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Düsseldorf, January 20th, 2025

Reduction of bureaucratic burdens in sustainability reporting

Dear Commissioner Albuquerque,
Dear Commissioner Dombrovskis,

We refer to our letter dated January 9th, 2025, in which we made suggestions for the simplification of Taxonomy reporting. In this letter we would like to make further suggestions for the reduction of bureaucratic burdens in sustainability reporting in the context of the Budapest Declaration.

The European Council reaffirmed in the Budapest Declaration its intent for a drastic reduction of administrative, regulatory and reporting burdens for European companies as this has been identified as a central issue for the competitiveness of the European economy. Regarding reporting requirements, the legal framework for sustainability reporting – namely the Corporate Sustainability Reporting Directive (CSRD) and in the EU Taxonomy Regulation (Taxonomy) – is currently perceived by companies as a particular burden. Based on assurance and implementation experience in practice, we would like to outline some possible measures that can serve as a basis for further political discussions. We have summarized these in the annex attached to this letter.

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As a general approach to reducing reporting burdens for European undertakings, we believe that a smart revision of the EU green deal legal framework could improve the consistency and cohesiveness of the various regulations. Furthermore, for regulations that have been in effect for several years, we believe it is now time that these be subject to post-implementation review to assess whether their objectives are being achieved (e.g. the Taxonomy Regulation). The overall revision of the EU green deal legal framework could also be used as an opportunity to help ensure a broadly accepted and reliable global baseline for sustainability reporting.

We agree that it remains fundamentally important to keep to the general objective of sustainable economic transformation. Even with the increased pressure due to geopolitical and economic circumstances, taking no action now is likely to be significantly more costly than remaining committed to transformation with targeted improvements. Achieving sustainable economic transformation still requires broadly accepted reporting standards. We believe this is achievable provided that action is taken without delay. We hope that you find our detailed suggestions in the annex to this letter helpful. We would be happy to answer any questions you may have and would welcome the opportunity to discuss our views in a meeting.

Kind regards

Melanie Sack

Dr. Daniel P. Siegel

Annex

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I. Suggestions for reducing burdens through procedural improvements

1. Regulation of reporting content through Level I legislation

i. Background

Significant extensive EU requirements on sustainability reporting have been issued in the form of Level II laws, i.e. delegated acts, both for reporting in accordance with Art. 8 of Regulation (EU) 2020/852 (“Taxonomy Regulation”) and for reporting in accordance with Directive (EU) 2022/2464 (“CSRD”) (e.g. Commission Delegated Regulation (EU) 2021/2139 (“Climate Delegated Act”), Commission Delegated Regulation (EU) 2021/2178 (“Disclosure Delegated Act”), Commission Delegated Regulation (EU) 2023/2486 (“Environmental Delegated Act”), Commission Delegated Regulation (EU) 2023/2772 (“ESRS”/ “ESRS Delegated Act”). The extent of reporting requirements is therefore often not defined in Level I regulations or directives, but at Level II. These Level II laws ultimately determine the specific reporting with far-reaching material consequences for undertakings.

ii. Suggested Solution

Ensure the Level I legislation is sufficiently specific regarding requirements that will have a significant impact on the reporting burden for undertakings. In our opinion the European Parliament and the Council should be more involved in determining the level of reporting burden, not only in the context of a “scrutiny period” with an option to accept or reject an entire text under time pressure.

2. Drafting clear and precise legal texts while reducing the use of Level III materials

i. Background

In the area of sustainability reporting, we are currently witnessing a proliferation of non-binding FAQs or guidance documents (“Level III documents”) on the part of the EU Commission and its supporting organizations (e.g. EFRAG). The sheer volume of FAQs and Implementation Guidelines issued by EFRAG and the EU Commission is an indication that the underlying requirements in the relevant legal acts (regulations, directives and delegated acts) are not sufficiently clear. So far, several critical reporting aspects have only been dealt with in the form of non-authoritative Level III guidance, e.g. the mapping of ESRS

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sustainability matters to topical disclosures (EFRAG Q&A ID 177)¹, the method for calculating the average number of employees during the financial year for ESRS 1 Appendix C phase-ins (EFRAG Q&A ID 1144)² or the question whether undertakings obliged to report Article 8 Taxonomy disclosures for the first time have to include comparative information (Draft Commission Notice published November 29th, 2024, FAQ 146)³.

