target in addition to the gross GHG emission reduction targets in accordance with Disclosure Requirement E1-4, paragraph 30, it shall explain the scope, methodologies and frameworks applied and how the residual GHG emissions (after approximately 90-95% of GHG emission reduction with the possibility for justified sectoral variations in line with a recognised sectoral decarbonisation pathway) are intended to be neutralised by, for example, GHG removals in its own operations and upstream and downstream value chain.

In the glossary, the net-zero target is defined as followed: Setting a net-zero target at the level of an undertaking aligned with meeting societal climate goals means (1) achieving a scale of value chain emissions reductions consistent with the depth of abatement at the point of reaching global net-zero in 1.5°C pathways, and (2) neutralizing the impact of any residual emissions (after approximately 90-95% of GHG emission reduction) by permanently removing an equivalent volume of CO2.

Regarding GHG removals, ESRS E1 paragraph 56 a) states that the undertaking shall disclose: (a) GHG removals and storage in metric tonnes of CO2eq resulting from projects it may have developed in its own operations, or contributed to in its upstream and downstream value chain.

In the glossary, GHG removal is defined as followed: Removals refer to the withdrawal of GHGs from the atmosphere as a result of deliberate human activities. These include enhancing biological sinks of CO2 and using chemical engineering to achieve long-term removal and storage. Carbon capture and storage (CCS) from industrial and energy-related sources, which alone does not remove CO2 in the atmosphere, can reduce atmospheric CO2 if it is combined with bioenergy production (BECCS). Removals can be subject to reversals, which are any movement of stored

GHG out of the intended storage that re- enters the surface and atmosphere. For example, if a forest that was grown to remove a specific amount of CO₂ is subject to a wildfire, the emissions captured in the trees are reversed.

Answer

As stated in the glossary, the net-zero target means that neutralizing the impact of any residual emissions (after approximately 90-95% of GHG emission reduction) by permanently removing an equivalent volume of CO₂. As such, neutralizing 20% with carbon removals would not qualify to a claim of achieving a net-zero target in accordance with ESRS definition.

Regarding the question whether capturing and storing CO₂ emitted through the undertaking's operations would be a removal or not (see definition of GHG removal and storage in Glossary), if the CO₂ is of biogenic origin, it represents a removal as, for example, BECCS (Bio Energy with Carbon Capture and Storage). If the CO₂ is of fossil origin, this does not represent a removal, but simply capture and storage of CO₂.

ID 472 – Major incidents and deposits

Question asked

When are incidents and deposits considered to be "major"? Is there a qualitative or quantitative threshold to consider?

ESRS reference

Disclosure Requirement E2-6 paragraph 40 (b)

Key terms: Anticipated financial effect; major incident; deposit

Background

Annex II describes instances in which a "Work-related incident" may occur, such as "electrical problems, explosion, fire, overflow, overturning, leakage, flow, breakage, bursting, splitting, loss of control, slipping, stumbling and falling, body movement without stress, body movement under/with stress, shock, fright, workplace violence or harassment (e.g., sexual harassment). An incident that results in injury or ill health is often referred to as an 'accident'".

Furthermore, a "Deposit in water and soil" is defined in Annex II as an "amount of a substance that has accumulated in the environment, either in water or in soil, and either as a consequence of regular activities or from incidents or from disposals of undertakings, independent of whether that accumulation occurs at the production site of an undertaking or outside".

Disclosure Requirement E2-6 paragraph 38 (a) requires undertakings to "provide an understanding of [...] **anticipated financial effects** due to **material risks arising from pollution-related impacts and dependencies** and how these risks have (or could reasonably be expected to have) a material influence on the undertaking's, financial position financial performance and cash flows, over the short-, medium- and long-term".

According to Disclosure Requirement E2-6 paragraph 40 (b), the above information "shall include [...] **the operating and capital expenditures** incurred in the reporting period in conjunction with **major incidents and deposits**".

Disclosure Requirement E2-6 paragraph AR 31 provides examples of possible: "operating and capital expenditures related to incidents and deposits" that can be included:

"(a) cost for eliminating and remediating the respective pollution of air, water and soil including environmental protection;

(b) damage compensation costs including payment of fines and penalties imposed by regulators or government authorities”.

Overall, Disclosure Requirement E2-6 paragraph 41 indicates that these disclosures shall be accompanied by: “any relevant contextual information including a description of material incidents and deposits whereby pollution had negative impacts on the environment and/or is expected to have negative effects on the undertaking’s financial cash flows, financial position and financial performance with short-, medium- and long-term time horizons”.

