

# Comments on draft ESRS Delegated Act

July 7, 2023

Name of respondent/responding organisation: **ANC**

## 1. General comments

**ANC welcomes the draft delegated act on ESRS published by the European Commission on 9 June 2023.** ANC considers that the proposed adjustments effectively address two significant concerns highlighted in the EFRAG November exposure draft, namely excessive information requirements within an unreasonably tight timeframe particularly for the small “large undertakings”.

**ANC supports the efforts to simplify the ESRS.** EFRAG's November 2022 version was still too exhaustive, with certain sector-specific sub-topics that would have been better placed in the set of sector-specific standards. By generalising the materiality assessment, the Commission rectifies this initial bias. The information remains standardised and compulsory, but only if it is material for the company, under the control of the auditor and market regulators in the case of listed companies.

**ANC also supports the efforts to introduce the progressive application of ESRS.** The scope of the CSRD is based on the threshold of "large European companies", which means that groups with just over 250 employees are subject to the same requirements as those applying to large multinationals, even though the issues at stake and the resources available are very different. Hence, the introduction of new phase-in periods, notably for undertakings with less than 750 employees, seems appropriate and well received by French stakeholders.

ANC provides **few targeted improvement proposals** of the draft delegated act in the following pages, mainly on ESRS S1, to further streamline the reporting requirements.

**ANC argues that the simplification effort should mainly continue through the revision of sustainable finance regulations**, including SFDR, Green Taxonomy, and EBA Pillar 3, with the aim of improving consistency. It is urgently needed to really achieve the goal of steering the sustainable transition and its financing. The consultation from the European supervisory authorities currently underway on SFDR provides an opportunity to send out a message about the need for a thorough review.

**ANC also highlights that the transition to a more sustainable economy will necessarily involve innovation.** The new sustainable products dimension has not been adequately covered in these regulations on transparency. This dynamic dimension should be introduced in the future to better measure transition trajectories. Sector-specific standards should include this dimension and are in any case needed as soon as possible to complement the relevance of the first sector agnostic standards.

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

[No comments]

## 3. Specific comments on Annex I

Standard	Paragraph or AR number or appendix	Comments
ESRS 1 (3.2)	Paragraph 34	<p><b>[Substance] Assessment of material information:</b></p> <p>Paragraph 34 refers to “relevant information”, but its intended purpose is unclear. It should be clarified that paragraph 34 is intended to contribute to the assessment of material information. In particular, it would be beneficial to provide further elaboration on the relationship between this paragraph and paragraph 33, which mandates the disclosure of solely material information, as well as its connection to paragraph 48, which explains the assessment of financial materiality in relation to primary users but not limited to them.</p> <p>Furthermore, it is recommended that the undertaking assesses the information to be relevant from both perspectives of paragraph 34 (a) and (b) rather than solely (a) or (b) as both primary users and other stakeholders will base their interest on the significance of the matter.</p>

		<p>Paragraph 34 could be modified as follows: “the applicable information prescribed within a Disclosure Requirement (including its datapoints), or an entity-specific disclosure, shall be disclosed when the undertaking assesses it to be relevant from one or more of the following perspectives in the sustainability statement <b>as part of its assessment of material information:</b></p> <p>(a) the significance of the information in relation to the matter it purports to depict or explain; <del>or</del> <b>and</b></p> <p>(b) the capacity of such information to meet the users’ decision-making needs, including the needs of primary users of general-purpose financial reporting described in paragraph 48 and/or the needs of users whose principal interest is in information about the undertaking’s impacts”.</p>
ESRS 1 (6.1)	Paragraph 73	<p><b>[Substance] Reporting period:</b></p> <p>It is stipulated that the reporting period for the undertaking’s sustainability statements shall be consistent with that of its financial statements. It is necessary to clarify that “consistent with” do not mean “equal.” Numerous subsidiaries of undertakings have different reporting period than their parent company. ESRS should take inspiration from IFRS S2 para B19 relief and apply it to all metrics with a new AR as follows: “An undertaking is allowed to measure its metrics using information for reporting periods that are different from its own reporting period when that information is obtained from entities with reporting periods that are different from the entity’s reporting period, on the condition that:</p> <p>a) the entity uses the most recent data available without undue cost or effort;</p> <p>b) the length of the reporting periods is the same; and</p> <p>c) the entity discloses the effect of significant events and changes in circumstances that occur between the reporting dates of the entities in the value chain and the entity”.</p>
ESRS 2	Paragraphs 5 (d), 40, AR 12	<p><b>[Future substance] Sustainable products and innovation:</b></p> <p>While opportunities are discussed in a general sense, they are not connected to particular products or services.</p> <p>Paragraph 40 requires a description of significant groups of products and/or services as well as where applicable and material, products and services under bans in certain markets and sustainability-related goals in terms of significant groups of products and services.</p> <p>AR 12 specifies that the undertaking shall consider whether its group of products and services are “connected with material actual impacts or material potential negative impacts” focusing on impacts rather than opportunities.</p>