In addition, the positions presented in the Level III documents sometimes go beyond or contradict the requirements of the relevant legal acts in certain areas (in this regard please refer to our letter dated January 9th, 2025). Furthermore, Level III documents in the past often emerged at highly inopportune times (such as guidance issued relating to Art. 8 of the Taxonomy Regulation), as little consideration was given to the timing of the preparation and publication processes of the undertakings subject to the reporting requirements.

ii. Suggested Solution

A further proliferation of Level III documents should be avoided. Where necessary, the relevant legislation or legal acts should be amended promptly. This would ensure that the European Parliament and the Council are appropriately involved – at least during the scrutiny period when delegated acts require such amendments (see also point 1.). However, where Level III guidance is deemed useful, a regulated consultation process should be followed.

3. Smoothing transition to the new reporting requirements through appropriate implementation deadlines

i. Background

With the CSRD, the European legislator has established a comprehensive framework for sustainability reporting as part of the Directive 2013/34/EU (“Accounting Directive”). This is underpinned by the ESRS Delegated Regulation, which comprises twelve ESRS on environmental, social and governance aspects spanning approximately 300 pages, potentially resulting in undertakings

¹ Available at: [https://www.efrag.org/sites/default/files/media/document/2024-12/Question%20ID%20177%20%E2%80%93%20Mapping%20of%20sustainability%20matters%20to%20topical%20disclosures%20\(Q%26A%20ID%20177\)%202.pdf](https://www.efrag.org/sites/default/files/media/document/2024-12/Question%20ID%20177%20%E2%80%93%20Mapping%20of%20sustainability%20matters%20to%20topical%20disclosures%20(Q%26A%20ID%20177)%202.pdf)

² Available at: <https://www.efrag.org/sites/default/files/media/document/2024-12/Explanations%20January%20-%20November%202024.pdf>

³ Available at: https://finance.ec.europa.eu/document/download/b799db63-a034-4023-9f77-3e9a69be4de9_en?filename=241129-draft-commission-notice-eu-taxonomy-delegated-acts_en.pdf

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reporting over 1,000 datapoints. In addition, EFRAG has already published three comprehensive implementation guidelines and a document with numerous questions and answers on the interpretation of the ESRS with the aim of supporting implementation. Hundreds of other questions are currently still under discussion. EFRAG is also working on more than 30 sector-specific standards to supplement the ESRS regulations. Based on experience so far, there is concern that the new regulations will again provide undertakings insufficient time for implementation following their publication. The already complex implementation process is therefore facing considerable additional time pressure.

ii. Suggested Solution

When introducing complex new reporting requirements, the EU could, for example, be guided by the IASB's implementation periods for new, more complex IFRS® Accounting Standards (generally 3-4 years) to give undertakings adequate time to implement the new requirements. Notwithstanding this, voluntary early application may be permitted.

4. Setting up reliable publicly available databases

i. Background

As part of sustainability reporting, undertakings require a wide range of “external” information to fulfill the reporting requirements. This “external” information comprises a wide variety of data, e.g. all kinds of data about actors in the value chain, areas at water risk (ESRS E2 and E3), “best available techniques” or “best performing alternative solution/technology” (Climate Delegated Act, Disclosure Delegated Act).

ii. Suggested Solution

Legislators should examine the possibility of setting up publicly accessible and reliable databases to provide the “external” information required for sustainability reporting. This would also facilitate improved comparability of reporting.

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II. Suggestions for reducing burdens through overarching changes to the legal acts

1. Changes to the dates of application

i. Background

According to Article 5 (2) of the CSRD the obligation to prepare a sustainability report in accordance with the first set of ESRS for large undertakings and parent undertakings of large groups as defined in the Accounting Directive will come into effect for financial years starting on or after 1st January 2025. This “second wave” of reporting is very large and – distinct from the “first wave” – includes undertakings that were not previously required to report non-financial information under the Accounting Directive as amended by the Directive 2014/95/EU (“NFRD”). For these undertakings, especially those that only just meet the size criteria for classification as “large”, the first-time mandatory sustainability reporting is particularly challenging because they will tend to have proportionally fewer resources.

ii. Suggested Solution

The “second wave” of reporting could be divided into further layers of undertakings according to size. For example, an appropriate further layer of “large” undertakings, which could become obliged to prepare sustainability reporting for financial years starting on or after 1st January 2026, could be created. This would give “large” undertakings in the scope of this additional layer more time to prepare for the new reporting requirements without reducing the scope of undertakings subject to sustainability reporting in the long run.

2. Extension of the ESRS transitional provisions

i. Background

Appendix C of ESRS 1 sets transitional provisions for the disclosure requirements or datapoints of disclosure requirements in ESRS that may be omitted or that are not applicable in the first year(s) of preparation of the sustainability statement under the ESRS. Many of those transitional provisions are only granted for undertakings or groups that do not have more than an average of 750 employees during the relevant financial year.

