Consultation Response

EFRAG ESRS for certain non-EU Undertakings (ESRS-40a) Exposure Draft

30 October 2026

No.	Question	Response
PART 2, TOPIC 1: Revised ESRS as basis for ESRS-40a ED; approach to deleting datapoints or reformulating paragraphs as required by CSRD		
21.	Do you agree with the way EFRAG has implemented the provisions of the Accounting Directive (Articles 40a–40d), particularly in deleting RORD-related disclosures and financial effects, as well as maintaining financial information that provides useful contextual information to understand impacts and how they are managed?* ( ) Yes. ( ) No.	Yes
24.	i. If yes, please specify why*	AFME members generally welcome the impact materiality focus of ESRS-40a and the removal of datapoints covering RORD. It is important that the ESRS-40a works alongside reporting standards based upon ISSB standards, minimising duplication for firms reporting under both frameworks.

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		However, the requirement to include financial information that provides useful contextual information to understand impacts and how they are managed, is likely to be confusing for reporting firms and assurers as well as readers/users of the report in practice (as they will not be expecting the report to cover financial matters). We recommend EFRAG clarify that contextual information is required only when necessary to understand sustainability information reported under ESRS-40a. Undertakings should also retain discretion as to the nature and the level of contextual information provided based on what is relevant to understanding of material impacts and the reporting boundary applied. Contextual information that does not contribute to understanding of the sustainability statement should not be required. EFRAG should provide flexibility in the ESRS-40a E1-1 requirements for reporters to disclose transition plans prepared under global standards and frameworks. As this requirement has been copied from the ESRS, it still references the EU's objective of climate neutrality by 2050 and includes additional disclosure requirements to disclose locked-in GHG emissions. This creates additional obligations on the parent company which may have a transition plan in line with another jurisdictional transition planning framework but may not currently disclose this data. While we appreciate that the EU climate neutrality objective corresponds to the reference in CSRD Art. 29a(2)(a)(iii), the additional datapoints on locked-in GHG emissions are not required by CSRD. We recommend that this requirement is re-drafted to remove paragraphs E1-1 12(b), (c), (d) and (e), while paragraph 12(a) should be made more flexible to incentivise reporters to disclose transition plans prepared under other frameworks.
PART 2, TOPIC 2 – Mixed approach: option to limit the ESRS-40a sustainability report transparency to EU-related impacts only (paras 28–30 of ESRS-40a 1 ED)		
25.	Do you support the inclusion of a 'mixed approach' option in the ESRS-40a ED, which allows limiting disclosures to EU-related impacts only for some topics?* ( ) Yes. ( ) No.	Yes
26.	i. Please select from this list of reasons (choose one or more):*	Select the following three: • it captures impacts that have a link with the EU;

	• it captures impacts that have a link with the EU; • it provides a proportionate approach to third-country groups without imposing excessive costs connected to global reporting for all topics; • it provides relevant information thanks to the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED); • it does not impair comparability and auditability of sustainability reporting; • other reasons (please specify).	• it provides a proportionate approach to third-country groups without imposing excessive costs connected to global reporting for all topics; • it does not impair comparability and auditability of sustainability reporting;
28	Please explain your reasoning behind selecting [**from the options of reasons in Q26 above**] and, if applicable, provide suggested improvements.	AFME members welcome the flexibility of the principles-based mixed approach, which allows third country undertakings subject to Article 40a to report on non-climate impacts by reference to EU-related impacts only. The mixed approach appropriately balances transparency, comparability and a level playing field with the need for a proportionate framework for third-country groups. By focusing non-climate reporting on material impacts connected to the EU, it recognises the basis on which Article 40a applies while preserving relevant information for EU users. This tailored reporting perimeter should not be understood as weakening the substantive reporting objective, provided undertakings clearly disclose the boundary applied, the basis for identifying EU-related impacts and any material methodological judgements. While the mixed approach may result in differences in scope between EU and non-EU headquartered groups for CSRD reporting, we consider these justified by proportionality and the need for an appropriate framework for third-country groups. Nor should the mixed approach impair comparability or auditability, where undertakings clearly disclose whether they rely on this option, the reporting boundary applied and the basis on which EU-