		<p>R&amp;D and innovation policies related to sustainable products and services are not mentioned except to limit the disclosures on “the results of innovation” in paragraph 4 (d).</p> <p>No measurable targets linked to sustainable products portfolio development and action plans and resources to eco-design sustainable products and services are mentioned.</p> <p>It is recommended to prioritise sustainable products (including GHG emission avoidance where relevant) and innovation in the forthcoming sector-specific standards.</p>
<i>ESRS 2 IRO-2</i>	<i>Paragraph 56</i>	<p><b>[Substance]</b> <b>Data points from EU legislations not material:</b></p> <p>If SFDR PAI information is deemed not material by undertakings and is therefore not included in their sustainability reports, financial market participants should be authorised to treat this lack of data as a “not material” and should not be required to seek data in another manner.</p> <p>Accordingly, paragraph 56 should be modified as follows:</p> <p>“the undertaking shall include a list of the Disclosure Requirements complied with in preparing the sustainability statement, following the outcome of the materiality assessment (see ESRS 1 chapter 3), including the page numbers and/or paragraphs where the related disclosures are located in the sustainability statement. This may be presented as a content index. <b>This list shall also include the Disclosures Requirements mandatory for the financial market participants under the SFDR and EBA ESG Pillar 3, even if assessed as not material by the undertakings. In that case, the undertaking shall indicate “Not material”.</b></p> <p>These EU datapoints from SFDR and EBA ESG Pillar 3 are listed in ESRS 2 Appendix B and the ones that are assessed to be not material for the undertaking shall be presented in a specific table.”</p>
<i>ESRS 2</i>	<i>Appendix B</i>	<p><b>[Substance]</b> <b>Data points from EU legislations not material:</b></p> <p>If SFDR PAI information is deemed not material by undertakings and is therefore not included in their sustainability reports, financial market participants should be authorised to treat this lack of data as a “not material” and should not be required to seek data in another manner.</p> <p>Accordingly, a new sentence should be added as an introduction of ESRS 2 Appendix B as follows: <b>“for consistency reasons with other EU legislations, when assessed not material for the undertaking, these datapoints shall be disclosed in the sustainability statement in a table with the indication “Not material” for the undertaking”.</b></p>
<i>ESRS E1</i>		<p><b>[Substance]</b> <b>Transparency on materiality assessment for Climate issues:</b></p> <p>ANC acknowledges the high level of maturity and extreme urgency regarding climate change mitigation and adaptation matters, together with great expectations from investors and other stakeholders on these issues.</p>

		ANC would see merit in requiring to disclose an explanation of the conclusions of the materiality assessment for climate topic, if they are deemed non-material and all the related disclosure requirements are omitted. It is likely that this information would be requested anyway by investors, users and regulators, so companies would benefit from being transparent from the onset on this critical climate materiality issue.
ESRS E1-6	Paragraphs 54 and 55	<p><b>[Substance] GHG Intensity based on net revenue:</b></p> <p>This information is only required for sustainable finance as it allows financial institutions to consolidate their financed emissions on a common denominator whatever the sectors.</p> <p>Scope 1 and 2 GHG emissions are reliable data within the control of investee companies, whereas Scope 3 GHG emissions are estimated and can only be partially influenced by investees. The GHG intensity ratio per revenue is primarily meaningful for investors when assessing Scope 1 and 2 GHG emissions of their portfolios, as it reflects the reductions directly achieved by their investees. Scope 3 GHG emissions of their portfolio primarily reflect the sectoral distribution of their financial products.</p> <p>Therefore, it is recommended that GHG intensity per net revenue be distinguished between Scope 1 and 2 GHG emissions and total scope 1, 2 and 3 GHG emissions per net revenue.</p> <p>Paragraph 55 should be modified as follows: “the disclosure on GHG intensity required by paragraph 54 shall provide:</p> <p>a) the total Scope 1 and 2 GHG emissions in metric tonnes of CO<sub>2</sub>eq per net revenue; and</p> <p>b) the total GHG emissions in metric tonnes of CO<sub>2</sub>eq (required by paragraph 45 (d)) per net revenue.”</p>
ESRS E1-7	Paragraph 57 and AR 59	<p><b>[Substance] Double counting of GHG removals:</b></p> <p>The disclosure requirement on GHG removals may lead to double counting of removals if a carbon credit is generated from a removal activity within an undertaking’s own operations or value chain, and then sold to another entity. In such case, under ESRS E1, the reporting undertaking would count it in E1-7 paragraph 57 (a) and the other party that purchases the credit would count it as well under paragraph 57 (b).</p> <p>(d) include removals from operations that it owns or controls <b>or contributes to and that have not been sold to another party through carbon credits;</b></p>
ESRS E1-6	AR 44 (e)	<p><b>[Substance] Scope 1 GHG emissions based on EU ETS calculation rules:</b></p> <p>Scope 1 GHG emissions under EU ETS are usually validated after the approval -of the management report. In addition, the rule under EU ETS related to « transferred CO<sub>2</sub> » outside the EU scheme shall not be applied to avoid boundaries issues. It is proposed to allow the reporting under GHG Protocol and to adapt AR44 (e) as follows: “for activities reporting under the EU ETS, report on Scope 1 emissions following <b>the GHG</b></p>

