



# Acting on the European Sustainability Reporting Standards (ESRS)



# First set of ESRS: what companies can learn from the EC draft delegated act

On 9 June 2023, the European Commission (EC) published the [draft delegated act](#) for the first set (“Set 1”) of **European Sustainability Reporting Standards (ESRS)**<sup>1</sup>, laying the foundations for a common standardised language to address sustainability matters across Europe. These standards stem from the Corporate Sustainability Reporting Directive (CSRD) published in the Official Journal of the European Union (OJEU) on 16 December last year (see [Focus](#) prepared by Mazars) and which must be transposed into national law of each EU Member State by **6 July 2024** at the latest.

This draft delegated act is **largely based on the work previously carried out by EFRAG** (European Financial Reporting Advisory Group) acting as technical advisor to the EC. Last November, EFRAG submitted 12 draft sector-agnostic standards to the EC.

While the EC has made a number of changes to EFRAG technical advice (new transitional provisions, reliefs for certain disclosures, etc.) in response to anticipated concerns expressed by companies about implementation challenges of ESRS, **the overall content of Set 1 has been confirmed**, with 12 standards covering the full spectrum of ESG (Environmental, Social and Governance) topics, along with 82 disclosure requirements (DRs), which represent the higher level of information.

It is now highly unlikely that any significant changes will be made between now and the **adoption of the final delegated act expected in July**<sup>2</sup>. This is due to (i) the very short time period the EC will have to take account of the final comments it will receive as part of the public consultation (open until 7 July)

and (ii) the feedback it has already received from many stakeholders. The final text<sup>3</sup> is expected to be published in the OJEU by the end of this year (in the absence of rejection by the European Parliament and the Council during their scrutiny period), for entry into force from 1 January 2024. Therefore, at this stage, **the elements presented below are still tentative** (i.e. ESRS are still draft standards).

## What are the ESRS?

ESRS are the standards to be applied by all companies required to prepare sustainability information in accordance with the CSRD. These standards prescribe **both the content and format** of sustainability-related information. They intend to meet the needs of users (in the broadest sense, i.e. including stakeholders affected by the company’s activities) for **high-quality, comparable and relevant information** with regards to sustainability matters.

**Under the double materiality perspective** (i.e. companies will have to disclose information both on the impacts of their activities on the environment and people, and on how various sustainability matters affect them financially), Set 1 of ESRS covers all ESG information that is likely to be material **regardless of the sector(s) companies operate in**. Sector-specific standards will subsequently complement these sector-agnostic standards. Entity-specific information will also have to be provided, where necessary (i.e. if the provisions of the available ESRS do not make it possible to cover all the material impacts, risks and opportunities identified by the company).

1 Included in Annex I of the draft delegated act.

2 This adoption shall take place no later than 31 August 2023, which is the deadline set by the CSRD for having the first-time application of ESRS as of 1 January 2024 for the companies concerned.

3 The translation of the delegated act into the 24 official languages of the EU will be available at that time. In the meantime, this publication by Mazars is based on a free translation of the draft delegated act and Annex I in particular.

In addition, the reporting structure of ESRS is **aligned with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD)**. ESRS therefore cover the following four reporting areas: (1) Governance, (2) Strategy, (3) Management of impacts, risks and opportunities, (4) Metrics and Targets.

Sustainability information will have to be presented in a **clearly identifiable dedicated section of the management report** (under four headings: general information, environmental information, social information and governance information). According to the CSRD, the management report will have to be both **human and machine-readable**, using the European Single Electronic Format (ESEF) to tag the sustainability information.