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ii. Suggested Solution

An extension of these transitional provisions to more undertakings, by setting a higher threshold for the average number of employees, would give those undertakings with more than 750 employees – in addition to those with an average of no more than 750 employees during the relevant fiscal year – in the “second wave” of reporting more time for implementing some of the new reporting requirements.

3. Overall reduction in the number of ESRS datapoints

i. Background

The European Council reaffirmed its intent for a drastic reduction of administrative, regulatory and reporting burdens for European undertakings in the Budapest Declaration. This also includes corporate reporting. Sustainability reporting in accordance with the first set of ESRS alone already comprises over 1,000 possible datapoints.

ii. Suggested Solution

To contribute to a reduction in bureaucracy as announced by the President of the EU Commission in her political guidelines for the next EU Commission – including through the reduction of reporting obligations – an action plan could be developed to reduce the maximum number of ESRS datapoints by at least 25%, in line with the political announcement with regard to reporting obligations in general. This action plan should prioritize the reduction of reporting elements for which the data collection effort is disproportionate to the benefits. Furthermore, the introduction of a cost/benefit constraint like in IFRS Reporting Rules could be taken into consideration. The action plan should include a dialogue between reporting undertakings and users of sustainability reporting. In this way, sector-specific aspects can be addressed as well.

4. Precise definition of disclosure requirements, datapoints and technical screening criteria

i. Background

As the reporting requirements in the first set of ESRS and Taxonomy Delegated Acts are very extensive and still relatively new, there are considerable uncertainties as to how some aspects can be interpreted. This is exacerbated by

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imprecise wording in the definition of disclosure requirements or datapoints in the ESRS or the technical screening criteria in the Taxonomy Delegated Acts. The lack of legal certainty forces undertakings to make their individual interpretations when preparing sustainability reports and results in increased administrative costs for reporting undertakings.

ii. Suggested Solution

To ensure legal certainty, instead of using non-authoritative Level III documents to clarify reporting requirements (see point I.2), the binding legal texts should be revised so that disclosure requirements, datapoints and technical screening criteria are defined precisely.

5. Clarification of requirements regarding the ESRS double materiality assessment

i. Background

The double materiality assessment is central to determining the ESRS disclosure requirements. Regarding the ESRS double materiality assessment there is considerable room for interpretation when it comes to the exact steps an undertaking must take to be in line with the reporting requirements. Many interpretation questions related to this are addressed in EFRAGs IG 1.

ii. Suggested Solution

The requirements regarding the ESRS double materiality assessment should be clarified within the ESRS texts. As thresholds play an important role in determining the information to be reported, the requirements for their determination should also be specified sufficiently clearly in the ESRS texts. Furthermore, providing lists of IRO-examples in ESRS application requirements could help undertakings to facilitate their double materiality assessments.

III. Suggestions for reducing burdens through specific changes to the legal acts

1. Time relief for reporting Scope 3 emissions

i. Background

Collecting information on Scope 3 emissions is particularly time-consuming for reporting undertakings. According to ESRS 1.133 b) the transitional provision to

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include upstream and downstream value chain information regarding the disclosure of metrics is not granted for Scope 3 emissions (as this is a datapoint derived from other EU legislation, as listed in ESRS 2 Appendix B). Therefore currently, the ESRS only provide a transitional provision for undertakings or groups with fewer than 750 employees on average regarding Scope 3 emissions reporting, and only in the first year of sustainability reporting preparation (ESRS 1.137).

ii. Suggested Solution

The EU legislator could consider further postponing mandatory reporting on Scope 3 emissions under the ESRS, especially for undertakings that will be required to report in the “second wave” from 2025.

2. Elimination of the ESRS 2.17 disclosure requirements

i. Background

If an undertaking or group not exceeding on its balance sheet date the average number of 750 employees during the financial year decides to omit the information required by ESRS E4, ESRS S1, ESRS S2, ESRS S3 or ESRS S4 in accordance with Appendix C of ESRS 1, according to ESRS 2.17 it shall nevertheless disclose whether the sustainability topics covered respectively by ESRS E4, ESRS S1, ESRS S2, ESRS S3 and ESRS S4 have been assessed to be material as a result of the undertaking’s materiality assessment. In addition, if one or more of these topics has been assessed to be material, the undertaking must provide extensive disclosures for each material topic.

The requirements of ESRS 2.17 appear to contradict the relief granted for smaller reporting undertakings with Appendix C of ESRS 1.

ii. Suggested Solution

The disclosure requirements of ESRS 2.17 should be eliminated.

3. Elimination of the operational control approach

i. Background

For certain disclosure requirements (ESRS E1-5, ESRS E1-6, ESRS E2-42 and SBM 3 in ESRS E4) the reporting boundaries of an undertaking’s own operations are extended with the so-called “operational control approach”. The

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definition and application of this approach are subject to considerable interpretation uncertainties and reportedly lead to considerable additional work in practice.

ii. Suggested Solution

The operational control approach should be deleted in the ESRS disclosure requirements.