As for examples of incidents, Disclosure Requirement E2-6 paragraph AR 32 stipulates that they “may include for instance interruptions of production, whether arising from the supply chain and/or from own operations, which resulted in pollution”.

ESRS E2 Disclosure Requirement IRO-1 paragraph AR 7 (b) specifies examples of pollution-related risks that are material for the undertaking: “physical risks, e.g., sudden interruption of access to clean water, acid rain, or other pollution incidents that are likely to lead to or that have led to pollution with subsequent effects on the environment and society”.

Qualitatively, an undertaking shall indicate under Disclosure Requirement E2-1 paragraph 15 (c) “with regard to its own operations and its upstream and downstream value chain, whether and how its policies address [...] where material [...] avoiding incidents and emergency situations, and if and when they occur, controlling and limiting their impact on people and the environment”.

Disclosure Requirement E2-4 paragraph AR 25 (b) indicates other useful sources that undertakings may refer to when reporting on pollution of air, water, and soil: “Where the undertaking’s activities are subject to Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (IED) and relevant Best Available Techniques Reference Documents (BREFs), irrespective of whether the activity takes place within the European Union or not, the undertaking may disclose the following additional information [...] a list of any non-compliance incidents or enforcement actions necessary to ensure compliance in case of breaches of permit conditions”.

The Industrial Emissions Directive, paragraph 8 stipulates that “It is important to prevent accidents and incidents and limit their consequences. Liability regarding the environmental consequences of accidents and incidents is a matter for relevant national law and, where applicable, other relevant Union law”.

Furthermore, the Industrial Emissions Directive, Art. 7 (b) adds that “in the event of any incident or accident significantly affecting the environment”, “operator immediately takes the measures to limit the environmental consequences and to prevent further possible incidents or accidents”.

The BREF for waste treatment instructs on the implementation of an accident management plan which “identifies hazards posed by the plant and the associated risks and defines measures to address these risks. It considers the inventory of pollutants present or likely to be present which could have environmental consequences if they escape”.

Finally, the Seveso-III Directive, Art. 3 paragraph 13 defines a major accident as “an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment covered by this Directive, and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances”.

Answer

The ESRS and the related Annex II provide guidance on incidents, accidents and deposits, including definitions and several examples to support their identification for the purpose of sustainability reporting.

The evaluation of material incidents should, in all cases, be based on the undertaking’s individual materiality assessment. Hence, the impacts and risks stemming from incidents must be evaluated by each undertaking, based on their specific facts and circumstances, own operations and

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activities. With this in mind, it is useful to note that the Disclosure Requirement E2-6 indicates that, for disclosures on major incidents and deposits, undertakings are to include any information that they consider relevant in terms of actual or expected negative environmental and financial impacts caused by pollution resulting from such incidents and deposits, as long as the context is provided for short-, medium- and long-term time horizons. Additionally, in terms of qualitative information, ESRS E2 Disclosure Requirement IRO-1 and E2-1 respectively provide guidance on the pollution-related materiality assessment and require undertakings to describe their policies for avoiding and mitigating the impacts of incidents and emergency situations. The IED Directive and BATs/BREFs are also indicated in the ESRS as useful sources for undertakings to reference when disclosing on air, water, and soil pollution. The IED Directive, in particular, stipulates that major incidents are a national matter; therefore, undertakings must consult national legislations when dealing with them. The BREF for waste treatment provides practical indications on the accident management plan, a tool used to identify accident-related hazards, risks and potentially impactful pollutants. A supplementary external source, namely the Seveso-III Directive, explicitly defines major accident and includes examples that can be considered for reporting.

Supporting material

[Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions \(integrated pollution prevention and control\) \(IED Directive\).](#)

[Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances \(Seveso-III Directive\).](#)

[Best Available Techniques \(BAT\) Reference Document for Waste Treatment, EC \(2018\).](#)

[Directive \(EU\) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market \(PSD2 Directive\).](#)

[Revised Guidelines on major incident reporting under PSD2, EBA \(2021\).](#)

Social

ID 340 – Entitlement family-related leave

Question asked

Does the metric "family-related leave" presume that an employee is entitled to every concept of family-related leave?