		related impacts were identified. We expect reporting of material EU impacts under the mixed approach to be more relevant to EU users, who are more likely to have a contractual or investment relationship with the EU business / subsidiary of an internationally headquartered group. Additionally, we recommend that: • any associated transparency requirements remain proportionate and do not require extensive additional disclosure or reconciliation of alternative reporting perimeters; • the standards make clear that firms have flexibility in how and at what level they assess the materiality of EU-related impacts for CSRD reporting (including through either a top-down group-level assessment or a bottom-up assessment focused on EU operations); • paragraph 28, which is currently ambiguous, is sharpened, particularly for financial institutions. Please see our suggested language in question 32 below.
31.	Definition of EU-related impacts. Paragraph 28(a) of the ESRS-40a 1 ED refers to EU-related impacts (customer component) as: 'impacts that arise from products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties (downstream value chain actors such as distributors and traders)'. Do you agree with this formulation, which remains at the principles-based level?* ( ) Yes. ( ) No.	No
32.	Please recommend alternative factors to be considered by the	**Paragraph 28**

	undertaking that could be included in the Standard.*	**Paragraph 28(a)** The current reference to products and services that "can be reasonably assumed to be sold or provided in the EU market" introduces significant uncertainty, particularly for global financial institutions whose products and services may be distributed across multiple jurisdictions simultaneously, through complex and lengthy distribution chains. We recommend tightening this limb so that entities may limit reported information to products and services that have actually been sold or provided in the EU market through the undertaking's EU-incorporated subsidiaries or branches. The test should not turn on where proceeds of financial products and services are ultimately used. **Paragraph 28(b)** "Impacts of the undertaking's activities that are located in the European Union" should mean impacts arising from the own operations and direct upstream value chain of the undertaking's EU-based or EU-incorporated subsidiaries and branches, avoiding an impracticable test based on central decisions, shared services or global functions supporting multiple regions. Where a group already has subsidiaries reporting under CSRD, the assessment of EU-related impacts under ESRS 40a should be framed as an incremental exercise where the reporting group need only identify material impacts arising from activities not already captured by subsidiary-level CSRD reporting, rather than requiring a re-assessment. **Paragraph 29 and AR 6 (Meaningful Identification of Impacts)** Paragraph 29 and AR 6 cannot be applied practically by preparers and should be removed or re-formulated as implementation guidance. For example, products and services are often designed market-agnostic and client-agnostic. Absence of EU-specific/targeted design of products or services should not preclude the meaningful identification of EU-related impacts. Instead, "meaningful identification" may form part of illustrative implementation guidance confirming that undertakings may use internal methodologies, estimates and assumptions to identify and estimate EU-related impacts in a manner aligned with how they manage their business and value chains.
33.	For preparers, do you intend to apply the mixed approach?* ( ) Yes. ( ) No.	Yes

34.	i. To which topic/sub-topic or group of impacts do you intend to apply the mixed approach?	AFME members are overall in favour of the mixed approach – but will ultimately make this decision and the related assessment, on an individual firm basis.
35.	ii. How would you apply it?*	Where our members decide to use the mixed approach, we expect that they may look to apply the mixed approach on a topic, sub-topic, or group-of-impacts basis. Reporting firms should be permitted to use internal methodologies, estimates, and assumptions aligned with how they manage their business and value chains, and should disclose the boundary and methodology applied for the relevant topics, sub-topics, or groups of impacts.
36.	For users, considering the transparency requirements for applying the mixed approach in paragraph 4(a) and AR 1 of the ESRS-40a 2 ED, and the specific provisions added in paragraphs 28-30, AR 6 and AR 7 of the ESRS-40a 1 ED, do you expect to be able to understand and compare a sustainability report that applies different reporting boundaries (e.g. global vs EU-related scope) across topics or sub-topics? ( ) Yes. ( ) No.	Yes
PART 3, TOPIC 1 – Revised ESRS as the basis for the ESRS-40a ED and approach to deleting datapoints or reformulating paragraphs as required by the CSRD		
39.	Despite the focus on impacts and the deletion of RORD, do you agree with the reference to fair presentation in the reporting objective of the ESRS-40a ED in	No

