



To prof. dr. K. Lopatta, acting chair of the EFRAG Sustainability Reporting Board

Brussels, Belgium

Submitted electronically

The Hague, 8 August 2022

Ref: B.22.15

Subject: Eumedion comment letter to the ESRS exposure drafts

Dear madam,

Eumedion appreciates the opportunity to comment on the Exposure Drafts of the European Sustainability Reporting Standards (ESRS) as issued in April 2022 and as based on the original proposal for a Corporate Sustainability Reporting Directive (CSRD) presented by the European Commission in April 2021.

Eumedion is the dedicated representative of the interests of 53 institutional investors, all committed to a long term investment horizon. Together our participants invest over € 8 trillion of capital in equity and corporate non-equity instruments. Eumedion aims to promote good corporate governance and sustainability in the companies our participants invest in. We regard high quality financial and sustainability reporting standards as critical elements in a global financial infrastructure. Investors are dependent on the quality of such standards for allocating their own and entrusted capital, and their engagement with, and voting on the shares of, the companies they invest in. We therefore welcome the comprehensive proposals for the European sustainability reporting standards and we would like to commend EFRAG for the tremendous effort in the development of these exposure drafts.

In addition to our response to the targeted questionnaires, we hereby kindly send you this comment letter containing our general observations and, where relevant, proposals regarding the exposure drafts of the ESRS.

**(i) Further integrate the content of the global baseline of the ISSB Standards into the ESRS**

High-quality reporting standards are instrumental for responsible and engaged investors to effectively live up to their fiduciary duties. Such standards ideally need to be globally harmonised. In this respect, we very much welcome the explicit mandate in the compromise text of the CSRD to integrate into the ESRS the content of the global baseline standards under development by the International Sustainability Standards Board (ISSB) of the IFRS. We are of course fully understanding of the fact that the current exposure drafts have not from the start been designed to optimally do so. This is due to various processes still developing concurrently at both EU and international level. To enhance the level playing field for multinational companies and stimulate standardised information for investors, alignment and/or compatibility with international standards is essential, preferably through a building block approach. We recommend that EFRAG seeks further alignment with IFRS S1 and S2, as well as the commonly used GRI Standards, and use the IFRS sustainability reporting standards as the starting point for CSRD disclosures. The ESRS should preferably only address incremental disclosure requirements in case of serious shortfalls in IFRS S1 and S2 (for example due to the information needs of stakeholders other than investors) and in case of requirements following from European legislation, such as the Sustainable Finance Disclosure Regulation (SFDR).

**(ii) Eumedion supports the rebuttable presumption, but further guidance is needed**

The draft ESRS are based on a double materiality assessment and mandatory requirements around several sector-agnostic sustainability topics. The sector-agnostic disclosure requirements are presumed to be material for every company, with a rebutting option available allowing a reporting entity to explicitly explain why a topic is not relevant. Eumedion supports this approach, including the application of a materiality assessment that drives the entity's disclosures. The design of the CSRD and the ESRS does pose a risk of obscuring relevant material information by an 'information overload'. To mitigate this risk, the new design should be further finetuned by first and foremost providing clearer guidance to reporting entities on the criteria for the rebuttable presumption and lifting any practical concerns in that way. Secondly, EFRAG could consider moving certain disclosure requirements to the (to be developed) sector specific standards, where and to the extent that the CSRD allows.

**(iii) The ESRS should be reporting standards only and should not introduce norms**

Sustainability reporting standards require a very precise focus on norm-free disclosure requirements, unless otherwise required by EU law. Sustainability norms or practices can only be required through

other (European) legislation and be referred to in the ESRS, e.g. the reference to the 1.5 °C scenario of the Paris Climate Agreement in the CSRD. The ESRS should be designed as 'reporting only'-standards, and should therefore not (subtly) introduce sustainability norms or unduly require specific sustainability practices. This also applies to any requirement to not merely describe any targets, but to actually set targets regarding sustainability matters, if such is not required by law. Normative European standards would unnecessarily hinder international adoption or interoperability. An example of a subtle introduction of a norm can be found in the disclosure requirements on incentive schemes regarding sustainability. The CSRD compromise text (19a, 2 (da)) requires 'information about the *existence* of incentive schemes (...) which are linked to sustainability matters', while ESRS 2, DR 2-GOV4 requires rather a description of '*how* the incentive policies (...) consider (...) sustainability-related objectives and performance'. This can be understood as the introduction of a norm, namely to actually have such an incentive scheme in place. In the example provided, a minor adjustment would remove the subtle introduction of a norm and establish alignment with the CSRD requirement.