ESRS Reference

ESRS S1-15 paragraph 93, ESRS S1 paragraph AR96, ESRS S1 paragraph AR97

Key terms: Work-Life Balance; Entitlement to take family-related leave

Background

Family-related leave is addressed in Disclosure Requirement S1-15, specifically ESRS S1 paragraph 93 requires a disclosure of "(a) the percentage of employees entitled to take family-related leave."

The relevant definitions can be found in ESRS S1 paragraph AR96, explaining that "family-related leave include maternity leave, paternity leave, parental leave, and carers' leave that is available under national law or collective agreements. For the purpose of this Standard, these concepts are defined as:

- a) maternity leave (also called pregnancy leave): employment-protected leave of absence for employed women directly around the time of childbirth (or, in some countries, adoption);
- b) paternity leave: leave from work for fathers or, where and in so far as recognised by national law, for equivalent second parents, on the occasion of the birth or adoption of a child for the purposes of providing care;
- c) parental leave: leave from work for parents on the grounds of the birth or adoption of a child to take care of that child, as defined by each Member State;
- d) carers' leave from work: leave for workers to provide personal care or support to a relative, or a person who lives in the same household, in need of significant care or support for a serious medical reason, as defined by each Member State."

Furthermore, ESRS S1 paragraph AR97 clarifies: "employees entitled to family-related leave are those who are covered by regulations, organisational policies, agreements, contracts or collective bargaining agreements that contain family-related leave entitlements and have reported their entitlement to the undertaking or the undertaking is aware of the entitlement."

Answer

Yes. Family-related leave includes maternity, paternity, parental and carers' leave that is available under nation law or collective agreements (ESRS S1 paragraph AR96). Being entitled to take family-related leave would thus mean being entitled, based on national law or collective agreements to take maternity, parental and carer's leave; or paternity, parental and carer's leave. Employees entitled to family-related leave are those who are covered by regulations, organisational policies, agreements, contracts or collective bargaining agreements that contain family-related leave entitlements. The scope of family leave may vary across countries and such contextual information may be relevant to users.

Supporting material

Council Directive 92/85/EEC establishes the right to maternity leave and Directive 2019/1158 ensures minimum rights for paternity, parental and carers' leave (Member States have flexibility in how they implement these measures into national law). The definitions provided in Article 3 of the Directive are aligned with ESRS S1 paragraph AR96.

ID 341 – Conditions for Paternity, Maternity, Parental Leave

Question asked

What conditions must be met in order to consider an employee entitled to maternity- or paternity- or parental leave in the meaning of ESRS S1?

ESRS Reference

ESRS S1-15 paragraph 92, ESRS S1-15 paragraph 93, ESRS S1-15 paragraph AR96, ESRS S1 paragraph AR97

Key terms: Work-life balance; Family-related leave; Maternity leave; Paternity leave; Carers' leave

Background

The objective of Disclosure Requirement S1-15 is two-fold: "to provide an understanding of the entitlement and actual practices amongst the employees to take family related leave." (ESRS S1 paragraph 92). ESRS S1-15 paragraph 93(a) requires a disclosure of "(a) the percentage of employees entitled to take family-related leave." And "if all of the undertaking's employees are entitled to family-related leave through social policy and/or collective bargaining agreements, it is sufficient to disclose this in order to meet the requirements of paragraph 93a."

ESRS S1 paragraph AR97 explains where the entitlement to take family-related leave may derive from: "employees entitled to family-related leave are those who are covered by regulations, organisational policies, agreements, contracts or collective bargaining agreements that contain family-related leave entitlements and have reported their entitlement to the undertaking or the undertaking is aware of the entitlement."

The relevant definitions, in line with EU legislation on work-life balance can be found in ESRS S1 paragraph AR96, explaining that "family-related leave include maternity leave, paternity leave, parental leave, and carers' leave that is available under national law or collective agreements. For the purpose of this Standard, these concepts are defined as:

- (a) maternity leave (also called pregnancy leave): employment-protected leave of absence for employed women directly around the time of childbirth (or, in some countries, adoption);
- (b) paternity leave: leave from work for fathers or, where and in so far as recognised by national law, for equivalent second parents, on the occasion of the birth or adoption of a child for the purposes of providing care;
- (c) parental leave: leave from work for parents on the grounds of the birth or adoption of a child to take care of that child, as defined by each Member State;
- (d) carers' leave from work: leave for workers to provide personal care or support to a relative, or a person who lives in the same household, in need of significant care or support for a serious medical reason, as defined by each Member State."