4. Further phase-in of requirements for upstream or downstream value chain information or limitation of the value chain actors to be considered

i. Background

Reporting information on the material impacts, risks and opportunities connected with the undertaking through its direct and indirect business relationships in the upstream or downstream value chain is an essential part of ESRS sustainability reporting. But gathering relevant and reliable information from value chain actors, especially beyond tier-1, is particularly burdensome for many reporting undertakings. ESRS 1 chapter 10.2 therefore provides transitional provisions regarding upstream or downstream value chain information for the first three years of sustainability reporting under the ESRS.

Even after three years of reporting, we expect there will still be major information gathering challenges, as actors in the value chain within the EU might be eligible for reliefs until 2028 for their own reporting or might not be required to disclose sustainability information themselves at all. This problem is exacerbated further when considering value chain actors outside the EU. ESRS 1.135 therefore introduces a so-called “value chain cap”, which limits the information required by ESRS to be obtained from SME undertakings in the reporting undertaking’s upstream or downstream value chain so that it will not exceed the requirements of the future ESRS for listed SMEs (LSME). In the case a non-listed SME in the value chain that uses the voluntary standard for SME (VSME), there might be quite a gap between the information reported by that SME using the VSME and the information that would be requested from that SME according to the LSME.

Even if a value chain actor is subject to a reporting obligation itself, the further away the actor is in the value chain from the reporting undertaking, the harder it might be for the reporting undertaking to acquire relevant and reliable information from that value chain actor.

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ii. Suggested Solution

Even after the third year of reporting, there should still be rules in ESRS for dealing with the difficulties in gathering information in the value chain. This could be achieved by either prolonging the transitional provisions regarding the upstream or downstream value chain information or by reducing the information gathering requirements beyond tier-1 entities in the value chain. To harmonize the information gathering requirements and the voluntary reporting of SME, the value chain cap could be changed to cover the VSME rather than the LSME. This could reduce the expected so-called “trickle-down” effect on SME.

5. Elimination or further specification of the need for entity-specific disclosure

i. Background

Entity-specific disclosure as defined in ESRS 1.11 plays a significant role in sustainability reporting, especially in the absence of sector-specific standards. But there are only very few requirements in the ESRS texts regarding identifying matters that give rise to the need for an undertaking to provide entity-specific disclosures.

ii. Suggested Solution

To reduce reporting burdens for undertakings, either the identification of matters that give rise to the need for entity-specific disclosures should be clarified or the need for reporting entity-specific disclosures eliminated (regarding sector-specific standard we also refer to IV).

6. Reconsideration of ESEF tagging und formatting rules

i. Background

According to Article 29d of the Accounting Directive as amended by CSRD (parent) undertakings subject to the requirements of Article 19a/29a of the Directive shall prepare their (consolidated) management report in the electronic reporting format specified in Article 3 of Commission Delegated Regulation (EU) 2019/815 and shall mark up their (consolidated) sustainability reporting, including the disclosures provided for in Article 8 of Taxonomy Regulation, in accordance with the electronic reporting format specified in that Delegated Regulation. Recital 55 of the CSRD states that those requirements were introduced to

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create opportunities to exploit information more efficiently and to hold the potential for significant cost savings for both users and undertakings.

Following these formatting and tagging requirements is especially burdensome for undertakings which have not been subject to electronic reporting requirements so far.

ii. Suggested Solution

Given the rapid development of text analyzing tools based on AI, there should be an evaluation as to whether the requirements are still necessary and reasonable in view of their intended goal. If this evaluation concludes that there already are sufficient text analyzing tools to exploit information more efficiently, the requirements of Article 29d of the Accounting Directive should be eliminated.

IV. Suggestions for reducing burdens in future legal acts

Development of manageable requirements for sector-specific standards

i. Background

The adoption of sector-specific standards has been postponed by up to two years. Although this postponement will alleviate time pressure on undertakings, it is nevertheless essential to ensure that sector-specific ESRS reporting requirements are designed appropriately, are comprehensive, and are subject to a transparent due process. In particular, the simplifications achieved as part of the finalization of the first set of the ESRS (as well as any further simplifications) should not be “counteracted” by the sector-specific ESRS.

ii. Suggested Solution

The development of sector-specific ESRS should be closely monitored, focusing on the manageability of the regulations for undertakings and the added value of individual disclosure requirements for report users. This should include a critical assessment of whether sector-specific ESRS are needed in the first place. Furthermore, additional targeted postponement of the mandatory application of sector-specific standards, e.g. for certain “second wave” undertakings, could be explored.