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HIGH-LEVEL INPUT ON DRAFT EUROPEAN SUSTAINABILITY REPORTING STANDARDS

The Danish Institute for Human Rights (the Institute) welcomes the publication of the first draft set of European Sustainability Reporting Standards (ESRS) under the Corporate Sustainability Reporting Directive (CSRD). The Institute is responding separately to a number of the survey questions circulated as part of the online consultation, but include below key overarching observations and recommendations. Proposed text amendments reflecting a number of the recommendations set out in this submission are included in Annex 1 to this document.

KEY RECOMMENDATIONS:

Conceptual clarity

- *We recommend that ESRS 1 and thereafter all ESRSs are reviewed to ensure that all supporting concepts and terms are fully aligned with the double materiality concept so as to help underpin that this approach takes primacy for preparers.*
- *We recommend that the ESRS is supported by a program of awareness raising and capacity building to socialise reporting entities to the concept of double materiality and reporting expectations.*
- *We recommend that the next iteration removes all redundant and overlapping concepts and terminology to simplify the approach to reporting.*
- *We recommend that a consistency check on key terms and concepts used is performed and that the glossary included in ESRS 1 Appendix A is expanded to include more terms as well as explanations of how some terms interrelate.*
- *We further recommend that the UNGPs and OECD Guidelines are used as the benchmark when adjusting and aligning terms and definitions and that the term “significance” be removed from the definition of impact materiality.*

Responsible Business Conduct Due Diligence

- *We recommend that due diligence is applied more directly in the ESRS and that divergence is avoided to the greatest extent possible. Concretely, we recommend that the disclosure principles (ESRS 1 para 96-106) and the*

social standard DRs 1-5 are aligned fully with the five steps of due diligence as described in the OECD due diligence guidance (see suggestions in Annex 1).

- *We recommend that the ESRS provide clearer guidance explaining the interconnectivity of the cross-cutting requirements and the topical standards in the implementation and reporting on the undertaking's due diligence (see suggestions in Annex 1).*

Cross-topical reporting

- *In recognition of the interdependencies between environmental, social and governance elements, we recommend that the next iteration of the ESRS more clearly incentivises preparers to consider and disclose information around cross-topical aspects of their material sustainability impacts.*

Information quality, data gathering and presentation of reporting

- *We recommend that the ESRS further clarify how the information quality principles, materiality assessment and rebuttable presumption operate together to ensure that entities have clear guidelines on what they are expected to report and avoid potential loopholes. Further, we recommend that general principles 72-77 are applied more directly in concrete DRs.*
- *We recommend that the ESRS encourage, to the extent possible, standardised reporting formats to enable users to assess and compare company practice including through the use of big data technology.*
- *We recommend that the ESRS clarify how information should be gathered and when approximation processes should be used, ensuring that adequate incentives are given to collect data rather than estimate.*
- *To improve the meaningfulness of DR 2-IRO-2, we recommend splitting it into two or three DRs, so as to not mix up information around negative and positive impacts as well as risks and opportunities. We further recommend adding to para 77 the requirement that information, where relevant is disaggregated by country presences or across the stages of the undertakings value chain.*

Remedy

- *We recommend that remedy as a topic is strengthened in the ESRSs to have a clearer and more prominent place in the architecture and that requirements that relate to remedy and grievance mechanisms are aligned fully with UNGPs*

Reporting on full range of rights

- *We recommend the standards require preparers explicitly to consider impacts across the full range of rights and undertake an impact materiality analysis on this basis, using the ESRS as a non-exhaustive guide in terms of topics of relevance to specific stakeholder groups.*

Performance indicators

- *We recommend that certain performance measures included in ESRS S1 are strengthened, including by requiring country breakdowns where relevant*
- *We recommend that ESRS S2-S4 are developed further to also include relevant performance measures, where possible.*

OVERARCHING COMMENTS

The Institute commends EFRAG for publishing for consultation a comprehensive first set of ESRS. Having strong and uniform EU-wide reporting standards on sustainability, including as it relates to human rights, has the potential to significantly improve corporate reporting on these matters, drive improved implementation practices and allow external stakeholders, including affected stakeholders, to access relevant information and assess the adequacy of corporate responses to potential and actual negative human rights impacts.

We believe that specific and granular standards are needed in order to drive companies to prioritise sustainability disclosures in the same way as they do with financial reporting. We are aware that this approach has been criticised by some stakeholders, suggesting that it may be too burdensome for preparers. However, a significant step change in sustainability reporting is needed. Sustainability reporting should no longer be regarded as a communications or marketing exercise. Accordingly, the draft ESRS mark a significant step forward. The **overall architecture** is intuitive and provides a useful starting point for ensuring comprehensive sustainability reporting. The Institute is pleased to see that the ESRS reflects recommendations from the EFRAG task force and the Platform on Sustainable Finance to organise social reporting by reference to rightsholders, identifying affected stakeholder groups, i.e. workers including across value chains, communities, as well as end-users and consumers. Social factors are ultimately about people and organising reporting by the groups of people most commonly affected by business activities can provide an intuitive and simple structure.

However, some concerns remain around the overall architecture. Whilst the division in topical standards is intuitive and clear, it comes with the risk of driving siloed approaches to integrated sustainability matters. It is not entirely clear from the drafts how preparers are meant to reflect that oftentimes E, S and G impacts interrelate – and specifically from a human rights perspective that environmental,

climate, tax or corruption impacts all could be associated with human rights impacts. *We recommend that the next iteration more clearly incentivises preparers to consider and disclose information around cross-topical aspects of their material sustainability impacts.* Further, true to the double materiality approach many disclosure requirements (DRs) collapse or combine reporting on negative impacts as well as risks and opportunities into one joint DR. Whilst this reduces the number of DRs, it comes with the risk of making disclosures harder to navigate and harder to compare and data-mine, e.g. when focusing on negative impacts only, which is a need for some user groups, including civil society organisations, investors (including when seeking alignment with minimum safeguards of the taxonomy regulation), affected stakeholders and others. *We recommend that DR 2-IRO 2 and 3 as well as social DRs around policies (ESRS S 1-4 DR 1) and targets (ESRS S 1-4 DR 4) are split into separate DRs, one covering impacts and another risks and opportunities and that the same is considered for other DRs that currently combine the two.*

What a business identifies as material shapes its strategies and actions. The Institute welcomes the ESRS efforts to standardise the way in which businesses are regularly and transparently disclosing how and what they have decided is material, and how the business is addressing the issues identified as material. This information is important for a range of stakeholders including ESG investors and civil society actors focused on corporate accountability. One of the big advancements of the draft is its implementation of the **double materiality approach**, which will be key to ensuring that future reports adequately reflect risks to people and planet alongside risks to the undertaking. Whilst we fully support the inclusion this approach in the ESRS, we are concerned that the introduction of other overlapping or related concepts and principles risk confusing preparers or diluting the strength and simplicity of the double materiality approach. For example, the definition of relevance in the context of information quality (ESRS 1 para 26-28) is biased towards users of the reports that are also decision makers – as opposed to emphasising relevance in the context of both affected stakeholders and users of sustainability reporting – which would be in line with the stakeholder definition of ESRS 1 (para 44-45). This could unintentionally undermine the strength of the double materiality concept by implicitly emphasising financial materiality over impact materiality. The definition of information materiality (ESRS 1 para 43) is another example that run the risk of conflicting or diluting with the double materiality approach. Specifically, the indication that applying materiality implies the use of thresholds and or criteria is not clear in relation to the definition of impact and financial materiality and run the risk of incentivising preparers to set their own thresholds for when a certain impact is material or not, rather than making use of the severity approach. While severity is mentioned as part of impact materiality (ESRS 1 para 49) and in DR 2-IRO-1, there is no guidance for preparers on how to apply these as criteria for determining impacts for inclusion under DR 2-IRO-2. As a third and final example, additional concepts such as “significance” is

introduced, with conflicting guidance as to the degree to which this is synonymous with materiality (see for example paragraph 48 of ESRS 1 which implies that the two concepts are equivalent and paragraph 51 which states that different factors are to be used to determine materiality and significance).