Answer

Whether an employee is entitled to family-related leave depends on family-related leave provisions under national law or collective agreements (ESRS S1 paragraph AR96). Employees entitled to family-related leave are those who are covered by regulations, organisational policies, agreements, contracts or collective bargaining agreements that contain family-related leave entitlements. There are no specific thresholds regarding minimum time periods; the entitlement to take family-related leave does not depend on specific conditions. The scope of family leave may vary across countries and such contextual information may be relevant to users.

ID 352 – Work-related ill health and fatalities from ill health

Question asked

"With regard to the undertaking's employees, the number of days lost to work-related injuries and fatalities from work-related accidents, work-related ill health and fatalities from ill health": Why is "work-related" not mentioned in the last part of the datapoint (fatalities from ill health) but is attached to every other breakdown of this data point?

ESRS Reference

ESRS S1 paragraph 86, ESRS S1 paragraph 88(e)

Key terms: Days lost; Fatalities from work-related accidents; Fatalities from ill health

Background

ESRS S1 paragraph 86 summarises: "The undertaking shall disclose information on (...) the number of incidents associated with work-related injuries, ill health and fatalities of its own workforce."

ESRS S1 paragraph 88 states: "The disclosure required by paragraph 86 shall include the following information, where applicable broken down between employees and non-employees in the undertaking's own workforce: (e) with regard to the undertaking's employees, the number of days lost to work-related injuries and fatalities from work-related accidents, work-related ill health and fatalities from ill health." The definition for recordable work-related injury or ill health as provided in Annex II of the Delegated Regulation also does not repeatedly refer to "work-related" ill health: "work-related injury or ill health that results in any of the following: i. death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness; or ii. significant injury or ill health diagnosed by a physician or other licensed healthcare professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness."

Answer

The objective of this Disclosure Requirements defines the information to be disclosed under ESRS S1-14 and it describes that that fatalities to be disclosed are the results of work-related injuries and work-related ill health. Hence, ESRS S1 paragraph 88(e) refers to work-related ill health.

ID 356 - Sub-consultants Scope S1, S2

Question asked

Are sub-consultants included in own workforce, or are they to be included within the S2-disclosures?

ESRS Reference

ESRS S1 paragraph 4, ESRS S1 paragraph 5

Key terms: Own workforce; Workers in the value chain

Background

ESRS S1 paragraph 4: "This Standard covers an undertaking's own workforce, which is understood to include both people who are in an employment relationship with the undertaking ("employees") and non-employees who are either people with contracts with the undertaking to supply labour ("self-employed people") or people provided by undertakings primarily engaged in "employment activities" (NACE Code N78). See Application Requirement 3 for examples of who falls under own workforce. The information required to be disclosed with regard to non-employees shall not affect their status pursuant to applicable labour law."

ESRS S1 paragraph 5: "This Standard does not cover workers in the undertaking's upstream or downstream value chain; these categories of workers are covered in ESRS S2 Workers in the value chain."

Answer

The definition of non-employees only includes individual contractors supplying labour to the undertaking (self-employed people) and people provided by undertakings primarily engaged in employment activities (NACE Code N78). If sub-consultants (or sub-contractors) do not have a contract directly with the undertaking, they are not included in this definition, thus they shall be considered to be workers in the value chain (ESRS S2).

ID 365 – Significant Employment

Question asked

Please confirm this should be read as disclosing on countries with at least 10% of employees, not EITHER 50 OR 10%: "the total number of employees by head count, and breakdowns by gender and by country for countries in which the undertaking has 50 or more employees representing at least 10% of its total number of employees."

ESRS Reference

ESRS S1 paragraph 50(a), ESRS S1 paragraph AR54

Key terms: Significant employment; Key characteristics of employees

Background

ESRS S1-6 paragraph 50(a) requires the disclosure of the following information: “the total number of employees by head count, and breakdowns by gender and by country for countries in which the undertaking has 50 or more employees representing at least 10% of its total number of employees.” ESRS S1 paragraph AR54 explains that the “number of employees in each country is also a key trigger for many information, consultation and participation rights for workers and workers’ representatives, both in the Union labour acquis and in national law.” This concept of significant employment is furthermore clarified in Disclosure Requirement S1-8. ESRS S1 paragraph 60(b) defines significant employment as “at least 50 employees by head count representing at least 10% of its total number of employees.”