In practice, Set 1 includes **12 sector-agnostic standards**: two “cross-cutting” standards – ESRS 1 (General requirements) and ESRS 2 (General information) – and ten “topical” standards:

**Five standards covering environmental matters:**

- ESRS E1 on climate change
- ESRS E2 on pollution
- ESRS E3 on water and marine resources
- ESRS E4 on biodiversity and ecosystems
- ESRS E5 on resource use and circular economy

**Four standards covering social and human rights:**

- ESRS S1 on own workforce
- ESRS S2 on workers in the value chain
- ESRS S3 on affected communities
- ESRS S4 on consumers and end-users

**One standard covering governance matters:**

- ESRS G1 on business conduct



## What approach has been followed by the EC?

The draft delegated act published by the EC at the beginning of June is the **result of the due process provided by the CSRD** for the final adoption of ESRS in the end. The EC consulted the Member States and various European committees and agencies (e.g. the European Central Bank) to obtain their feedbacks on EFRAG projects and considered comments received (not directly solicited) from other stakeholders, such as companies.

As part of its work, the EC also considered the following factors, among others:

- The imperatives stemming from the environmental crisis and the EU ambition under the Green Deal to achieve carbon neutrality by 2050.
- The announcement made mid-March by the President of the EC, Ursula von der Leyen, to eventually reduce the reporting requirements for European companies by 25%, in a bid to preserve their competitiveness.

The main objectives of the changes made by the EC to EFRAG draft ESRS were to:

- **Strengthen the proportionality and flexibility of the provisions**, particularly during the first years of application and especially for the smallest companies, with a threshold of 750 employees now being introduced in the ESRS. According to the EC, around 30,000 companies (out of the 50,000 approximately within the scope of the CSRD) should be concerned by the new (optional) transitional provisions.
- **Remain consistent with the CSRD's ambition** in terms of disclosing information on sustainability matters.

## What are the main changes to EFRAG draft standards?

The main changes made by the EC to the November 2022 draft ESRS are:

1. The expansion of the scope of the standards and of the sustainability-related information subject to materiality assessment.
2. The reinforcement of the transitional provisions listed in ESRS 1.
3. The new voluntary nature of certain disclosures.
4. The addition of targeted modifications, mainly to ensure proportionality of disclosure requirements.
5. The greater coherence with the European legal framework.
6. The enhanced interoperability with other global standard-setting initiatives.
7. Editorial and presentational changes to improve the clarity and ease of use of the standards, in particular by grouping all definitions of key terms used in Set 1 in Annex II of the draft delegated act, rather than in an appendix to each standard.

### 1. Expansion of the scope of the standards and of the sustainability-related information subject to materiality assessment

From now on, **only the general disclosures listed in ESRS 2 are outside the scope of the materiality assessment** and shall therefore be mandatorily presented by all companies.

The following information, which was previously mandatory in EFRAG draft ESRS, is now subject to the materiality assessment: (i) ESRS E1 on climate change, (ii) sustainability-related information required by other EU legislation<sup>4</sup> and (iii) some fundamental social indicators not captured by the SFDR and listed in ESRS S1.

<sup>4</sup> I.e. the SFDR (Sustainable Finance Disclosure Regulation), EBA (European Banking Authority) Pillar III sector-agnostic disclosures, EU benchmark regulation and the EU Climate Law.

These amendments reinforce the key principle of ESRS 1 whereby the **materiality assessment is central to the identification of material information to be disclosed** to cover the sustainability-related matters identified as being material to each company. This assessment is subject to the opinion provided by the statutory auditor or, where applicable, the independent provider of assurance services, as part of its assurance engagement. ESRS 1 also states very clearly that ESRS do not require a company to disclose any information on ESG topics covered by these standards that it has assessed as non-material. Finally, a company will no longer have to justify, in its sustainability statement, the omission of all the disclosure requirements of a topical standard when the related topic has been deemed not material by the company.

## 2. Reinforcement of the transitional provisions listed in ESRS 1

Some transitional provisions had already been included in EFRAG draft ESRS but they have been supplemented and strengthened in the draft delegated act. The EC was concerned to take account of the expected difficulties of application, in particular for companies falling within the scope of the CSRD and which did not previously present sustainability-related information under the NFRD (Non-Financial Reporting Directive).