		<p>Protocol or the EU ETS methodology (excluding the rule related to transferred CO2 outside EU scheme). The EU ETS methodology may also be applied to activities in geographies and sectors that are not covered by the EU ETS;</p>
ESRS E1-6	AR 47 (g)	<p><b>[Substance] Percentage of primary data by Scope 3 category:</b></p> <p>A new data point has been introduced, requiring the undertaking to disclose the extent to which Scope 3 GHG emissions use inputs from the value chain. While this addition aligns with the ISSB, it is not needed to disclose the percentage of Scope 3 GHG emissions using primary data for <u>each category</u> (not required by ISSB).</p> <p>AR 47 (g) should be modified as follows: “the extent to which the undertaking’s Scope 3 GHG emissions are measured using inputs from specific activities within the entity’s value chain, and <del>for each significant Scope 3-GHG category</del> disclose the percentage of scope 3 emissions calculated using primary data obtained from suppliers or other value chain partners”.</p>
ESRS E4 / ESRS 2 IRO-1	AR 8 (c)	<p><b>[Substance] Assessment of impacts and dependencies on biodiversity and ecosystems:</b></p> <p>When evaluating actual or potential impacts and dependencies on biodiversity and ecosystem-related for relevant sites, it is suggested to consider the timeframe of these impacts.</p> <p>AR 8 (c) could be reframed as follows: “indicating the size, scale, frequency of occurrence, <del>and speed</del> <b>and expected timeframe</b> of the impacts on biodiversity and ecosystems taking into consideration the disclosures under paragraph 16”.</p>
ESRS S1-6 and S1-8	Paragraph 50 (b) and 60 and 63	<p><b>[Substance] Methodology for counting employees:</b></p> <p>The total number of permanent, temporary and non-guaranteed hours employees can be counted either by headcount or by full time equivalent (FTE) which raises an important comparability issue. ANC would strongly support the FTE methodology in S1-6.</p> <p>No definitions or guidelines on how to determine the total number of employees have been provided (headcounts at closing date or as the monthly average for instance?). To improve comparability, guidelines should be developed to outline the prescribed methodology for determining the total number of undertaking’s employees. These guidelines could be provided by the EC through Q&amp;A sessions or official guidelines edited by the EC later on.</p> <p>When the number of employees is used as denominator in disclosure requirements such as S1-8 to determine the collective bargaining and the social dialogue coverage, it should be specified which methodology applies (headcount or FTE) for comparability reasons.</p>

ESRS S1-6	Paragraph 50 (b) ii), iii)	<p><b>[Substance] Temporary and non-guaranteed hours employees:</b></p> <p>The level of detail requested regarding temporary employees and non-guaranteed hours employees is highly granular. In order to reduce the number of data points, it may be suggested to consolidate the information required on "temporary employees" and "non-guaranteed hours employees" into a singular data point addressing precariousness.</p> <p>Hence,</p> <p><del>§50 b) ii) temporary employees, and breakdowns by gender; and</del></p> <p><del>§50 b) iii) non-guaranteed hours employees, and breakdown by gender</del></p> <p>Could be replaced by:</p> <p><del>§50 b) ii) temporary and non-guaranteed hours employees, and breakdown by gender</del></p> <p>Moreover, a guidance on definitions of temporary and non-guaranteed hours employees could be helpful for undertakings and more specifically those who operate in several country.</p>
ESRS S1-8	Paragraph 63 (a)	<p><b>[Substance] Social dialogue at the establishment level:</b></p> <p>The sustainability statement may not be the appropriate platform to provide detailed information on the representation of employees by workers' representatives at an establishment level. Moreover, the formulation is misleading since it is required to disclose at a country level the percentage of employees covered by social dialogue at an establishment level. The mention of the establishment level should be removed from the main body to be maintained only in the AR69.</p> <p>§63(a) the global percentage of employees covered <del>at the establishment level</del> by workers' representatives, reported at the country level for each EEA country in which the undertaking has significant employment; and</p>
ESRS S1-15	Paragraphs 94	<p><b>[Substance] Family leave:</b></p> <p>Paragraph 93 (a) requires to disclose "the percentage of employees entitled to take family-related leave" and paragraph 94 states "If all of the undertaking's employees are entitled to family-related leave through social policy and/or collective bargaining agreements, it is sufficient to disclose this in order to meet the requirement of paragraph 93a."</p> <p>We suggest to remove §94 that does not bring any additional value to S1-15 since the undertaking can disclose 100% to §93a.</p>
ESRS S2-2 ESRS S3-2	ESRS S2-2 paragraph 22 ESRS S3-2 paragraph 20	<p><b>[Substance] Detailed explanations on process for engaging with stakeholders made optional:</b></p>