We recommend that ESRS 1 and thereafter all ESRSs are reviewed to ensure that all supporting concepts and terms are fully aligned with the double materiality concept so as to help underpin that this approach takes primacy for preparers. Further, the term ‘materiality’ has a particular connotation due to its meaning in financial reporting and is not easily translated to the context of non-financial reporting without clear guidance given to preparers. Applying a double materiality lens involves a mind-shift, takes practice and will require capacity building and awareness raising. There is a significant risk that without adequate awareness raising reporting entities will rely on pre-conceived notions of ‘materiality’. This carries a risk that an updated definition may not significantly impact or alter the type of information shared and drive reporting on more meaningful information about risks to people, rather than risks to the company. *We recommend that the ESRS is supported by a program of awareness raising and capacity building to socialise reporting entities to the concept of double materiality and reporting expectations.*

Multiple stakeholders have raised concern over the **length and overall complexity** of the draft ESRSs. *We recommend that the next iteration removes all redundant and overlapping concepts and terminology to simplify the approach.* ESRS 1 for example includes a lot of terms and concepts that are interrelated, overlapping and at times redundant. There are also examples of terms being used inconsistently (For example the use of significance in the impact materiality definition (ESRS 1 para 49) is different from the use of significance later in the same section (ESRS 1 para 51). In this concrete example *we recommend that significance is removed from the definition of impact materiality.* Other examples include use of terminology slightly different from how they are used in the OECD Guidelines for Multinational Enterprises (OECD GL) and UN Guiding Principles on Business and Human Rights (UNGPs). For example, whereas these frameworks make use of both risks and impacts in the context of sustainability, the ESRS uses impacts only when referring to impact materiality and risks when referring to financial materiality aspects. For preparers, it is not entirely clear how the differentiation between impacts and risks in ESRS (where impacts related to impact materiality and risks to risks to the undertaking) relate to the use of risks AND impacts in UN Guiding Principles on Business and Human Rights (UNGPs) and OECD Guidelines for Multinational Enterprises (OECD Guidelines). *We recommend that a consistency check on key terms and concepts used is performed and that the glossary included in ESRS 1 Appendix A is expanded to include more terms as well as explanations of how some terms interrelate. We further recommend that the UNGPs and OECD Guidelines are used as the benchmark when adjusting and aligning terms and definitions.* Additionally, noting that the exposure drafts may be

overwhelming in their level of detail to a number of relevant stakeholders, we are concerned that this consultation process might be targeted too specifically at an expert audience and not be fully appropriate to capture the views of a multitude of stakeholders.

Responsible business conduct due diligence is key to the OECD Guidelines and UNGPs and central to the CSRD art. 19a and should take primacy and be applied more directly in the ESRS. Whereas the ESRS at a high level refer and commit to alignment with the due diligence approach, there are a number of examples of deviations from the approach that risk confusing preparers and diluting the approach. The value or reasoning behind the deviations made is further not clear. Implementation of due diligence is at the heart of the impact materiality approach. Meaningful implementation of due diligence enables preparers to identify impacts that are material from an impact materiality perspective. Nonetheless, there is no reference made to due diligence in the impact materiality definition of ESRS 1 para 49-51 for example. Further, whereas ESRS 1 section 2.5. describe due diligence under CSRD, the disclosure principles 1-1 to 1-3 are related but slightly different from due diligence as its defined in the UNGPs and OECD Guidelines and referenced in ESRS 1 para 85-91. It is unclear why this difference is introduced. Again, divergence risks bringing conceptual confusion and undermining the progress of many preparers from over 10 years of implementation of these frameworks. Further, by not drawing clear links between the identification phase of due diligence and the assessment of impact materiality, the ESRS risks the development of parallel processes to satisfy reporting requirements.

This division is also reflected in the reporting architecture, where preparers are asked to prepare a separate “Statement on due diligence” under ESRS 2 DR 2-GOV-5, despite an expectation to embed due diligence throughout the underlying process used to identify and address impacts which are to be the subject of the reporting obligations across the ESRS more broadly. *We recommend that the ESRS provide a clearer guidance explaining the interconnectivity of the cross-cutting requirements and the topical standards in the implementation and reporting on the undertaking’s due diligence.* It is unclear how the disclosure needs of the forthcoming Corporate Sustainability Due Diligence Directive (CSDD) will be reflected in the ESRS. While the development of the CSDD is at a much earlier stage of the legislative process, it is nonetheless anticipated that the disclosures required under the CSRD will be closely linked to the due diligence obligations under the CSDD. Accordingly, the Institute encourages alignment to the greatest extent possible between these two parallel measures.

The same issue arises in the social standards (ESRS S1-S4). Here DRs 1-5 in all four social standards overlap with the due diligence expectation, but are articulated and ordered slightly differently, including by reference to the disclosure principles. This is particularly problematic in the social standards where the concept of human rights due diligence is the authoritative standard and many companies in

scope of the CSRD have worked to align with the UNGPs over the last decade. Again, the divergence from applying due diligence exactly as defined by the authoritative standards is not reasoned and the value of diverging unclear. Whereas some of the divergence is merely a question of terminology use and at risk of creating conceptual confusion, other diversions have substance implications. For example, channels for raising concerns (e.g. DR S1-3) are not necessarily the same as human rights grievance mechanisms, which is what is expected under the UNGPs and OECD Guidelines. Importantly, grievance mechanisms can be one avenue for victims of negative human rights abuses to access remediation. There is no mention of remediation in relation to ‘concern channel’ disclosure requirements (S1-3, S2-3, S3-3 and S4-3). We consider that clarifying language should be included in ESRS 1 which explains how the process of impact materiality aligns with the process of identifying impacts undertaken during the process of human rights due diligence. This language could be included in paragraphs 49-51 and 85-86 and 89 of ESRS 1 as well as ESRS 2 IRO 1-2. We acknowledge that the exposure drafts of the ESRS do contain the stages of due diligence as described in the OECD due diligence guidance, however they do so by considering the various stages at different levels within the architecture of the ESRS: presently the identification phase is considered only in ESRS 2 IRO, whereas the subsequent four stages, taking action to address impacts, tracking implementation and results and remedy is addressed to varying degrees in the implementation disclosures forming part of the topical standards. We are of the view that a description of the process for and outcome of the impact materiality assessment is relevant not only at the cross-cutting level of ESRS 2, but also at the level of the topical standards. Disclosure of what impacts have been identified as material for a preparer and the process for identification of those impacts is certainly relevant at the cross-cutting level of ESRS 2. It is important for stakeholders to understand what impacts drive a company’s actions at group or aggregate level. However, we are of the view that it is also important for a more granular account of impact identification to be included in the topical standards, both as a means of explaining how the identification of the material cross-cutting impacts which have been disclosed in ESRS 2 IRO have been arrived at, as well as providing a clear explanation of how the preparer has engaged with each topic within the topical disclosures. If the “rebuttable presumption” mechanic is to be retained in the ESRS, such disclosure would also assist users to assess whether a preparer has reasonable and supportable grounds for not making a disclosure on a particular topical standard. Care should be taken to ensure that there is not undue repetition between these disclosures, however many of the factors which should be considered in an assessment of whether an impact is material depend on the particular context in which a social topic arises. How a preparer makes an assessment of the materiality of a topic is necessarily more granular than at the cross-cutting level. This is a level of granularity which should be disclosed but we suspect would be overwhelming to capture in a cross-cutting manner under ESRS 2 IRO. As such, we recommend that further clarity is given about the