In detail, the following **cross-cutting measures, applicable to all companies**, have been retained and only slightly amended by the EC:

- Granting of a **specific period of three years for the information to be provided on the company's value chain** (in line with the CSRD provision on this matter): the EC has clarified that this measure covers the information in relation with all the players in the value chain (i.e. not only small and medium-sized companies). Details are provided in ESRS 1 on the practicalities of this transitional provision with regard to information on (i) policies, actions and targets on the one hand and (ii) metrics on the value chain on the other hand.
- Possibility of **not disclosing comparative information in the first year** of preparation of the sustainability statement under ESRS.

- **Progressive enhancement of entity-specific information in the first three years**, giving priority notably to the information on sector-specific ESG matters that are material for the company, pending the development of sector-specific standards.

In addition, **the phase-in approach has been strengthened for less mature topics**. In this context, the transitional provisions relating to the anticipated financial effects arising from material impacts, risks and opportunities associated with environmental matters have been harmonised for all topical standards (ESRS E1 to E5). This is in order to (i) authorise the omission of the related information for the first year and (ii) grant the possibility of disclosing only qualitative information for the first three years. The list of DRs relating to ESRS S1 on own workforce subject to phase-ins has also been extended to include other datapoints (which correspond to disclosure requirements at the most granular level) relating to sensitive information that is particularly difficult to collect (such as, for example, indicators relating to persons with disabilities and work-related ill-health).

Lastly, **new transitional provisions have been introduced for companies or groups not exceeding 750 employees<sup>5</sup>** to allow the omission:

- **For the first year** of (i) the datapoints on Scope 3 emissions and total greenhouse gas emissions and (ii) the information specified in all the DRs of ESRS S1.
- **For the first two years** of the information specified in all the DRs of (i) ESRS E4 on biodiversity and (ii) the social standards other than ESRS S1 (i.e. ESRS S2, S3 and S4).

In accordance with ESRS 2, if a company (or group) not exceeding 750 employees decides to omit the information required by ESRS E4 or by the social standards, it will nevertheless have to disclose whether one or more topics covered by these standards are material.

This means that these standards must have been considered beforehand in the materiality assessment process. Furthermore, even though the company will not be required to provide all the relevant information listed in the related standards (given the exemption offered by ESRS 1), it will have to **disclose certain mandatory information specifically required by ESRS 2** if it identifies one or more of these topics as material.

<sup>5</sup> Average number of employees during the financial year assessed at the balance sheet date.

These disclosures in particular include:

- How the company's business model and strategy take account of the impacts of the company related to those matters.
- A brief description of any time-bound targets, policies and actions the company has set in relation to the matters in question.
- The metrics relevant to these matters.

In this respect, the EC has indicated that the purpose of the information required by ESRS 2 is to ensure that a minimum layer of information on material matters is nevertheless disclosed during the period covered by the transitional provisions, in line with the requirements of the CSRD.

### 3. New voluntary nature of certain disclosures

In order to encourage good practice, EFRAG draft standards already included information that a company could provide on a voluntary basis ("may disclose" rather than "shall disclose"). The EC has extended the scope of voluntary DRs/datapoints **by targeting the information that it considered to be the most difficult to disclose** (due to immature methodologies, expected difficulties in collecting the relevant data, etc.).

The changes made to the environmental standards especially relate to ESRS E4 on biodiversity, which is undoubtedly the most complex standard to implement within Set 1. For example, disclosure of the company's transition plan in relation to biodiversity matters is now voluntary. This is also the case for the information on the compatibility of the company's strategy and business model with "planetary boundaries", again in relation to biodiversity.

With regard to social standards, these reliefs concern several items of information listed by ESRS S1 and notably quantitative information on "non-employees", although this population remains fully covered by this standard.

With regard to ESRS G1 on business conduct, the draft delegated act notably makes information on confirmed incidents of bribery or corruption voluntary, in particular in order to limit a company's exposure to the risk of litigation.