ESRS S4-2	ESRS S4-2 paragraph 20	<p>The first sentence requires the description of the process for engaging with the 3 categories of stakeholders which is the core of this disclosure requirement. In addition, this requirement is already partially covered by ESRS 2 SBM 2, paragraph 43 to 45 . The following detailed explanations in a, b, c and d should be made voluntary and not as separate datapoints to reduce the granularity.</p> <p>“The undertaking shall disclose whether and how the perspectives of consumers and/or end-users inform its decisions or activities aimed at managing actual and potential impacts on consumers and/or end-users. This shall <b>may</b> include, where relevant, an explanation of: (a) whether engagement occurs with affected consumers and/or end-users or their legitimate representatives directly, or with credible proxies that have insight into their situation; (b) the stage(s) at which engagement occurs, the type of engagement, and the frequency of the engagement; (c) the function and the most senior role within the undertaking that has operational responsibility for ensuring this engagement happens and that the results inform the undertaking’s approach; and (d) where applicable, how the undertaking assesses the effectiveness of its engagement with consumers and/or end-users, and, where relevant, any agreements or outcomes that result from such engagement.”</p>
ESRS S2 ESRS S3 ESRS S4	<p>Paragraph 9</p> <p>Paragraph 7</p> <p>Paragraph 8</p>	<p><b>[Substance]</b> <b>Definition of key stakeholders</b></p> <p>This sentence is fully redundant with SBM-2 (interests... are taken into account) and could be deleted.</p> <p>The second one states that “value chain workers/affected communities/consumers are a key stakeholder group”. This is in contradiction with ESRS 2 §45 a) i) that let the definition of “key stakeholders” undefined which means entity specific or subject to relevance. .</p> <p>At the end, both sentences are useless and <b>the whole paragraph should be deleted in the 3 standards.</b> In case the EC considers that value chain workers are always a relevant stakeholder group, it should be added in ESRS 2 SBM 2, not in S2,3 and 4.</p> <p>If this deletion is not taken into account, the first sentence is incomplete in S2 §9 and “are taken into account” should be added.</p>
ESRS S2-2 ESRS S3-2 ESRS S4-2	<p>ESRS S2 paragraph 33</p> <p>ESRS S3 paragraph 32</p> <p>ESRS S4 paragraph 32</p>	<p><b>[Substance]</b> <b>Process to identify actions</b></p> <p>Paragraphs 33 of ESRS S2, 32 of ESRS S3 and 32 of ESRS S4 on processes to identify and implement actions seem to be somehow redundant with the paragraphs just before and after it and does not bring a lot of added value for the users. <b>It is suggested deleting it</b> or turning it into a “may” describe.</p>
ESRS G1-6	Paragraph 33 (a)	<p><b>[Substance]</b> <b>Late payment:</b></p>

		<p>The data point concerning the average time to pay invoices lacks full relevance, as the calculation method is undefined and potentially impractical even if the possibility to calculate it on the basis of a representative sampling has been introduced.</p> <p>Instead, it could be more relevant to disclose the payment practices policy as mandated in ESRS G1-2, paragraph 13. This disclosure could be accompanied by a summary of the results obtained from any existing internal or external audit/review based on a sample of payment transactions conducted between the delivery date and payment date. This approach would align with ISO 20400:2017 on sustainable procurement.</p>
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#### 4. Specific comments on Annex II

Defined term	Comment
Climate change mitigation	<p>This definition is linked to many disclosure requirements imposed on companies (e.g. actions, policies). According to the wording of the CSRD, the definition should include the notion of compatibility without further requirements. Therefore, the definition should be modified as follows:</p> <p>“The process of reducing GHG emissions in order to reach <b>compatibility</b> with the limiting of global warming and holding the increase in the global average temperature to 1.5°C above pre-industrial levels, in line with the Paris Agreement.”</p>
Corruption	<p>The definition of corruption does not appear to be completely consistent with Article 4 of Directive 2017/1371, which concerns the fight against fraud that harms the financial interests of the European Union, or with Article 2 of Council Decision 2003/568/JHA on combatting corruption in the private sector. Unless there is an explanation for this discrepancy, the definition should be updated in line with European Union legislations.</p>
Emission reduction	<p>The spelling mistake in the first sentence should be corrected as follows: “<b>d</b>ecrease in the undertaking’s Scope 1, 2, 3 or total GHG emissions at the end of the reporting period”. The last sentence appears to be incomplete and could be revised as follows: “removals and avoided emissions are not counted as emission reductions <b>fer</b>”.</p>
Financial effects	<p>It is important to clarify that financial materiality pertains to “material financial effects” (whether current or reasonably expected), as stated in ESRS 1 paragraph 49, which refers specifically to “material financial effects”. However, the term “material” is not included in the definition provided in the glossary.</p> <p>To address this, the term “financial effects” should be updated to “<b>material</b> financial effects”. And the definition of financial effects should be corrected to read as follows: “effects from <b>material</b> risks and opportunities that influence the undertaking’s cash flow, financial position, and financial performance over the short, medium or long term”.</p>