	paragraph 5 of the ESRS-40a 1 ED: 'the objective of the ESRS-40a ED sustainability report, taken as a whole, is to present fairly (see Chapter 2) all the undertaking's material sustainability-related impacts and how the undertaking manages them'? For further considerations, please refer to the Basis for Conclusions (BC87-BC90). ( ) Yes. ( ) No.	
40.	Please explain.	AFME members support the objective of "fair presentation", but EFRAG should clarify that fair presentation for 40a reports is assessed by reference to the ESRS-40a reporting perimeter (including under the mixed approach) and does not require reporting impacts outside that perimeter, for these reasons: • "Fair presentation" is well-established in financial reporting (e.g. IAS 1/IFRS). Importing this term into an impact-only standard risks confusion, as preparers and auditors may import financial reporting expectations inconsistent with ESRS 40a's narrower scope. • "Fair presentation" sits uneasily alongside the mixed approach. Where undertakings report only EU-related impacts topic-by-topic, the report is partial by design. Describing it as presenting fairly all material impacts is misleading and could expose preparers to challenge for not meeting the stated objective in ESRS40a-1 paragraph 5. • Reporting architecture compounds this risk. A standalone report still requires explanation of the EU-related boundary, but the issue is more acute where disclosures integrate into a global report under ISSB or another framework: differing boundaries, materiality lenses and objectives appear together, creating a misleading impression of completeness. • To avoid misleading users, preparers would need to explain by topic/or group of impacts, differences in reporting boundary, materiality, value-chain coverage, assumptions, estimates and omitted information, increasing complexity, duplication and assurance challenges.

		• A fair presentation objective may increase litigation and stakeholder challenge, encouraging boilerplate disclosures over useful information. We recommend replacing "present fairly" with wording such as: "*the objective of the ESRS-40a ED sustainability report, taken as a whole, is to provide [a faithful account] of the undertaking's material sustainability-related impacts within the reporting scope selected in accordance with ESRS-40a, and how the undertaking manages them*." The Standard should confirm this objective applies only to ESRS-40a information, standalone or integrated, without extending its scope or materiality to other information alongside it.
PART 3, TOPIC 2 – Mixed approach: option to limit ESRS-40a ED sustainability report transparency to EU-related impacts only (paras 28–30 of ESRS-40a 1 ED)		
41.	Under the ED, companies can also apply the mixed approach option when reporting about human rights impacts. This means that they can restrict reporting to EU-related human rights impacts. Do you think human rights impacts should be excluded from the mixed approach and reported globally, regardless of where they occur or whether they are connected to products and services sold to the EU? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46-BC61) ( ) Yes, human rights impacts should be reported on a global scope. ( ) No, reporting can be limited to EU-related impacts.	No, reporting can be limited to EU-related impacts.