#### 4. Addition of targeted modifications, mainly to ensure proportionality of disclosure requirements

In concrete terms, the EC's modifications consist of (i) either introducing "safeguard measures", for example by expressly permitting the non-disclosure of information (even if it is material) qualified as "sensitive" or "classified" under European law, (ii) or introducing **greater flexibility**, for example by no longer requiring the use of the LEAP (Locate, Evaluate, Assess, Prepare) approach to conduct the materiality assessment for environmental issues other than climate change, because this approach is currently not sufficiently known and implemented.

With regard to greater flexibility, it is also interesting to note that ESRS S1 has been amended notably with regard to the information required on the breakdown of the total number of employees by country, which is now required for countries in which the company has 50 or more employees representing at least 10% of its total number of employees, this 10% threshold having been added by the EC.

#### 5. Greater coherence with the European legal framework

The EC has ensured that ESRS are **fully consistent with the various European policies and regulations**, particularly regarding sustainable finance, but also in relation to other legislation, such as, for example, the new Directive on pay transparency.

#### 6. Enhanced interoperability with other global standard-setting initiatives

As part of its work, the EC also ensured the closest possible alignment with the work carried out at international level in terms of standard-setting of sustainability-related information. In particular, **the EC has worked with the ISSB** (International Sustainability Standards Board) to ensure interoperability of ESRS with the future IFRS S1, General Requirements for Disclosure of Sustainability-related Financial Information, and IFRS S2, Climate-related Disclosures, which are due to be published on 26 June. In this context, the definition of financial materiality in ESRS 1 has been amended.





## What's next?

According to the CSRD, the reporting requirements set out in the delegated act on ESRS shall not enter into force earlier than four months after its adoption by the EC. **Such adoption is therefore expected by the end of August 2023 at the latest and more likely in July** as envisaged by the EC, to permit official publication of the final act as soon as possible. As a reminder, as per the Accounting Directive, large companies that are public interest entities (PIEs) with more than 500 employees (i.e. entities currently within the scope of the NFRD) will have to apply the CSRD from financial years beginning on or after 1 January 2024.

Although the draft delegated act is subject to a four-week public consultation which will end on 7 July, it is now **highly unlikely that any major changes will be made to ESRS**. The adoption by the EC of the delegated act will not, however, mark the end of the legislative process, as these standards will only enter into force in the absence of objection(s) expressed by the European Parliament or the Council within a period of two months (with a possible extension of two months) or if, before the expiry of that period, both the European Parliament and the Council have informed the EC of their intention not to express objections. Following publication of the delegated act in the OJEU, **ESRS will enter into force from 1 January 2024**, without requiring transposition into national law.

It should also be noted that, in response to the need expressed by companies, EFRAG will shortly be publishing, at the request of the EC, **guidance to facilitate the application of Set 1** on the following three topics: (i) materiality assessment, (ii) value chain (including the information to be provided in this respect) and (iii) a full list (in Excel) of the various datapoints in order to support companies when performing their gap analysis.

**The ESRS framework will be subsequently complemented** within a timetable that will undoubtedly be modified compared to what is set by the CSRD<sup>6</sup> (due to the European elections which will take place at the beginning of June 2024) notably to cover:

- **The standard applicable by listed SMEs:** an exposure draft should be published by EFRAG by the end of the year, in view of an expected adoption by the EC by the end of 2024.
- **The sector-specific standards:** their adoption by the EC is expected to occur from June 2025 and will probably be spread over several years. EFRAG may publish the first exposure drafts covering (1) Oil and Gas and (2) Mining, Quarrying and Coal by the end of this year. A draft classification of ESRS sectors (known as "SEC 1") is also under preparation.

Lastly, EFRAG is also due to publish a draft XBRL taxonomy in the autumn that will support the tagging of sustainability information and the publication of the management report under the electronic format (ESEF). Given the work that the European Securities and Markets Authority (ESMA) will then have to carry out to amend the applicable Regulatory Technical Standards (RTS), it is now highly unlikely that this format will be mandatory as from the 2024 financial year.

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<sup>6</sup> The CSRD provides for the adoption by the EC of a second set of ESRS by 30 June 2024.