#### **(iv) The alignment with (future) European legislation requires attention**

Eumedion observes that the alignment with European legislation needs ongoing attention. First and foremost, the ESRS will require adjustments following the adoption of the final CSRD, if and to the extent that the final text deviates from the original proposal. Secondly, alignment with the SFDR is key for institutional investors. This alignment, too, requires further attention. We note, for example, that the ESRS do not require any information to be reported regarding tax compliance by reporting entities, even though the SFDR requires institutional investors to report on their policies to assess tax compliance by investee companies (articles 28 and 41) as well as on non-cooperative tax jurisdictions (appendix 1 of the SFDR delegated regulation, governance indicator 22). Thirdly, within the ESRS references are made to closely related EU legislation that is still under development (e.g., the proposal for a Corporate Sustainability Due Diligence Directive) creating possible future deviations between legislation. We recommend moving such references from the main ESRS to an appendix. Preferably, this appendix should show the hierarchy of references (regulation, directive, plans, etc.). This would also more easily allow future "maintenance" of the ESRS.

#### **(v) The practical implications of value chain reporting requirements should be further assessed**

The CSRD and draft ESRS require significant disclosures on the sustainability impacts throughout the value chain, which Eumedion supports. Reporting entities will most likely need to send out elaborate information requests to, for example, SME suppliers who may not yet be equipped to report extensively on their sustainability performance. While the final CSRD will, most likely, allow some time for reporting entities to adjust their value chain information systems, it is currently unclear if any major complications can be expected due to the extensive value chain information requirements. We recommend to EFRAG to accompany the ESRS by an assessment and/or further field testing of how

the proposed requirements contribute to targeted disclosures and aim to avoid undue administrative burdens throughout the (global) value chains. An undue burden would in any case go against the spirit of the CSRD, which will aim to limit the administrative burden for SMEs in Europe. Such an assessment would also allow EFRAG to adjust the proposed requirements accordingly, if applicable.

**(vi) The ESRS should make an explicit reference to and operationalise the exemption of sensitive information**

Forward-looking information is an essential part of the management report and also required in the sustainability reporting, which Eumedion supports. The compromise text of the CSRD allows an exemption for sensitive information (articles 19a/29a, sub 3, with an explicit reference included in recital 29/29a as well). We recommend to EFRAG that the exposure drafts of the ESRS should make a clear reference to this exemption and provide further guidance on how reporting entities should operationalise this exemption to safeguard that this exemption is not excessively used.

**(vii) Consider redistribution of disclosure requirements to meet ambitious timeframe**

The need for a swift implementation of the EU sustainable finance package is clear. However, due process is needed for high-quality legislation and implementation aspects, especially in a regulatory field under development such as sustainability reporting. High-quality standards will result in workable and high-quality reporting, will support auditability by assurance providers and will fulfil the transparency needs of stakeholders. Naturally, the CSRD prescribes a mandatory, ambitious timeframe. Unfortunately, we consider the timeline of the public consultation and subsequent changes to the standards to bring them to the final stage as extremely challenging. We therefore propose that EFRAG uses the (limited) flexibility offered by the CSRD to defer some (more detailed) reporting requirements to the second set of standards to be delivered a year later. However, such a deference of requirements can only be done while maintaining in the first set of standards the alignment with information requirements of the SFDR, as determined by the CSRD.

**(viii) Further clarify reporting requirements to improve the auditability of sustainability reporting**

As stated above, high-quality standards will support the auditability of sustainability reporting by assurance providers. Any unclarities in the standards regarding their application by reporting entities will also affect the comparability of assurance opinions on these reports. This is especially the case when reporting methodologies are left unspecified, for instance those regarding the financial effects from sustainability impacts, risks and opportunities, such as on pollution (ESRS E2) and water and marine resources (E3).

For Eumedion's more detailed comments on the exposure drafts, we kindly refer to our answers to the targeted questionnaires. If you would like to discuss our views in further detail, please do not hesitate to contact us. Our contact person is Ron Gruijters (ron.gruijters@eumedion.nl, +31 70 2040 305).

Yours sincerely,

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