Answer

The breakdown must be disclosed for countries where both at least 10% of the undertaking’s employees are employed and the number of employees is at least 50.

ESRS 1 para 50(a) requires different types of employee information: a) the total number of employees by headcount and b) breakdowns by gender and by country for countries in which the undertaking has 50 or more employees representing at least 10% of its total number of employees. As illustrated by Table 1 in AR 55 in ESRS 1, the gender breakdown applies to **all** employees, i.e. the minimum employment threshold at the country level for reporting does not apply to this. As illustrated in Table 2, the number of employees at the country level is to be reported, however, this reporting is mandatory only for countries in which both threshold conditions apply.

ID 376 – Definition Collective Bargaining

Question asked

Please provide a definition of collective bargaining agreement.

ESRS Reference

Disclosure Requirement S1-8

Key terms: Collective Bargaining Agreement

Background

Annex II of the Delegated Regulation defines collective bargaining as follows: “All negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more trade unions or, in their absence, the representatives of the workers duly elected and authorised by them in accordance with national laws and regulations, on the other, for: i. determining working conditions and terms of employment; and/or ii. regulating relations between employers and workers; and/or regulating relations between employers or their organisations and a workers’ organisation or workers’ organisations.”

Answer

Annex II of the Delegated Regulation provides a definition of collective bargaining based on ILO Convention 154 on Collective Bargaining:

Log of explanations

All negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more trade unions or, in their absence, the representatives of the workers duly elected and authorised by them in accordance with national laws and regulations, on the other, for:

- i. determining working conditions and terms of employment; and/or
- ii. regulating relations between employers and workers; and/or regulating relations between employers or their organisations and a workers' organisation or workers' organisations.

Collective bargaining agreements are understood as written agreements resulting from collective bargaining, as defined above (in line with ILO Collective Agreements Recommendation No. 91.)

ID 387 – Scope of ESRS S1-16

Question asked

ESRS S1-16 talks about employees but does not specify if it's only those that meet the inclusion criteria (at least 50 employees and 10% of total employment).

ESRS Reference

ESRS S1-6 paragraph 50(a); Disclosure Requirement S1-16

Key terms: Number of employees

Background

Disclosure Requirement S1-16, paragraph 95 states: “the undertaking shall disclose the percentage gap in pay between its female and male employees and the ratio between the remuneration of its highest paid individual and the median remuneration for its employees.” The key characteristics of the undertaking's employees are to be reported on in Disclosure Requirement S1-6, which serves as a basis for information required by other disclosure requirements. ESRS S1 paragraph 50(a) requires the disclosure of “the total number of employees by head count” as well as “breakdowns by gender and by country for countries in which the undertaking has 50 or more employees representing at least 10% of its total number of employees.”

Answer

Disclosure Requirement S1-16 and its accompanying Application Requirements AR 98-102 specifically refer to including **all** employees by headcount in the calculation. Undertakings **may** report additional information based on differentiating the pay gap by specific employee groups or country/segment, as specified in paragraph 98; however, there is no employment threshold specified for the voluntary reporting of this additional information.

Governance

ID 444 – Payment practices

Question asked

Regarding the DR on payment practices in G1-6, is the information on payment practices expected regarding SMEs only, or a wider range of suppliers?

ESRS reference

ESRS G1-6

Key terms: Payment practices; SMEs

Background

ESRS G1 paragraph 2 presents the list of matters covered in the standard. Paragraph (2) (b) clarifies “the management of relationships with suppliers, including payment practices, especially with regard to late payment to small and medium-sized undertakings” is covered.

Disclosure Requirement G1-6 paragraph 31 states that “*the undertaking shall provide information on its payment practices*”.

ESRS G1 paragraph 32 states that “The objective of this Disclosure Requirement (G1-6) is to provide insights on the contractual payment terms and on its performance with regard to payment, especially as to how these impact SMEs and specifically with respect to late payments to SMEs.”

Answer

The information on payment practices is expected to cover a wider range of suppliers, not limited to SMEs. The requirement to separately provide data on payments for SMEs was considered while developing the standard, but not finally retained, as this information may not be easily available. However, the list of “shall” datapoints in ESRS G1 33 has to be read in the context of the disclosure objective, which refer “especially” to SMEs. Undertakings are expected, as part of ESRS G1 para. 33 (d), to provide complementary information necessary to provide sufficient context and this may include information on payment practices specific for SMEs.