

## Template for comments on draft ESRS Delegated Act

The draft delegated on European Sustainability Reporting Standards (ESRS) comprises: the main text of the legal act; twelve draft standards (annex I); and a glossary of abbreviations and defined terms (annex II).

The twelve draft standards in Annex I are:

Group	Number	Subject
Cross-cutting	ESRS1	General Requirements
Cross-cutting	ESRS2	General Disclosures
Environment	ESRS E1	Climate
Environment	ESRS E2	Pollution
Environment	ESRS E3	Water and marine resources
Environment	ESRS E4	Biodiversity and ecosystems
Environment	ESRS E5	Resource use and circular economy
Social	ESRS S1	Own workforce
Social	ESRS S2	Workers in the value chain
Social	ESRS S3	Affected communities
Social	ESRS S4	Consumers and end users
Governance	ESRS G1	Business conduct

Each standard is divided into numbered paragraphs. Each standard also has an appendix A containing “application requirements” which are numbered as AR 1, AR 2 etc. Some standards also contain additional appendices.

To facilitate analysis of comments, respondents are kindly requested to use the simple template below when sending their comments.

**Name of respondent/responding organisation: Polish Copper Employers' Association (Związek Pracodawców Polska Miedź) supports the position of The Polish Chamber of Commerce (Krajowa Izba Gospodarcza)**

**1. General comments**

In general the Polish Copper Employers' Association (Związek Pracodawców Polska Miedź) and Polish Chamber of Commerce (Krajowa Izba Gospodarcza) welcomes the currently proposed wording of the draft ESRS Delegated Act and appreciates the hard work that has been performed during preparation and later amendments to the draft ESRS documents. As previously we believe that adoption of ESRS Delegated Act will result in unification of sustainability reporting standards in the European Union. This should result in putting the European business on the track of carbon neutrality but doing so in coordinated manner where competition is not distorted as the companies within the scope of CSRD will have to meet similar requirements. Again we appreciate further changes that were introduced to the draft ESRS Delegated Act as compared to the previous versions of the ESRS documents. Nevertheless some of the comments made by the Polish Chamber of Commerce during previous rounds of comments remain valid. This concerns in particular need to better spread in time particular reporting requirement as well as the need to follow the ESRS Delegated Act with a suitable support package including access to free of charge tools and consulting services, trainings, support with respect to carbon footprint calculation as well as financial support to assist businesses in their green transformation.

In the light of the release by the IFRS Foundation's International Sustainability Standards Board (ISSB) of its global sustainability and climate disclosure standards, which are expected to form the basis for sustainability reporting requirements around the world, it is essential to prepare and possibly include as an Annex to the (final version) of the ESRS Delegated Act an interoperability guide/table facilitating the necessary exchange and comparison of information made available within the two standards.

**2. Specific comments on the main text of the draft delegated act**

No comment.

### 3. Specific comments on Annex I

Standard	Paragraph or AR number or appendix	Comment
ESRS 1	<i>Par 25 and next</i>	<p>Paragraph 25 of the ESRS 1 provides that “Performing a materiality assessment (see sections 3.4 Impact materiality and 3.5 Financial materiality) is necessary for the undertaking to identify the material impacts, risks and opportunities to be reported. Subsequent paragraphs of the ESRS 1 explain how the materiality should be understood and performed. Nevertheless, the process will be very challenging, especially for smaller companies. Understanding that ESRS for SMEs are being prepared and the approach adopted there may differ, we still feel at the Polish Chamber of Commerce that even companies, other than SMEs, to which the draft ESRS Delegated Act applies will find it challenging to say the least to perform the materiality assessment. We understand that a guidebook is being prepared at the European level to help tonavigate the process. Nevertheless, since materiality assessment is in the centre of sustainability reporting under the draft ESRS Delegated Act, in our opinion those detailed instructions should be included in the draft ESRS Delegated Act itself and become legally binding. Although this may be seen by some businesses as unnecessary regulatory burden, in our opinion it will allow to better prepare companies for sustainability challenges and do so in a manner that does not distort competition as everyone will apply the same detailed rules. This allows avoiding situation where companies choose which rules from the non-binding guidebook to apply and which to ignore. This additional guidance that should be in our opinion included in the draft ESRS Delegated Act should address in particular the step-by- step methodology on how to perform the materiality assessment, how to report on the value chain, how to deal with estimates and with forward looking information – all that in the context of materiality assessment. This will not only increase comfort of businesses but also assurance providers.</p>
ESRS 1	<i>Para 29</i>	<p>Paragraph 29 of the ESRS 1 provides that “Irrespective of the outcome of its materiality assessment, the undertaking shall always disclose the information required by ESRS 2 General Disclosures (i.e. all the Disclosure Requirements and data points specified in ESRS 2).” We see a substantial change here whereby under the currently proposed wording of the ESRS Delegated Act the scope of DR that undergo materiality assessment versus those which are obligatory regardless of the materiality assessment has been increased. This means that some DRs that were obligatory in the previous versions of ESRS documents are not obligatory anymore. This concerns in particular whole ESRS E1 Climate that was obligatory previously but is now subject to materiality assessment. As a Polish Chamber of Commerce we assess this change with ambiguity. On one hand we understand that such change can be seen as a measure to decrease regulatory pressure on European businesses – as a result of this change it is theoretically possible that some companies will not be obliged to report under ESRS E1 or will have to do so only in limited scope. On the other hand this seems to be a very remote situation as most companies following materiality assessment will end up in a situation where anyhow they will need to</p>