interconnection of IRO 1 & 2 and then topical requirements, that some DRs around process and outcome of impact identification are introduced at topical level to allow for disaggregated information sharing (i.e. related to the topic in focus only, disaggregated across regions/countries, or across value chain steps). In addition we recommend that ESRS S1-4 DRs 1-5 are aligned more explicitly with the OECD RBC due diligence steps. *We recommend that due diligence is applied more directly in the ESRSs and that divergence is avoided to the greatest extent possible. Concretely, we recommend that the disclosure principles (ESRS 1 para 96-106) and the social standard DRs 1-5 are aligned fully with the five steps of due diligence as described in the OECD Due Diligence Guidance for Responsible Business Conduct.* Text suggestions reflecting these concerns and the latter recommendation are included in Annex 1 to this submission.

Following the recommendations given above will enable the ESRS to be more closely aligned with the UNGPs and OECD Guidelines as envisaged by CSRD recital 27 and 39. This is helpful from a legislative perspective, to ensure policy coherence with existing and future EU files resting on these frameworks (such as the Taxonomy Regulation and the proposed corporate sustainability due diligence file). It is also helpful for preparers, many of which already operate in accordance with these standards and are calling for alignment with them. Finally, it is desirable from the perspective of EU-external implications of the regulation, including for non-EU preparers in scope of CSRD.

CROSS-CUTTING STANDARDS – OBSERVATIONS AND RECOMMENDATIONS

The Institute is generally supportive of the general principles set out in ESRS 1. In particular, it is very positive that the approach taken to the assessment of the reporting boundary extends to the whole of the value chain including downstream impacts, is not delimited by tier nor to areas that are within the undertaking's direct control. It is also positive that ESRS recognises the need to consider disaggregating information e.g. by country. Many times impacts differ considerably across an undertaking's global operations and value chain and as a result lack of disaggregation can lead to loss of the context necessary to assess the adequacy of information shared. *We recommend that general principles 72-77 are applied more directly in concrete DRs, including by reference to these principles.*

In addition to the general comments outlined above concerning clarity of concepts, the Institute makes the following comments on specific elements of the general principles set out in ESRS 1.

Regarding information quality, ESRS 1 sets out a number of fundamental elements which should be satisfied, being relevance and faithful representation, as well as a number of elements which enhance the quality of information, being comparability, verifiability and understandability.

The aim of elaborating the fundamental characteristics of **information quality** is laudable as a means of encouraging meaningful reporting and addressing the risk of sustainability reports being prepared as marketing catalogues rather than disclosures of an entity's severe impacts, dilemmas, and honest reporting around failures and attempts to improve. However, it introduces a number of additional concepts to the disclosure process which could create conceptual confusion. As noted above, although the ESRS notes that "materiality is an enabling factor of relevance" (see ESRS 1 [28]) it is unclear how the concepts of relevance and materiality interrelate and therefore what threshold a user should meet in order for information to be disclosed. Further, the principle of understandability requires concision, which the ESRS states requires the disclosure of material information only (see ESRS 1 [40]). There are a multiplicity of thresholds for disclosure involved in the overlay of the information quality components on the materiality assessment process which require clearer guidance for preparers. Further, the assessment of what information to disclose is additionally complicated by the mechanism of a "**rebuttable presumption**" that all ESRS shall be presumed to be material unless a preparer can show otherwise on the basis of reasonable and supportable evidence. Clearer guidance is needed as to what evidence would meet the "reasonable and supportable" threshold in order to promote transparency around the decision-making process of an undertaking in assessing what information should and should not be disclosed. In addition, the element of **faithful representation** (see ESRS 1 [31]) suggests that preparers should consider the positive and negative aspects of information in a manner that is "balanced" in order to achieve neutrality. It is positive that the ESRS also states that "information shall, a priori, not be netted or compensated to be neutral" an approach which is rejected by the UNGPs and OECD GL in the context of social impacts. However, clearer guidance is needed to supplement this text to specify what is expected of preparers as part of the balancing process and how to ensure that this process does not result in "netting" of impacts.

Without clarity around the implication of information quality factors as well as the rebuttable presumption principle, there is a risk that the ESRS introduce loopholes that undermine the broad scope of reporting established by the double materiality principles and the reporting boundary. *We recommend that the ESRS further clarify how the information quality principles, materiality assessment and rebuttable presumption operate together to ensure that entities have clear guidelines on what they are expected to report and avoid potential loopholes.*

Comparability of information is a critical component raised in the principles of information quality (see ESRS 1 [33]) which notes that information should be presented in a way that enables comparisons between undertakings as well as progress of a particular entity over time. In addition to challenges associated with improving the substance of reporting, there are challenges in relation to the accessibility of company reports and how reported information is prepared and presented. There is considerable variation in the presentation of data on human

rights issues in current company reporting which presents considerable difficulties when attempting to assess and compare company practice. The capacity to easily access, analyse and compare company reporting is crucial for a range of stakeholders including ESG investors and civil society groups focused on corporate accountability. It is unclear whether the ESRS adequately promote standardisation in order to address this issue of comparability. Standardisation will also facilitate the use of tech assisted analysis using big data and algorithm technology, which can supplement qualitative analysis of company reporting. Relatedly, the concept of **understandability** fails to emphasise the particular need to ensure that the disclosures are understandable to affected stakeholders, including where these may have special needs in relation to accessing information. This involves considerations around for instance form and language of information shared from the perspective of affected groups. *We recommend that the ESRS encourage, to the extent possible, standardised reporting formats to enable users to assess and compare company practice including through the use of big data technology.*

The ESRS also envisages means by which a user may satisfy gaps in information by **approximating information** concerning the value chain (see ESRS 1 [67]) or **estimating under concepts of uncertainty** (see ESRS 1 [112]-[113]). It is unclear how these processes differ, and much clearer guidance is needed concerning what preparers should be required to disclose where information gaps are present. Care should also be taken to ensure that the ESRS does not incentivise approximation where data collection can reasonably be expected. *We recommend that the ESRS clarify how information should be gathered and when these approximation processes should be used ensuring that adequate incentives are given to collect data.*

In addition to the comments to the general principles set out in ESRS 1, the Institute makes the following comments on specific elements of **ESRS 2**. ESRS 2 contains critically important DRs key to assessing the adequacy of information disclosed under the topical standards. The Institute welcomes, in particular, in the inclusion of DRs on strategy and business model (specifically DR2-SBM 1-3) as well as DRs on governance (specifically DR2-GOV 1-4).