42.	Please explain, also with reference to the specific circumstances you have in mind.	AFME members support retaining the mixed approach for social matters, including own-workforce and human-rights impacts. We recognise the importance of appropriate consideration of severe human-rights impacts. However, requiring global human-rights reporting would be inconsistent with the intention of Article 40a and could have significant disproportionate and extraterritorial effects. Support for the mixed approach does not diminish the importance of global human rights assessment. However, human rights impacts, unlike climate impacts, are typically location- and context-specific and are governed under local legal and regulatory regimes. Imposing a global reporting obligation risks driving fragmented disclosures based on local definitions, standards and evidencing approaches, reducing comparability. It may also create potential conflicts with applicable local requirements or frameworks. For example, a multinational company may use shared support functions located outside the EU, where staff support global operations in an “agnostic” way. In such cases, the applicable employment rights and workplace protections are determined primarily by local laws of the country where workers are located. The mixed approach provides an appropriate and proportionate basis for determining the scope of reporting under ESRS-40a, recognising that third-country groups operate across different legal and reporting frameworks. Requiring a comprehensive global assessment and reporting of these impacts under EU-specific reporting standards could introduce significant duplication and complexity, particularly where groups are already subject to other applicable reporting requirements. Additionally, requiring firms to map, assess, and document human rights impacts across their global operations, regardless of any link to EU market activity, would produce costly, low-comparability disclosures that shift attention away from impacts relevant to the EU. The burden would be particularly significant for financial institutions with extensive and complex international operations, workforces, suppliers, counterparties and downstream value chains. Therefore, clear EU nexus, supported by a workable customer-based and location-based boundary, is the more workable and proportionate approach.
43.	Under the ED, companies can limit the disclosure to EU-related impacts without considering whether the impacts can be geographically contained (both in terms of where the impacts occur	Yes

	and where their effects are experienced). Do you agree with this approach? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46-BC61) ( ) Yes. ( ) No.	
44.	Please explain, also with reference to the specific circumstances you have in mind.	Yes. The mixed approach should remain available without a separate geographic-containment test. Requiring undertakings to determine where an impact occurs and where all of its effects are experienced would reintroduce complex global tracing and undermine the proportionality of the option. Instead, the Standard should rely on clearly defined customer-based and location-based connections to the EU, applied consistently and disclosed transparently.
45.	Do you think that fair presentation can be achieved under the mixed approach? (see Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46-BC61) ( ) Yes. ( ) No.	Yes
46.	Please explain.	We do not consider that the mixed approach option will impair the fair presentation of sustainability reporting – provided reporting firms provide sufficient transparency on the reporting scope, including whether and how they apply the mixed approach. The mixed approach option provides a proportionate reporting outcome for third-country groups, who will be able to focus their efforts, costs and resources on the reporting of material EU impacts.
47.	Do you agree with the flexible formulation of the option, which allows companies to choose the	Yes

	scope of reporting (global or EU-related impacts) at topic, sub-topic or group-of-impacts level, irrespective of how other topics, sub-topics or groups of impacts within the same topic are treated? ( ) Yes. ( ) No.	
48.	i. Please explain	This flexibility is very important to our members, who represent a diverse range of complex, global financial institutions. Depending on factors such as the location of their operations, target client base etc., some of them may prefer the mixed approach for certain topics/sub-topics, whereas other firms may find it more efficient or effective to report at the global level. The optionality of the mixed approach is therefore important to allow firms to report at a level that is most appropriate for their group/business. As noted above, the customer component for identifying EU-related impacts may be more readily identifiable for certain sustainability topics (e.g. product safety) than for others (e.g. biodiversity). A blanket application of the same factors across all topics risks producing reporting that is neither meaningful nor comparable and is also unduly burdensome or disproportionate in some cases.
49.	ii. SUB-QUESTION FOR PREPARERS: If you replied 'Yes.' to the above question, are you considering, within the same topic, reporting at EU-related level for some groups of impacts or sub-topics, and reporting at global level for some other groups of impacts or sub-topics? ( ) Yes. ( ) No.	Leave blank

50.	iii. Please explain for which topic this would happen and the rationale behind this choice.	Leave blank
51.	For preparers and assurance providers, do you anticipate implementation challenges when applying the mixed approach? ( ) Yes. ( ) No.	Yes.
52.	If "Yes.", please select one or more of the following. [ ] How to demonstrate the condition in AR 6 for paragraph 29 of ESRS-40a 1 ED [ ] How to identify the products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties; [ ] How to perform a materiality assessment focused on EU-related only impacts (chapter 3 of ESRS-40a 1 ED) [ ] How to report on policies, actions and targets for EU-related impacts [ ] How to identify the most appropriate allocation key and report on metrics	Select: • How to demonstrate the condition in AR 6 for paragraph 29 of ESRS-40a 1 ED; • How to identify the products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties; • How to perform a materiality assessment focused on EU-related only impacts (chapter 3 of ESRS-40a 1 ED); • How to identify the most appropriate allocation key and report on metrics; and • How to report in accordance with ESRS-40a S1 ED; • Providing transparency on the use, assumptions and results of the mixed approach (paragraph 4(a), AR 1 for paragraph 4(a) of ESRS-40a 2 ED).