GHG removal and storage	<p>The definition of GHG removal and storage should be corrected as follows to be more accurate:  “(anthropogenic) removals refer to the withdrawal of <del>GHGs</del> CO2 from the atmosphere as a result of deliberate human activities. These include enhancing biological <del>sinks</del> anthropogenic sinks of CO2 and using chemical engineering to achieve long-term removal and storage. Carbon capture and storage (CCS) from industrial and energy-related sources, which alone does not remove CO2 <del>in</del> from the atmosphere, can <del>reduce</del> remove atmospheric CO2 if it is combined with bioenergy production (Bioenergy with Carbon Capture &amp; Storage - BECCS).  Removals can be subject to reversals, which are any movement of stored GHG out of the intended storage that re-enters the <del>surface and</del> atmosphere (...).”</p>
Material information	<p>A definition of “material information” should be added in the glossary based on paragraph 34 of ESRS 1. Presently, the glossary contains definitions for materiality, double materiality, financial materiality, and impact materiality, but it lacks a specific definition that pertains to the concept of material information. The following definition could be added: “<del>an</del> information is material if the undertaking assesses it to be relevant from one or more of the following perspectives in the sustainability statement:  (a) the significance of the information in relation to the matter it purports to depict or explain; and  (b) the capacity of such information to meet the users’ decision-making needs, including but not limited to the needs of primary users of general-purpose financial reporting described in paragraph 48 and/or the needs of users whose principal interest is in information about the undertaking’s impacts”.</p>
Net-zero targets	<p>According to the CSRD, the transition plan aims to make the strategy and model compatible, not "aligned", with a warming limit of 1.5°C. The definition should avoid any use of the terms "aligned with" or "in line with" (there is no such "line"). The definition should therefore be modified as follows:  “Setting a net-zero target at the level of an undertaking <del>aligned-compatible</del> with meeting societal climate goals means (1) achieving a scale of value chain emissions reductions <del>consistent compatible</del> with the depth of abatement at the point of reaching global net-zero in 1.5°C pathways, and (2) neutralizing the impact of any residual emissions (after approximately 90-95% of GHG emission reduction with the possibility for justified sectoral variations in line with a recognized sectoral pathway) by permanently removing an equivalent volume of CO2.”</p>
Water consumption	<p>The definition of water consumption should be corrected as follows to specify that the disclosure requirement on water consumption includes water consumption from mega basins among other sources: “the amount of water <del>withdrawn from</del> groundwater, surface water, water networks and mega basins into the boundaries of the undertaking (or facility) and not discharged back to the water environment or a third party over the course of the reporting period”.</p>

## Appendix

### Specific comments on Annex I related to clarification and wording

Standard	Paragraph or AR number or appendix	Comment
ESRS 1 (1.3)	Paragraph 18	<p><b>[Clarification] Applicability of voluntary disclosures:</b></p> <p>It should be clarified that the materiality of voluntary disclosures should be assessed. Thus, it should be explicitly stated that voluntary disclosures should only be considered for matters that are assessed to be material, and that undertakings should not disclose voluntary information on matters that are assessed to be not material.</p> <p>Paragraph 18 should be modified as follows: “(a) “shall disclose” – indicates that the provision is prescribed by a Disclosure Requirement or datapoint; (b) “may disclose” – indicates voluntary disclosure of material information to encourage good practice”.</p>
ESRS 1 (3.2)	Paragraph 25	<p><b>[Clarification] Double materiality based on gross impacts, risks and opportunities (and no netting):</b></p> <p>It should be clarified that the materiality assessment refers to the assessment of impacts, risks and opportunities on a gross basis rather than on a net basis. Although it is clearly written in the indicators that shall be communicated, it is not explicitly stated in the materiality assessment.</p> <p>Paragraph 25 could be modified as follows: “performing a materiality assessment (see sections 3.4 Impact materiality and 3.5 Financial materiality) is necessary for the undertaking to identify the material gross impacts, risks and opportunities to be reported. Unless specified otherwise, the terms “impacts, risks and opportunities” are used throughout ESRS to refer to the gross impacts, risks and opportunities.”</p> <p>A new paragraph could be added in the basis for conclusions: “the materiality assessment is applicable to gross impacts, risks and opportunities before any mitigation and does not consider net impacts, risks and opportunities. Its purpose is to identify the sustainability matters to be reported on for transparency (i.e., sustainability reporting) and to be managed in priority for resilience (i.e., sustainability management). The sustainability reporting aims to demonstrate the journey of the undertaking from its gross impacts, risks and opportunities (i.e., to be disclosed under IRO-1 and SBM-3 in relation to the materiality assessment process) and how it manages them through policies, actions, resources and metrics to achieve net impacts, risks and opportunities (i.e., to be disclosed under SBM-3 in relation to the resilience).”</p>

ESRS 1 (3.2)	Paragraph 34	<b>[Clarification] Location of paragraph 34:</b> Paragraph 34 may be repositioned before paragraph 32, as the latter serves as an overarching principle regarding the assessment of material information, whether policies and actions (Paragraph 32) or metrics (Paragraph 33).
ESRS 1 (7.7)	Paragraphs 104, 106 and 107	<b>[Clarification] Classified or sensitive information:</b> ANC supports the new provision, specifying that the undertaking is not required to disclose classified or sensitive information, even if such information is considered material. Nevertheless, ANC would appreciate clarification on the legal and practical scope of this provision, i.e., the legal definition of classified information and sensitive information in relation to the European Union legislations, and the practical implications to ensure the effective implementation of such provision.
ESRS 1	Paragraph 118	<b>[Wording] Reference to EU legislation</b> Paragraph 118 e) refers to Article 9 of the Prospectus Regulation which is <b>Regulation (EU) 2017/1129</b> and not 1128
ESRS 1 (10.1)	Paragraph 130	<b>[Clarification] Transitional provision related to entity-specific disclosures:</b> It should be clarified that the transitional provisions related to entity-specific disclosures are voluntary. Some companies have been confused by public statements suggesting that historical information completeness should be included. Paragraph 130 should be modified as follows: “when defining its entity-specific disclosures, the undertaking may adopt transitional measures for their preparation in the first three annual sustainability statements under which it <del>shall</del> <b>may</b> as a priority”.
ESRS 1 (10.2)	Paragraph 132 (b)	<b>[Wording] Transitional provision related to value chain:</b> It should be clarified that the transition provision related to value chain information for metrics applies only to metrics from EU legislations listed in ESRS 2 Appendix B and does not apply to all metrics from other EU legislations. Paragraph 132 (b) should be modified as follows: “(b) when disclosing metrics, the undertaking is not required to include value chain information, except for material datapoints derived from <del>other</del> EU legislations, as listed in ESRS 2 Appendix B”.
All	Several §	<b>[Clarification] Voluntary disclosures to be moved to AR:</b> Certain datapoints that have been turned from “shall” to “may disclose” could be moved to AR to simplify the reading, to be more consistent with the rest of the ESRS.
ESRS 2 BP2	Paragraph 12	<b>[Clarification] Forward looking information</b>