DR 2-IRO 1 and 2 are closely linked to due diligence and are critically important DRs that must be maintained. *To improve the meaningfulness of DR 2-IRO-2, we recommend splitting it into two or three DRs, so as to not mix up information around negative and positive impacts as well as risks and opportunities. We further recommend adding to para 77 the requirement that information, where relevant is disaggregated by country presences or across the stages of the undertakings value chain.* Such disaggregation can enable necessary contextualisation of reported information, which can allow users to assess the adequacy of reported information.

SOCIAL STANDARDS – OBSERVATIONS AND RECOMMENDATIONS

As stated above, the Institute welcomes the use of a stakeholder-based structure to social standards. However, some concern remains around the framing of each category. Only the category focused on workers expressly recognises impacts in connection to the value chain. However, given that many entities are also connected to impacts on communities and consumers and end-users across their value chains, the impacts affecting these stakeholder groups should consider both those which arise from an entity's own operations and their value chains. *We recommend clearly stating that this does not imply that only impacts on communities, end-users and consumers associated with own operations are in scope the report.*

The Institute also welcomes the repeated inclusion of DRs 1-5 across ESRS S1-4. This provides a clear and intuitive reporting structure for preparers. However, for reasons stated above *we recommend that DRs 1-5 across ESRS S1-4 are amended to align fully with the UNGPs including its due diligence steps.* Specific concerns around misalignment are set out below:

- ESRS S1-4 DR 1 loses its usefulness by combining requirements around policies for negative and positive impacts as well as risks and opportunities in one DR. The DR further does not align fully with the requirements for policy commitments of Principle 16 of the UNGPs. Finally the DR refers to policies that monitor compliance with UN Global Compact and OECD Guidelines, following the SFDR. Despite the regulatory interplay between SFDR and CSRD on this point, the ESRS should nonetheless make reference to UNGPs.
- ESRS S1-4 DR 2 should require preparers to disaggregate this information, e.g. by countries, value chain steps or other meaningful ways so as to enable a meaningful description of engagement efforts.
- ESRS S1-4 DR 3 should be aligned with UNGP Principles 29 and 31.
- ESRS S1-4 DR 5 should be split into two DRs, one focused on the undertaking's action to prevent, mitigate and where relevant remediate negative impacts another focused on the effectiveness of such actions. The latter could be combined with ESRS S1-4 DR 4 around targets to simplify the structure.

Parallel to the concept of due diligence, the concept of **remedy** is key to the UNGPs. Whereas the ESRS do acknowledge and refer to remedy in different places and at different levels there is some concern that remedy is not adequately addressed in the current architecture. Remedy is a human right and also a fundamental pillar of the UNGPs. At the same time, we know from research on current disclosures (e.g. studies conducted by the Corporate Human Rights

Benchmarks and Alliance for Corporate Transparency) that companies are currently performing poorly when it comes to reporting around remedy and grievance mechanisms. The draft places a lot of emphasis on “concern channels”, however such mechanisms are not the only element which should be disclosed concerning the concept of remedy. Where a company has caused or contributed to actual negative impacts, users want to understand whether the company has participated in remediation for victims and how it has done so. It is not clear from the existing ESRS where this information should be reported. *We recommend that remedy as a topic is strengthened in the ESRSs to have a clearer and more prominent place in the architecture and that requirements that relate to remedy and grievance mechanisms are aligned fully with UNGPs.* Specific concerns include:

- The social standard DRs on ‘concern channels for the particular group’ which are not fully aligned with Grievance Mechanism principles from UNGPs
- It is unclear why DR S1-21 focuses only on ‘other work-related rights’
- S1-25 which focuses on the number of times the company played a role in remedy – rather than more substantively stimulating disclosure around the types of remedy given, their adequacy and how this was determined etc.

Along with the affected stakeholder group structure ESRS S1-S4 introduce **lists of social topics or human rights** typically at risk in relation to the stakeholder group in question. This will be helpful for preparers and can help drive relevant information sharing. However, at the same time, care must be taken to ensure the list of impacts included is not read to imply that they are exhaustive. The social ESRS should not undermine the UNGP requirements that companies consider impacts across the full range of human rights. In short, there is a need to emphasise that the list of issues in each social standard does not overly simplify, silo or reduce human rights standards to the issues highlighted only, whereas context dependent other rights or aspects of rights might be key for a given undertaking. *We recommend the standards require preparers explicitly to consider impacts across the full range of rights and undertake an impact materiality analysis on this basis, using the ESRS as a non-exhaustive guide.*

In addition, care must be taken to support preparers’ understanding of human rights as the baseline for assessing impacts. For this purpose it is important to use clear and commonplace references to human rights. Specifically, the division of rights or topics in S1 and S2 under the headings working conditions, equal opportunities and other work-related rights (ESRS S1 and S2 para 2) is not commonplace and risks bringing confusion. For instance the inclusion of core labour rights such as child labour and forced labour prohibitions included at the end as ‘other work-related rights’ might unintentionally cause confusion or even dilute the importance of core labour rights.

A good balance of process and outcome information is desirable in relation to social sustainability. Information around policies and procedures is highly relevant and disclosures on these matters is aligned with the UNGPs. However, at the same time the UNGPs aim to drive improved outcomes for people. The Institute therefore welcomes the inclusion of **performance measures** in ESRS S1 and *recommends that ESRS S2-S4 are developed further to also include relevant performance measures, where possible.* We acknowledge the difficulty inherent in developing cross-cutting performance measures for all the social topical standards, particularly S3 and S4, and to a large extent it is appropriate to deal with these in sector standards as you say. However there are some cross cutting KPIs which we believe are relevant to all, for example ESRS S1-25 which considers identified cases of severe human rights issues and incidents (although we have a few comments on how to further improve that DR, such as that it focus not only on numbers but also contains qualitative descriptions). Further, we are of the view that a number of the performance indicators in ESRS S1 could be carried over to ESRS S2, acknowledging that there may be challenges in gathering data in relation to workers in the value chain.

The Institute makes the following comments on specific elements of ESRS S1 performance measures:

- DR S1-7 and S1-8 are key to assessing the risk picture of an undertaking in relation to own workers and should be maintained. As they are contextual in nature, the two DRs could possibly be moved to ESRS 2. We further *recommend that DR S1-8 is strengthened by requiring a breakdown by main countries of operation.* Negative impacts on third party workers are often tied to local laws and hence understanding where in the world an undertaking makes significant use of such workers is important contextual information.
- We welcome DR S1-12 on working hours and *recommend that this is not framed as an optional disclosure,* given the centrality of this area for securing decent working conditions. There is a rebuttable presumption mechanism available for undertakings where this area is not relevant. We further *recommend that the DR is strengthened by making it explicit that percentages for employees and non-employees should be reported separately and requiring a breakdown of percentages by region or country* to understand to be able to assess the context in which an undertaking is systematically overworking workers. E.g. whether this is context known for not offering workers a living wage.
- We welcome DR S1-14 on fair remuneration and *recommend that the section refers specifically to the concept of a living wage,* in support of conceptual clarity.
- We welcome DR S1-24 on social dialogue. However, the DR introduces some distinctions between EU and non-EU settings which can be read to imply that the human rights of workers in one or the other region differs,

including through a larger emphasis on EEA internal data than EEA external data. This is potentially problematic given that workers working outside of EEA countries may be of larger risk of infringements in this area than their EEA counterparts. *We recommend the DR is reviewed to ensure a better balance.*