## What are the main challenges for companies?

These reporting standards represent a **major shift**, creating new demanding transparency obligations on companies as regards their commitment to sustainability matters, especially as this information will have to be audited (with limited assurance over compliance with ESRS required at inception, and a possible move to reasonable assurance).

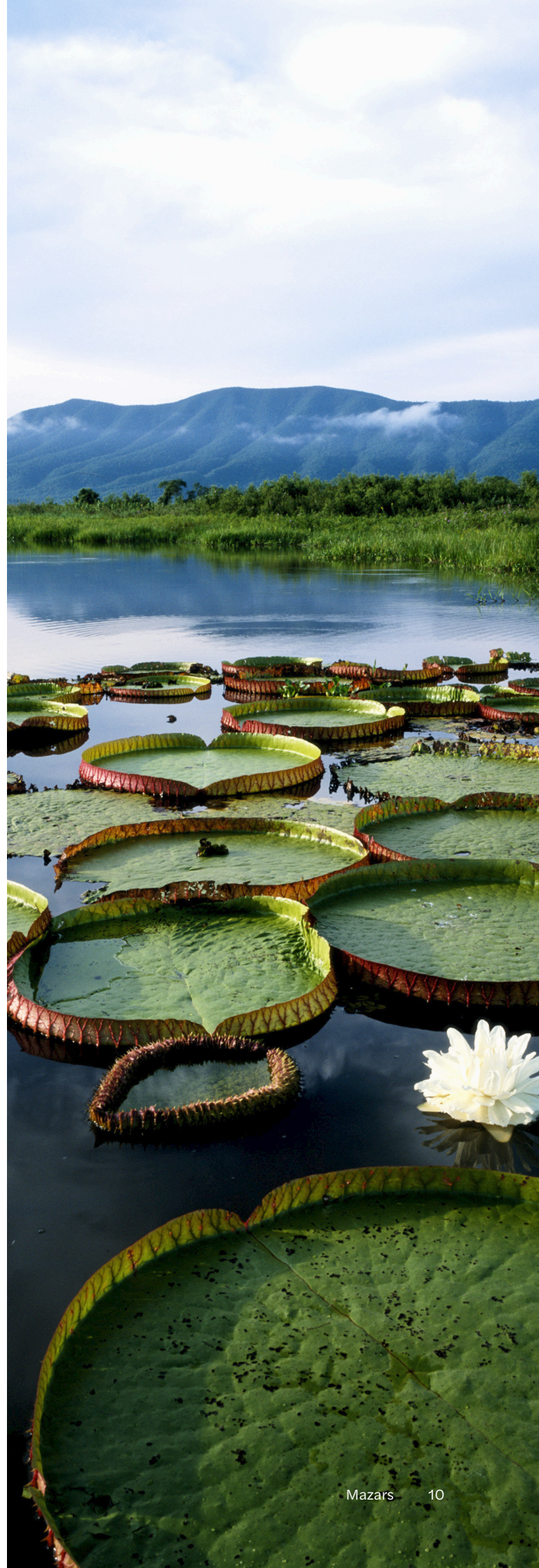
Companies should therefore **act now** in order to comply with the new requirements and think about how to make this additional insight a strategic driver of their sustainability – and business – performance. In practice, they should first assess whether they are within the scope of the CSRD and when they will have to present sustainability information under ESRS for the first time.

Challenges in implementing these standards will depend on whether the company was already subject to NFRD requirements and in which Member State it is established (as significant flexibility was left to Member States to transpose the NFRD into national law). In all cases, first-time application of Set 1 will necessitate to:

- **Revisit the materiality assessment** considering both impact materiality and financial materiality.
- **Consider the entire value chain.**
- **Perform a thorough analysis of the DRs and associated datapoints** listed in the ESRS, in order to identify which material information has to be disclosed to cover material impacts, risks and opportunities identified by the company in relation with sustainability matters.

### How can I learn more?

Visit our [sustainability regulations hub](#) for further guidance on global ESG regulatory changes.



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