		<p>ANC supports the new provision allowing undertakings to indicate that forward-looking information is uncertain. The proposed wording is however too vague and could result in diverging practices and statements. ANC recommends adding the following more prescriptive wording which could serve as basis for the forward-looking caveat statement:</p> <p>“When disclosing forward-looking information, the undertaking may indicate that it considers such information to be <b>uncertain and that the impacts, risks and opportunities described can be affected by important factors that could cause the actual results to differ materially.</b>”</p>
ESRS 2 BP-2	Paragraph 17	<p><b>[Clarification] Use of phase-in provisions for undertakings with less than 750 employees:</b></p> <p>Paragraph 17 should provide further clarification on the usage of phase-in provisions by undertakings with less than 750 employees as per Appendix C of ESRS 1. It should specify that the information to be disclosed, as outlined in paragraphs 17 b), c), d), and e), is entity-specific, and that the ESRS can be considered as best practice but are not mandatory.</p> <p>Paragraph 17 should be modified as follows: “(...) in addition, if one or more of these topics has been assessed to be material, the undertaking shall <b>provide entity-specific information, for each material topic, as follows: (...)</b>”.</p>
ESRS 2 GOV-1	Paragraph 21 (d)	<p><b>[Clarification] Women on boards:</b></p> <p>When calculating the board's gender diversity, board’s members who are not appointed by the undertaking are excluded from the denominator in France.</p> <p>Paragraph 21 (d) should be modified as follows: “percentage by gender and other aspects of diversity that the undertaking considers. The board's gender diversity<sup>11</sup> shall be calculated as an average ratio of female to male board members <b>or in line with the national framework in force</b>; and”.</p>
ESRS 2 GOV 2	Paragraph 24 (b)	<p><b>[Clarification] : Result or process of the analysis of sensitivity</b></p> <p>This DR requires disclosure of “how the administrative, management and supervisory bodies consider impacts, risks and opportunities (IRO) when overseeing the undertaking’s strategy, its decisions on major transactions and on risk management policies, including any assessment of trade-offs and analysis of sensitivity to uncertainty that may be required”. This DR is unclear as to whether it requires a description of the processes or the results of the analyses which could imply to reveal trade secrets and strategic information. The provision should either be clarified or deleted.</p>
ESRS 2 MDR-M	Paragraphs 76 (a) and (b)	<p><b>[Clarification] Metrics assumptions and external validation (MDR-M):</b></p>

		<p>New data points have been introduced regarding the methodologies, significant assumptions, and external validation of metrics. Assumptions and methodologies should only be required for major sensitive to variations metrics. The existence of a complementary external validation of metrics should only be disclosed when it is the case.</p> <p>Paragraph 76 (a) and (b) should be modified as follows:</p> <p>“For each metric, the undertaking shall:</p> <p>a) disclose the methodologies and significant assumptions behind the sensitive to variations metrics;</p> <p>b) <del>disclose whether when</del> the measurement of a metric is validated by an external body other than the assurance provider <del>and, if so, disclose</del> which body <del>did it</del>”.</p>
ESRS 2	Appendix C	<p><b>[Clarification] Applicability of Appendix C in ESRS 2:</b></p> <p>ANC acknowledges that ESRS 2 is mandatory for all undertakings irrespective of the outcome of their materiality assessment in accordance with paragraph 29 of ESRS 1. In order to clarify, it is recommended to clearly indicate that the requirements listed in Appendix C, which refer to the requirements in topical ESRS that are applicable in conjunction with ESRS 2, are only applicable based on the undertaking’s materiality assessment.</p> <p>The introduction of Appendix C should be modified as follows: “this appendix is an integral part of ESRS 2 and has the same authority as the other parts of the standard. The following table outlines the requirements in topical ESRS that need to be taken into account <b>in accordance with paragraph 2</b> when reporting against the Disclosure Requirements in ESRS 2 (<b>IRO-1 related disclosures are mandatory, other disclosures are subject to materiality</b>).”</p>
ESRS E1-2	Paragraph 26	<p><b>[Clarification] Reasons for not having adopted such policies:</b></p> <p>A new data point has been introduced, requiring the undertaking to disclose if it has not adopted policies related to climate change mitigation or adaptation, along with the reasons for not having adopted such policies and an optional provision to disclose the timeframe in which the undertaking aims to adopt such policies. However, this content duplicates paragraph 61 in ESRS 2. It is recommended that this paragraph 26 be removed for simplification purposes.</p>
ESRS E1-4	Paragraph 35 (e)	<p><b>[Clarification] Targets externally assured:</b></p> <p>For alignment purposes with IFRS S2, a new data point has been introduced, requiring the undertaking to disclose whether the GHG emission reduction targets have been externally assured. This provision seems</p>