- DR S1-25 focuses on the number of severe human rights issues and cases. Severity of human rights impacts is however a relative question and not one that can be determined on the basis of set thresholds. Rather it requires nuanced analysis of scale, scope and remediability of impacts. As a result disclosing numbers is not likely to be meaningful or allow for comparability. It is further not clear why the DR refers to equal opportunity rights specifically in relation to fines and penalties (S1-25, 114 a) rather than human rights broadly. *We recommend the DR is amended to focus on a description of actual severe impacts, their handling, remedy aspects and so on and that this DR is repeated across the remaining social standards S2-S4 as it is not relevant in the context of own workers, only.*

ANNEX 1: Specific proposed text amendments

| Exposure drafts text | Suggested text | Comment |
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| ESRS 1 | | |
| <p>Double materiality</p> <p>46. Double materiality is a concept which provides criteria for the determination of whether a sustainability matter has to be included in the undertaking’s sustainability report. Double materiality is the union (in mathematical terms, i.e., union of two sets, not intersection) of impact materiality and financial materiality. A sustainability matter meets therefore the criteria of double materiality if it is material from either the impact perspective or the financial perspective or both perspectives.</p> <p>47. Impact materiality and financial materiality assessments are intertwined and the interdependencies between the two dimensions should be considered in these assessments. In general, the starting point is assumed to be the assessment of impact materiality, as a sustainability impact may</p> | <p>Double materiality</p> <p>46. Double materiality is a concept which provides criteria for the determination of whether a sustainability matter has to be included in the undertaking’s sustainability report. Double materiality is the union (in mathematical terms, i.e., union of two sets, not intersection) of impact materiality and financial materiality. A sustainability matter meets therefore the criteria of double materiality if it is material from either the impact perspective or the financial perspective or both perspectives.</p> <p>47. Impact materiality and financial materiality assessments are intertwined and the interdependencies between the two dimensions should be considered in these assessments. In general, the starting point is assumed to be the assessment of impact materiality, which should be based on an</p> | <p>This proposed amendment clarifies that the materiality assessment should be based on an undertaking’s due diligence and removes the text stating that significant and material have the same meaning in the context of impact materiality as this is inconsistent with the use of the term in paragraph 51 which states that different factors are to be used to determine materiality and significance.</p> |

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| <p>become financially material when it translates or is likely to translate into financial effects in the short-, medium-, or long-term. In addition, beyond considering the actual and potential financial consequences of its material impacts, the undertaking shall consider how it is affected by sustainability matters which are external to its activities.</p> <p>48. The undertaking shall refer to double materiality for the identification of its principal impacts, risks and opportunities (see chapter Materiality assessment of sustainability impacts, risks and opportunities in ESRS 2). In addition, the terms significant and material have the same meaning when referring to impacts, risks and opportunities in ESRS.</p> | <p>undertaking's due diligence, as a sustainability impact may become financially material when it translates or is likely to translate into financial effects in the short-, medium-, or long-term. In addition, beyond considering the actual and potential financial consequences of its material impacts, the undertaking shall consider how it is affected by sustainability matters which are external to its activities.</p> <p>48. The undertaking shall refer to double materiality for the identification of its principal impacts, risks and opportunities (see chapter Materiality assessment of sustainability impacts, risks and opportunities in ESRS 2). In addition, the terms significant and material have the same meaning when referring to impacts, risks and opportunities in ESRS.</p> | <p>Consistent with our responses to the consultation questionnaire and high level comments, as suggest streamlining the ESRS by removing the “significance” element.</p> |
| <p>Impact materiality</p> <p>49. Impact materiality is a characteristic of a sustainability matter or information in relation to an undertaking. A sustainability matter is material from an impact perspective if it is connected to actual or potential significant impacts by the undertaking on</p> | <p>Impact materiality</p> <p>49. Impact materiality is a characteristic of a sustainability matter or information in relation to an undertaking. A sustainability matter is material from an impact perspective if it is connected to actual or potential significant impacts by the undertaking on</p> | <p>This proposed amendment clarifies that the materiality assessment should be based on an undertaking's due diligence and removes the text which states that</p> |

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| <p>people or the environment over the short-, medium- or long-term. This includes impacts directly caused or contributed to by the undertaking in its own operations, products or services and impacts which are otherwise directly linked to the undertaking's upstream and downstream value chain, and not limited to contractual relationships.</p> <p>50. An impact is 'directly linked to' the undertaking's operations, products or services, if it occurs in relation to any tier of business relationships, provided in the value chain. It is not restricted to direct relationships between the undertaking and another entity and is therefore not limited for instance to direct contractual relationships, such as 'direct sourcing'. For example:</p> <p>a) Consider the various scopes of GHG emissions: Indirect GHG emissions, i.e., Scope 2 and Scope 3, are still 'directly linked' to the undertaking's operations, products and services. However, the GHG emissions of a business partner that are not connected to the undertaking's value chain, are neither 'directly linked', nor part of its Scope 3 emissions.</p> | <p>people or the environment over the short-, medium- or long-term. This includes impacts directly caused or contributed to by the undertaking in its own operations, products or services and impacts which are otherwise directly linked to the undertaking's upstream and downstream value chain, and not limited to contractual relationships.</p> <p>50. An impact is 'directly linked to' the undertaking's operations, products or services, if it occurs in relation to any tier of business relationships, provided in the value chain. It is not restricted to direct relationships between the undertaking and another entity and is therefore not limited for instance to direct contractual relationships, such as 'direct sourcing'. For example:</p> <p>a) Consider the various scopes of GHG emissions: Indirect GHG emissions, i.e., Scope 2 and Scope 3, are still 'directly linked' to the undertaking's operations, products and services. However, the GHG emissions of a business partner that are not connected to the undertaking's value chain, are neither 'directly linked', nor part of its Scope 3 emissions.</p> | <p>different factors are to be used to determine materiality and significance as this is inconsistent with the use of the term in paragraph 48 which states that significant and material have the same meaning in the context of impact materiality.</p> <p>Consistent with our responses to the consultation questionnaire and high level comments, as suggest streamlining the ESRS by removing the "significance" element.</p> |
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| <p>b) If the undertaking uses cobalt mined using child labour in its products, the negative impact (i.e., child labour) is directly linked to its products through the tiers of business relationships in its supply chain (i.e., through the smelter and minerals trader, to the mining enterprise that uses child labour), even though the undertaking has not caused or contributed to the negative impact itself.</p> <p>51. The materiality of an actual impact is determined by the severity of the impact (scale, scope, and irremediable character), while the significance of a potential negative impact is determined by the severity and likelihood of the impact. In the case of a potential human rights impact, the severity of the impact takes precedence over its likelihood.</p> | <p>b) If the undertaking uses cobalt mined using child labour in its products, the negative impact (i.e., child labour) is directly linked to its products through the tiers of business relationships in its supply chain (i.e., through the smelter and minerals trader, to the mining enterprise that uses child labour), even though the undertaking has not caused or contributed to the negative impact itself.</p> <p>51. The materiality of an actual impact is determined by the severity of the impact (scale, scope, and irremediable character); while the significance of a potential negative impact is determined by the severity and likelihood of the impact. In the case of a potential human rights impact, the severity of the impact takes precedence over its likelihood. The assessment of materiality should be based on an undertaking's due diligence.</p> | |
| <p>Identifying and assessing adverse impacts</p> <p>89. This step of due diligence is reflected in the ESRS 2 Disclosure Requirements IRO whereby the undertaking identifies instances where it</p> | <p>Identifying and assessing adverse impacts</p> <p>89. This step of due diligence is reflected in the ESRS 2 Disclosure Requirements IRO whereby the undertaking identifies instances where it</p> | <p>This proposed amendment clarifies that the materiality assessment should be based on an</p> |