		<p>report under ESRS E1. The only difference will be the additional work done to perform the materiality assessment. So instead of decreasing the regulatory burden this change is in fact increasing the regulatory burden on the European businesses. Instead of focusing on calculating carbon footprint, companies will have to waste resources on the materiality assessment that in our opinion is needless here.</p> <p>Since the ESRS E1 will not be obligatory, of course we also see the risk of some businesses being tempted to conclude that as a result of materiality assessment ESRS E1 is not material for them. This can lead to non-consistency across regulatory frameworks such as the EU Taxonomy, SFDR and, aggregated, the Climate Law. Also in a long run such a situation [brakuje tekstu, więc może napiszmy np.: may decrease the otherwise needed pressure on businesses to undertake all efforts to meet the goals set out in the Paris agreement].</p> <p>To address this issue we recommend to either: (i) reinstate ESRS E1 as mandatory requirement for the reason that climate is presumed to be material for the vast majority of companies – to say the least - subject to the CSRD, (ii) reinstate ESRS E1 as mandatory requirement with longer phase-in period, or (ii) change the approach by making the ESRS E 1 obligatory except for situation where climate is obviously insignificant, i.e. not material. In the latter case the assurance provider would provide an opinion of the company’s strong motivation of why the company is relieved from the ESRS E1 mandatory disclosure.</p>
ESRS 1	Appendix C	<p>Line two of the table in Appendix C provides with respect to ESRS E 1, DR E1-6 (Gross Scopes 1, 2, 3 and Total GHG emissions) that: “Undertakings or groups not exceeding on their balance sheet dates the average number of 750 employees during the financial year (on a consolidated basis where applicable) may omit the datapoints on scope 3 emissions and total GHG emissions for the first year of preparation of their sustainability statement”. The Polish Chamber of Commerce welcomes this phase-in approach with respect to ESRS E 1, DR E1-6 (Gross Scopes 1, 2, 3 and Total GHG emissions). Nevertheless, it remains unclear why the phase-in option should apply only to “Undertakings or groups not exceeding on their balance sheet dates the average number of 750 employees during the financial year (on a consolidated basis where applicable)”. In our opinion other, larger companies should be included as well. Quite opposite to the assumption that may underline the current wording, it does not have to be easier for larger companies to adhere to ESRS E 1, DR E1-6 (Gross Scopes 1, 2, 3 and Total GHG emissions) – in many cases such companies will have many entities in scope 3 of various nature and significant problem with calculation of scope 3 emissions and consequently total GHG emissions.</p> <p>Moreover, in any case we see the need to prepare EU-wide guide books on carbon footprint, especially scope 3, calculation for particular sectors of economy. In practice we see that this calculation approach differs depending on the sector but the necessary help in this respect is nowhere to find. Thus, the one year phase-in is acceptable only in case where such guidance will be developed at the EU level for many sectors of the economy; otherwise, for sectors that will not receive such support from the EU, the phase-in period should be extended for as long as it is necessary to prepare the respective guidance.</p>

		The same position concerns: (i) ESRS E4 All disclosure requirements, (ii) ESRS S1 All disclosure requirements, (iii) ESRS S2 All disclosure requirements, (iv) ESRS S3 All disclosure requirements and (v) ESRS S4 All disclosure requirements, respectively.
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#### 4. Specific comments on Annex II

Defined term	Comment
NA	NA

We would need a materiality guidance to be published to fully understand the potential implications. Include taxonomy in this process.

For E1 comparison with S2 of IFRS and how to ensure interoperability between the two.

According to EFRAG's technical advice submitted to the Commission, all disclosures would be subject to materiality assessment by the reporting undertaking, with the exception of: i) All the disclosure requirements and datapoints in the "General disclosures" standard, which specifies essential information to be disclosed irrespective of which sustainability matter is being considered. ii) All the disclosure requirements and datapoints in the climate standard, which would be mandatory for all undertakings under scope. iii) All the disclosure requirements and data points that are included in the standards because they directly correspond to the information needs of other parties to meet their own disclosure requirements under separate pieces of legislation. This refers specifically to information that financial markets participants need to meet their disclosure requirements on principal adverse impacts under the Sustainable Finance Disclosure Regulation; the sustainability information that benchmark administrators need to meet their disclosure requirements under the Benchmarks Regulation; and the information that financial institutions need to meet their so-called "pillar 3" disclosure requirements under the Capital Requirements Regulation. These disclosure requirements and datapoints would also be mandatory for all undertakings under scope. iv) A number of disclosure requirements and data points relating to the undertaking's own workforce, which would be mandatory for undertakings that have more than 250 employees.