		<p>redundant since the CSRD already mandates the audit of the content of the sustainability statements including whether they have been defined in accordance with ESRS provisions.</p> <p>Paragraph 35 (e) should be modified as follows:</p> <p>“the undertaking shall state whether the GHG emission reduction targets are science-based and compatible with limiting global warming to 1.5°C. The undertaking shall state which framework <b>and methodology</b> has been used to determine these targets including <b>whether they are derived using a sectoral decarbonisation pathway and what</b> the underlying climate and policy scenarios <b>are and whether they have been externally assured</b>”.</p>
<i>ESRS E1 / ESRS 2 IRO-1</i>	AR 10 (b)	<p><b>[Clarification] Assessment of impacts on climate change in line with the CSRD:</b></p> <p>AR 10 (b) should be corrected as follows: “assessed the actual and potential impacts on climate change (i.e., its total GHG emissions) as material in line with the CSRD <b>and SFDR</b> requirements.”</p>
<i>ESRS E1-5</i>	AR 33 (j)	<p><b>[Clarification] Link between renewable energy and market-based emissions:</b></p> <p>The requirements related to the purchase of green electricity could have been developed under E1-5 on energy or E1-6 on GHG emissions. Linking both may help clarifying the subject.</p> <p>(j) adopt a conservative approach when splitting the electricity, steam, heat or cooling between renewable and non-renewable sources based on the approach applied to calculate market-based Scope 2 GHG emissions (<b>refer to AR46 (e)</b>). The undertaking shall only consider these energy consumptions as deriving from renewable sources if the origin of the purchased energy is clearly defined in the contractual arrangements with its suppliers (renewable power purchasing agreement, standardised green electricity tariff, market instruments like Guarantee of Origin from renewable sources in Europe<sup>39</sup> or similar instruments like Renewable Energy Certificates in the US and Canada, etc.).</p>
<i>ESRS E1-6</i>	Paragraph 52	<p><b>[Wording] Definition of significant emissions</b></p> <p>Significant scope 3 emissions are defined in AR47 d) by reference to GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard (Version 2011, p. 61 and 65-68). No need for another definition in §52 that may be misleading. Delete the text in parenthesis.</p> <p>52. The disclosure of gross Scope 3 GHG emissions required by paragraph 45 (c) shall include GHG emissions in metric tonnes of CO<sub>2</sub>eq from each significant Scope 3 <b>category (i.e. each Scope 3 category that is a priority for the undertaking)</b>.</p>
<i>ESRS E1-6</i>	AR 46 (d) and (e)	<p><b>[Wording] Same requirements on contractual instruments for market-based emissions:</b></p>

		For alignment with ISSB, AR46 (d) and (e) are requiring to disclose the share and the types of contractual instruments. This sentence is redundant and should be deleted in AR46 (e) and kept in AR46 (d).
ESRS E2-3	Paragraph 24	<b>[Clarification] Ecological thresholds for pollution defined by local authorities:</b> Targets on pollution in Europe are usually defined by local authorities. Therefore, it should be reflected that “ecological thresholds” are defined by local authorities and correspond to the emission limit values that are to be discussed under the Industrial Emissions Directive.
ESRS E2-4	Paragraph 28	<b>[Wording] Pollution of air, water and soil:</b> Paragraph 28 requires the consolidated amount of each pollutant listed in Annex II of the E-PRTR Regulation. However, it is essential to state more explicitly that pollutants should not be aggregated as a whole but by type of pollutants, as the aggregation of pollutants from different nature, such as those pertaining to water, air, or soil, is not meaningful. Paragraph 28 should be modified as follows: “The undertaking shall disclose the <b>consolidated</b> amounts of: (a) each <b>consolidated</b> pollutant listed in Annex II of the E-PRTR Regulation (European Pollutant Release and Transfer Register) emitted to air, water and soil”.
ESRS E2 / ESRS 2 IRO-1	AR 1 to AR 9	<b>[Clarification] Exposure towards substances of concern:</b> The materiality assessment of substances of concern should be explicitly tied to the management of exposure to these substances, rather than solely their use. Overall, the current reporting requirements lack sufficient reference to the concept of exposure, which is vital for effective pollution management. There is an excessive emphasis on the LEAP approach, which is more applicable to Biodiversity and Water issues. The heart of pollution risk assessment lies in factoring severity with exposure and vulnerability, which is not adequately reflected in ESRS E2. AR 6 could be completed as follows: “ <b>the undertaking shall consider the management of exposure to the substances of concern and substances of very high concern in addition to their use, including by assessing severity factored with exposure and vulnerability</b> ”.
ESRS E5-3	AR 15	<b>[Clarification] Methodological references on ecological thresholds related to resources:</b> The reporting of ecological thresholds for resources is still in an early stage of development and poses challenges in its practical application, even though it is not currently mandatory. It is suggested to consider incorporating additional references into AR as follows: “if the undertaking refers to ecological thresholds to set targets, it may refer to the guidance provided by the Science-Based Targets