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| <p>is, or is at risk of being, involved with adverse impacts on the environment or people, and then assesses the nature of those actual or potential impacts (their context, causes, severity etc). In addition, in the ESRS 2 Disclosure Requirements SBM, the undertaking shall provide additional information on the results of the assessment of how the undertaking's business model and strategy play a role in creating or exacerbating the identified impacts, and the adopted changes to the business model and strategy. Due diligence is an on-going practice that responds to changes in the undertaking's activities, business model, business relationships, operating, sourcing and selling contexts. It is independent of the undertaking's reporting processes but a source of critical inputs to them.</p> | <p>is, or is at risk of being, involved with adverse impacts on the environment or people, and then assesses the nature of those actual or potential impacts (their context, causes, severity etc) and should be used to inform the undertaking's materiality assessment. The undertaking should also disclose its materiality assessment in relation to each of the Topical Standards. In addition, in the ESRS 2 Disclosure Requirements SBM, the undertaking shall provide additional information on the results of the assessment of how the undertaking's business model and strategy play a role in creating or exacerbating the identified impacts, and the adopted changes to the business model and strategy. Due diligence is an on-going practice that responds to changes in the undertaking's activities, business model, business relationships, operating, sourcing and selling contexts. It is independent of the undertaking's reporting processes but a source of critical inputs to them.</p> | <p>undertaking's due diligence and that disclosures of the materiality assessment should be made both at the cross-cutting level and in relation to each of the Topical Standards.</p> |
| <p>ESRS 2</p> | | |

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| <p>Materiality assessment of sustainability impacts, risks and opportunities</p> <p>4. Disclosing on material sustainability impacts, risks and opportunities</p> <p>67. An undertaking must determine its material sustainability impacts, risks and opportunities. Disclosure requirements for material sustainability impacts, risks and opportunities are standardized by sector-agnostic or sector-specific level ESRS. When relevant, these disclosure requirements are complemented by entity-specific disclosures.</p> <p>68. The objective of this chapter is to support undertakings in identifying material sustainability impacts, risks and opportunities and to specify disclosure requirements for the description by the undertaking of: (a) its processes to identify material sustainability impacts, risks and opportunities; and (b) the outcome of its assessment of material sustainability impacts, risks and opportunities.</p> | <p>Materiality assessment of sustainability impacts, risks and opportunities</p> <p>4. Disclosing on material sustainability impacts, risks and opportunities</p> <p>67. An undertaking must determine its material sustainability impacts, risks and opportunities. Disclosure requirements for material sustainability impacts, risks and opportunities are standardized by sector-agnostic or sector-specific level ESRS. When relevant, these disclosure requirements are complemented by entity-specific disclosures.</p> <p>68. The objective of this chapter is to support undertakings in identifying material sustainability impacts, risks and opportunities and to specify disclosure requirements for the description by the undertaking of: (a) its processes to identify material sustainability impacts, risks and opportunities; and (b) the outcome of its assessment of material sustainability impacts, risks and opportunities.</p> | <p>These proposed amendments clarify that the materiality assessment should be based on an undertaking's due diligence and that disclosures of the materiality assessment should be made both at the cross-cutting level and in relation to each of the Topical Standards.</p> |
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| <p>69. This chapter addresses the identification and assessment of material sustainability impacts, risks and opportunities applying the CSRD concepts as stipulated in ESRS 1 chapter 2 of (i) double materiality, (ii) boundaries and value chain, (iii) time horizon, and (iv) due diligence, the latter described in Appendix C of ESRS 1. Topical Standards may include materiality assessment-related application guidance and disclosure requirements specific to applicable topics when complying with the disclosure requirements mandated by this chapter while preparing the corresponding information.</p> <p>70. Once identified, material sustainability impacts, risks and opportunities are considered by the undertaking to deploy prevention, mitigation, adaptation and other management measures. This may imply strategic decisions, governance consideration, the establishment of policies, targets, action plans and allocation of resources as well as the use of metrics to monitor the evolution of impacts, risks and opportunities over time. All of the above addressed by other ESRS disclosure requirements.</p> | <p>69. This chapter addresses the identification and assessment of material sustainability impacts, risks and opportunities applying the CSRD concepts as stipulated in ESRS 1 chapter 2 of (i) double materiality, (ii) boundaries and value chain, (iii) time horizon, and (iv) due diligence, the latter described in Appendix C of ESRS 1. Undertakings should disclose their materiality assessments at the crosscutting level as well as in relation to each of the Topical Standards. Topical Standards may include materiality assessment-related application guidance and disclosure requirements specific to applicable topics when complying with the disclosure requirements mandated by this chapter while preparing the corresponding information.</p> <p>70. Once identified, material sustainability impacts, risks and opportunities are considered by the undertaking to deploy prevention, mitigation, adaptation and other management measures. This may imply strategic decisions, governance consideration, the establishment of policies, targets, action plans and allocation of resources as well as the use of metrics to monitor the evolution of impacts, risks and opportunities over time. All</p> | |
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| | <p>of the above addressed by other ESRS disclosure requirements.</p> | |
| <p>Disclosure Requirement 2-IRO 1 - Description of the processes to identify material sustainability impacts, risks and opportunities</p> <p>71. The undertaking shall provide a description of its processes to identify its sustainability impacts, risks and opportunities and assess which ones are material.</p> <p>72. The principle to be followed under this Disclosure Requirement is to provide information (i) on how the undertaking is organising its identification and assessment and (ii) the scope of its identification and assessment of sustainability matters.</p> <p>73. The disclosures required by paragraph 71 shall include first an acknowledgement of double materiality as the pivotal principle followed for the undertaking's assessment, including a description of how this principle is applied in practice in the steps leading to the undertaking's final assessment supporting its sustainability reporting.</p> | <p>Disclosure Requirement 2-IRO 1 - Description of the processes to identify material sustainability impacts, risks and opportunities</p> <p>71. The undertaking shall provide a crosscutting summary describing its ption of its processes to identify its sustainability impacts, risks and opportunities and assess which ones are material.</p> <p>72. The principle to be followed under this Disclosure Requirement is to provide summary information (i) on how the undertaking is organising its identification and assessment and (ii) the scope of its identification and assessment of sustainability matters drawing on detailed information around identification and assessment shared in topical standards.</p> <p>73. The disclosures required by paragraph 71 shall include first an acknowledgement of double materiality as the pivotal principle followed for the undertaking's assessment, including a description of how this principle is</p> | <p>These proposed amendments clarify that the materiality assessment should be based on an undertaking's due diligence and that disclosures of the materiality assessment should be made both at the cross-cutting level and in relation to each of the Topical Standards.</p> |