		Initiative for Nature (SBTN) in its interim guidance (Initial Guidance for Business, September 2020), <b>ISO TC 323, the Platform for Accelerating the Circular Economy (PACE)</b> or any other guidance with a scientifically acknowledged methodology (...)".
ESRS S1	n/a	<b>[Clarification] Scope of own workforce:</b> The scope of own workforce is problematic. In France, as in Europe, there are many legal forms of self-employed persons that can work inside or outside the workplace of the undertaking, on a regular or on occasional basis and only for the undertaking or for several undertakings at the same time. Examples provided for self-employed persons in AR3 (a) and people employed by a third party in AR 3 (b) are misleading and should be deleted. We recommend to provide more contextualised examples in implementation guidance.
ESRS S1-8	Paragraph 60 (b)	<b>[Wording] Number of Collective bargaining agreements:</b> The information about whether the undertaking has one or more collective bargaining agreements may not be relevant drafted like it is. The paragraph 60 (b) should be rephrased: §60 (b) in the European Economic Area, <del>whether it has one or more collective bargaining agreements and, if so,</del> the overall percentage of its employees covered by <del>such collective bargaining</del> agreement(s) and <del>the number of such agreements</del> for each country in which it has significant employment (defined as at least 50 employees by head count representing at least 10% of its total number of employees);
ESRS S1-10	Paragraph 70	<b>[Wording] Countries where employees are paid an adequate wage:</b> The list of countries where employees are not paid an adequate wage and their proportion is of interest for users for major countries of employment. Hence, we suggest to rephrase the paragraph as: §70 If not all its employees are paid an adequate wage in line with applicable benchmarks, the undertaking shall disclose <del>the countries where employees earn below the applicable adequate wage benchmark and</del> the percentage of employees <del>per country</del> that earn below the applicable adequate wage benchmark <del>for each of these countries</del> . This breakdown per country applies to countries in which the undertaking has significant employment, defined as at least 50 employees by head count representing at least 10% of its total number of employees.
ESRS S1-11	Paragraph 75	<b>[Wording] Countries where employees are not covered by social protection:</b>

		<p>The list of major countries where employees are not covered by social protection and their proportion is of interest for users. The types of employees are a secondary priority. Therefore, we suggest to rephrase the paragraph as:</p> <p>§ 75. If not all of its employees are covered by social protection in accordance with paragraph 72, the undertaking shall <del>in-addition</del> disclose the <b>percentage</b> of employees <b>per country</b> where employees do not have social protection with regard to one or more of the types of events listed in paragraph 72. <del>And—This breakdown per country applies to countries in which the undertaking has significant employment, defined as at least 50 employees by head count representing at least 10% of its total number of employees.</del> For each of those countries, the types of employees who do not have social protection with regard to each applicable major life event <b>may be disclosed</b>.</p>
<i>ESRS S1-17</i>	Paragraph 100 and Annex II	<p><b>[Wording]</b> <b>Definition of incidents of discrimination:</b> S1-17 §100 requires: “The undertaking shall disclose the number of work-related incidents and/or complaints and severe human rights impacts within its own workforce, and any related material fines, sanctions or compensation for the reporting period” when Annex II defines “Confirmed incidents of discrimination”.</p> <p>We recommend to refer to “<b>confirmed</b> incidents of discrimination” in S1-17 or at least to adjust the Annex II definition for consistency reasons.</p>
<i>ESRS S1</i>	Appendix A.1	<p><b>[Wording]</b> Appendix A.1 provides a non-exhaustive list of <b>the</b> factors that may <b>to</b> be considered by the undertaking when complying with ESRS 2 SBM-2 and ESRS 2 SBM-3.</p>
<i>ESRS S2, S3, S4</i>	Table of contents	<p><b>[Wording]</b> In the table of contents of ESRS S2, S3, S4, the title of the DR S2-4 is different from the name of the DR in the main body, which is different from the name of the AR. The same goes for ESRS S3 and ESRS S4.</p>
<i>ESRS S2-4</i>	AR 30	<p><b>[Wording]</b> The name of the AR of S2-4 is different from the name of the DR S2-4. DR S2-4: the verb “<b>manage</b>” is used in the DR while the verb “<b>mitigate</b>” is used in the AR The same goes for the ESRS S3: the name of the AR S3-4 is different from the name of the DR S3-4. The same goes for the ESRS S4: the name of the AR S4-4 is different from the name of the DR S4-4.</p>
<i>ESRS G1-5</i>	§ 29(b)i /AR 10	<p><b>[Wording]</b></p>

		<p>Reporting on in-kind political contributions <b>made indirectly is problematic</b>: businesses do not necessarily endorse or even know about political contributions made by organisations to which they have made a contribution – <b><u>Therefore we suggest amending as follows:</u></b></p> <p>AR 10. “Indirect political contribution’ refers to those political contributions made through an intermediary organisation such as a lobbyist or charity, or support given to an organisation such as a think tank or trade association linked to or supporting particular political parties or causes...” :</p> <ul style="list-style-type: none"><li>- “when the contribution is made by the intermediary organisation in the name of the undertaking”</li></ul> <p>OR</p> <ul style="list-style-type: none"><li>- “when the undertaking is represented on the management body of the intermediary organisation” (ie is able to influence the positions/decisions taken by the organisation).</li></ul>
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