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| <p>74. In addition to the acknowledgement required by paragraph 73, the disclosure required by paragraph 71 shall include detailed explanations related to the organisation and processes put in place by the undertaking to assess its impacts, risks and opportunities under the required double materiality approach, including the following:</p> <ul style="list-style-type: none"> a) a description of the organisation put in place for, and resources dedicated to the assessment; b) a description of the methodologies adopted and of the processes implemented for the assessment, including the related internal control procedures and the decision-making steps, through <ul style="list-style-type: none"> i. an overview of the due diligence process used to identify and assess potential and actual impacts on the environment and people connected with the undertaking, including the extent to which these involve (1) reviewing the undertaking's own activities and its business relationships across its operations | <p>applied in practice in the steps leading to the undertaking's final assessment supporting its sustainability reporting.</p> <p>74. In addition to the acknowledgement required by paragraph 73, the disclosure required by paragraph 71 shall include summarised detailed explanations related to the organisation and processes put in place by the undertaking to assess its impacts, risks and opportunities under the required double materiality approach, including the following:</p> <ul style="list-style-type: none"> a) a description of the organisation put in place for, and resources dedicated to the assessment; b) a description of the methodologies adopted and of the processes implemented for the assessment, including the related internal control procedures and the decision-making steps, through <ul style="list-style-type: none"> i. an overview of the due diligence process used to identify and assess potential and actual impacts on the environment and people connected with the undertaking, including the extent to which these involve (1) | |
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| <p>and value chain and (2) assessing both impacts the undertaking may cause or contribute to through its own actions and decisions, and impacts that may be directly linked to its operations, products, or services by business relationships;</p> <p>ii. an overview of the process used to identify sustainability risks and opportunities that affect or may affect its development, performance, and position; and</p> <p>iii. an explanation of how the undertaking has determined (1) which identified potential and actual impacts on the environment and people connected with the undertaking and (2) which sustainability risks and opportunities that affect or may affect its development, performance and position are material, including how the prioritisation of negative impacts reflects their relative severity and likelihood, where severity is</p> | <p>reviewing the undertaking's own activities and its business relationships across its operations and value chain and (2) assessing both impacts the undertaking may cause or contribute to through its own actions and decisions, and impacts that may be directly linked to its operations, products, or services by business relationships;</p> <p>ii. an overview of the process used to identify sustainability risks and opportunities that affect or may affect its development, performance, and position; and</p> <p>iii. an explanation of how the undertaking has determined (1) which identified potential and actual impacts on the environment and people connected with the undertaking and (2) which sustainability risks and opportunities that affect or may affect its development, performance and position are material, including how the</p> | |
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| <p>defined by their scale, scope and remediability;</p> <p>c) an explanation about the involvement of, and engagement with, (i) stakeholders to understand how they may be impacted and (ii) internal and external experts; and</p> <p>d) the latest and future revision dates of the assessment.</p> | <p>prioritisation of negative impacts reflects their relative severity and likelihood, where severity is defined by their scale, scope and remediability;</p> <p>c) a summarised explanation about the involvement of, and engagement with, (i) stakeholders to understand how they may be impacted and (ii) internal and external experts; and</p> <p>d) the latest and future revision dates of the assessment.</p> | |
| <p>DR IRO 2 - Outcome of the undertaking's assessment of material sustainability impacts, risks and opportunities as identified by reference to and in compliance with sector-agnostic and sector-specific level ESRS</p> <p>75. The undertaking shall provide a description of the outcome of its assessment processes by reference to mandatory disclosures under ESRS.</p> <p>76. The principle to be followed under this Disclosure Requirement is to give a clear statement of sustainability matters, as addressed by all ESRS, that are material for the undertaking, and to give</p> | <p>DR IRO 2— <u>Cross-cutting</u> Outcome of the undertaking's assessment of material sustainability impacts, risks and opportunities as identified by reference to and in compliance with sector-agnostic and sector-specific level ESRS</p> <p>75. The undertaking shall provide a <u>cross-cutting</u> description of the outcome of its assessment processes by reference to mandatory disclosures under ESRS <u>and topical information shared in relevant ESRS</u>.</p> <p>76. The principle to be followed under this Disclosure Requirement is to give a clear statement</p> | <p>These proposed amendments clarify that the materiality assessment should be based on an undertaking's due diligence and that disclosures of the materiality assessment should be made both at the cross-cutting level and in relation to each of the Topical Standards.</p> |

relevant explanations on (i) how the undertaking relates to the material impacts, risks and opportunities identified by its assessment, (ii) when the undertaking has or will put in place initiatives to modify its strategy and business model(s), in order to reduce or eliminate the risk or to benefit from the opportunity and/or in order to prevent and mitigate negative material impacts and enhance positive material impacts (see ESRS 2 Disclosure Requirements SBM 3 and 4), why this was the case and (iii) if and why certain mandatory disclosures are not material under the undertaking's specific facts and circumstances and therefore disclosed as such.

77. The disclosure required by paragraph 75 shall include the following information:

(a) a clear statement of sustainability matters, as addressed by all ESRS, that are material to the undertaking, including: i. a description of the underlying actual and potential, negative and positive impacts on the environment, and people, including whether the undertaking is involved with the negative impacts through its activities or because of its business relationships, and describe the activities or business relationships; and ii. a description of the underlying sustainability-related

of sustainability matters, as addressed by all ESRS, that are material for the undertaking, and to give relevant explanations on (i) how the undertaking relates to the material impacts [including how the impacts related to the undertakings value chain and key countries of operation](#), risks and opportunities identified by its assessments, (ii) when the undertaking has or will put in place initiatives to modify its strategy and business model(s), in order to reduce or eliminate the risk or to benefit from the opportunity and/or in order to prevent and mitigate negative material impacts and enhance positive material impacts (see ESRS 2 Disclosure Requirements SBM 3 and 4), why this was the case and (iii) if and why certain mandatory disclosures are not material under the undertaking's specific facts and circumstances and therefore disclosed as such.

77. The disclosure required by paragraph 75 shall include the following information:

(a) a clear [crosscutting](#) statement of sustainability matters, as addressed by all ESRS, that are material to the undertaking, including: i. a description of the underlying actual and potential, negative and positive impacts on the environment, and people, including whether the undertaking is involved with

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| <p>financial risks and opportunities, including how: 1) material sustainability-related risks and opportunities have affected the undertaking's financial performance, position and cash flows; 2) the undertaking expects financial performance, position and cash flows to change over time under the effects of material sustainability related risks and opportunities; and 3) the undertaking is exposed to the risk or how it intends to pursue the opportunity; [Draft] ESRS 2 General, strategy, governance and materiality assessment [Draft] ESRS 2 General, strategy, governance, and materiality assessment Exposure Draft, April 2022 Page 18 of 39</p> <p>(b) when the undertaking has or will put in place initiatives to modify its strategy and business model(s), in order to reduce or eliminate the risk or to benefit from the opportunity and/or in order to prevent and mitigate negative material impacts and enhance positive material impacts (see ESRS 2 Disclosures Requirements SBM 3 and 4), a list of such sustainability impacts, risks and opportunities, together with a summarised explanation of how the undertaking has identified them, among all sustainability impacts, risks or opportunities related</p> | <p>the negative impacts through its activities or because of its business relationships, and describe the activities or business relationships in relation to the undertaking's description of its value chain; and</p> <p>ii. a description of the underlying sustainability-related financial risks and opportunities, including how: 1) material sustainability-related risks and opportunities have affected the undertaking's financial performance, position and cash flows; 2) the undertaking expects financial performance, position and cash flows to change over time under the effects of material sustainability related risks and opportunities; and 3) the undertaking is exposed to the risk or how it intends to pursue the opportunity; [Draft] ESRS 2 General, strategy, governance and materiality assessment [Draft] ESRS 2 General, strategy, governance, and materiality assessment Exposure Draft, April 2022 Page 18 of 39</p> <p>(b) when the undertaking has or will put in place initiatives to modify its strategy and business model(s), in order to reduce or eliminate the risk or to benefit from the opportunity and/or in order to prevent and mitigate negative material impacts and enhance positive material impacts (see ESRS 2 Disclosures Requirements SBM 3 and 4), a list of such sustainability impacts, risks and opportunities,</p> | |
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| <p>to its activities and covered by sector-agnostic or sector-specific ESRS;</p> <p>(c) a list of ESRS or group of disclosure requirements related to a specific aspect covered by an ESRS that are complied with a “not material for the undertaking” disclosure, with a clear indication as to the application of the rebuttable presumption and the reason why it is rebutted (see also chapter 2.2. of ESRS 1). The mandatory disclosures complied with under a full disclosure are by contrast presumed to be confirmed as related to material impacts, risks and opportunities following the undertaking’s assessment processes. The thresholds and/or criteria retained by the undertaking to determine materiality in relation to mandatory requirements shall be disclosed; and</p> <p>(d) an explanation of the changes as compared to the previous reporting period.</p> | <p>together with a summarised explanation of how the undertaking has identified them, among all sustainability impacts, risks or opportunities related to its activities and covered by sector-agnostic or sector-specific ESRS. This should give reference to further topic related information shared in relation to topical ESRS;</p> <p>(c) a list of ESRS or group of disclosure requirements related to a specific aspect covered by an ESRS that are complied with a “not material for the undertaking” disclosure, with a clear indication as to the application of the rebuttable presumption and the reason why it is rebutted (see also chapter 2.2. of ESRS 1). The mandatory disclosures complied with under a full disclosure are by contrast presumed to be confirmed as related to material impacts, risks and opportunities following the undertaking’s assessment processes. The thresholds and/or criteria retained by the undertaking to determine materiality in relation to mandatory requirements shall be disclosed; and</p> <p>(d) an explanation of the changes as compared to the previous reporting period.</p> | |
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ESRS S 1 (as an example, same for S1-4)

To implement the changes suggested above in the topical standards we include below a non-exhaustive suggested example for S1. The suggestion builds on IRO 1 and IRO2 from ESRS 2, to mirror the crosscutting requirements with corresponding topical level disclosures meant to include more detail and address potential loss of meaning from over aggregation at the cross-cutting level.

In addition, the suggestion includes a slight restructure and minor changes to the current ESRS S 1-5 DRs to strengthen their alignment with the due diligence steps and the definition of due diligence from UNGPs and OECD Guidelines

As a result the suggestion introduces two new DRs in addition to the existing S DRs 1-5 and proposes a new structure to the existing one.

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| <p>S1-1-14 The undertaking shall state its policies that address the management of its material impacts on own workforce, as well as associated material risks and opportunities; and provide a summary of the content of the policies and how they are communicated.</p> | <p><u>New S1-1 The undertaking shall state its policies that address the management of its material impacts on own workforce, as well as associated material risks and opportunities; and provide a summary of the content of the policies and how they are communicated.</u></p> | <p>No changes suggested</p> |
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| <p>S1-2-23 The undertaking shall explain its general processes for engaging with its own workers and workers' representatives about actual and potential material impacts on its own workforce.</p> | <p><u>New S1-2 The undertaking shall provide a detailed topical level description of its processes to identify its sustainability impacts, risks and opportunities on own workers and assess which ones are material.</u></p> <p>a) <u>This includes an explanation by the undertaking of i) its processes for engaging with its own workers and workers' representatives about actual and potential material impacts on its own workforce and ; ii) its involvement of internal and external experts; and iii) where relevant, disaggregated information detailing engagement efforts e.g. by key countries or value chain steps.</u></p> | <p>Att. This is a topical level version of IRO1,</p> <p>The further suggestion incorporates current S1-2, which is suggested to be deleted in the new structure, given it is incorporated here, and suggests disaggregating the disclosed information where this would allow for more meaningful representation of engagement efforts.</p> |
| <p>N/A</p> | <p><u>New S1-3 The undertaking shall provide a detailed description of the outcome of its assessment processes relevant to impacts on own workers by reference to mandatory disclosures under ESRS S 1</u></p> | <p>This is a topical level version of IRO2</p> <p>The guidance given in relation to IRO 2 should then be customized to topics in focus, here S1</p> |

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| <p>S1-5-39 The undertaking shall explain: (a) what action is planned or underway to prevent, mitigate or remedy material negative impacts on its own workforce that are connected to its operations, products or services; (b) any additional initiatives or processes it has in place with the primary purpose of delivering positive impacts for its own workforce; and (c) how it assesses the effectiveness of these actions, programmes and processes in delivering outcomes for its own workforce.</p> | <p><u>New S1-4 The undertaking shall explain: (a) what action is planned or underway to prevent, mitigate or remedy material negative impacts on its own workforce that are connected to its operations, products or services; (b) any additional initiatives or processes it has in place with the primary purpose of delivering positive impacts for its own workforce;</u></p> | <p>This suggestion mirrors existing DR S1-5, except from component c, which is included in the suggested new S1-5, to mirror the UNGP due diligence steps.</p> |
| <p>S1-4-32 The undertaking shall explain any outcome-oriented targets it may have related to: (a) reducing negative impacts on its own workforce; and/or (b) advancing positive impacts on its own workforce; and/or (c) managing material risks and opportunities related to its own workforce</p> | <p><u>New S1-5 The undertaking shall explain: (a) how it assesses the effectiveness of these actions, programmes and processes in addressing impacts, risks and opportunities and delivering outcomes for its own workforce and; (b) any outcome-oriented targets it may have related to: (a) reducing negative impacts on its own workforce; and/or (b) advancing positive impacts on its own workforce; and/or (c) managing material risks and opportunities related to its own workforce</u></p> | <p>Combines elements of current S1-4 and S1-5 to align with OECD/UNGP due diligence requirements</p> |
| <p>S1-3-26 The undertaking shall describe: (a) the channels it has in place for own workers and workers' representatives to raise their concerns or needs directly with the undertaking; and/or (b) the</p> | <p><u>New S1-6 The undertaking shall describe: (a) the channels, including grievance mechanisms, it has in place for own workers and workers' representatives to raise their concerns or needs directly with the</u></p> | <p>This is a revised version of current S1-3. Edits suggested aim to align more closely with UNGPs</p> |

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| <p>processes through which the undertaking supports the availability of such channels through the workplace of own workers; and (c) how it monitors issues raised and addressed.</p> | <p><u>undertaking; and/or (b) the processes through which the undertaking supports the effectiveness of such channels ; and (c) how it monitors issues raised and addressed.</u></p> | <p>Grievance Mechanism requirements + effectiveness criteria</p> |
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Contacts:

Signe Andreasen Lysgaard: sigl@humanrights.dk

Gabrielle Holly: gaho@humanrights.dk