	[ ] How to report in accordance with ESRS-40a 2 ED. [ ] How to report in accordance with ESRS-40a E2 ED [ ] How to report in accordance with ESRS-40a E3 ED [ ] How to report in accordance with ESRS-40a E4 ED [ ] How to report in accordance with ESRS-40a E5 ED [ ] How to report in accordance with ESRS-40a S1 ED [ ] How to report in accordance with ESRS-40a S2 ED [ ] How to report in accordance with ESRS-40a S3 ED [ ] How to report in accordance with ESRS-40a S4 ED [ ] How to report in accordance with ESRS-40a G1 ED [ ] Providing transparency on the use, assumptions and results of the mixed approach (paragraph 4(a), AR 1 for paragraph 4(a) of ESRS-40a 2 ED) [ ] Others - Write In: _____	

53.	Please explain why and, if applicable, suggest improvement	The principal challenge is that AR 6 does not provide a clear or practicable boundary for global financial institutions whose products and services may be designed and distributed without an EU-specific orientation, while central functions and shared services support multiple regions. The Standard should define a clear customer-based test and location-based boundary for EU operations under the mixed approach, remove "meaningful identification" as a precondition, and provide illustrative guidance permitting internal methodologies, estimates, and assumptions, including leveraging existing CSRD materiality assessments and EU subsidiaries' reports to identify and report material EU-related impacts under ESRS-40a. **Materiality Assessment – Mixed Approach** Global groups reporting under requirements based on IFRS S1 and S2 may already conduct a group-level assessment of sustainability-related risks and opportunities. However, this does not have the same objective or scope as an impact materiality assessment under ESRS 40a. Applying the mixed approach would require preparers to identify and assess material impacts within an EU-related reporting boundary, at topic, sub-topic or group-of-impacts level, alongside the existing group-level process. This may require separate data collection, stakeholder input, thresholds, documentation, governance, controls and assurance evidence. Preparers may need to explain why an impact is material under one process but not the other. Therefore, it is important that: • use of the mixed approach remains voluntary; • the Standard makes clear that firms have flexibility in how and at what level they assess materiality of EU-related impacts for CSRD reporting (i.e. a group-level assessment of material ESG impacts from which firms then determine EU-related material impacts; or by using the existing materiality assessment focusing on EU operations to determine EU-related material impacts); and • EFRAG clarifies that preparers may reuse relevant inputs, evidence and conclusions from an existing group-level process, provided additional work needed to meet the ESRS-40a objective and EU-related scope is clearly identified.
55.	ESRS-40a 2 ED BP-1, paragraph 4(a), requires the undertaking to disclose whether the sustainability report has been prepared using the mixed approach and, if so, to	No.

	explain - per topic, sub-topic, or group of impacts - how EU-related impacts were determined and how the conditions set out in the ESRS-40a 1 ED, paragraphs 29 and 30, and AR 6 have been met. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of when and how the mixed approach is applied? ( ) Yes. ( ) No.	
56.	Please include your suggestions, if any, on how these requirements can be improved.	Paragraph 4(a) and AR 1 should align with revised paragraph 28 and require concise disclosure of the boundary and methodology applied, without requiring undertakings to prove an undefined “meaningful identification” condition. Illustrative guidance should confirm that internal methodologies and assumptions may be used and that the approach may reflect differences between financial-sector and real-economy business models. Additionally, ESRS-40a 2 ED BP-1, paragraph 4(a) and AR1 would create a significant additional reporting burden. In particular, where the mixed approach is used, undertakings must explain per topic, sub-topic or group of impacts how the paragraph 29 condition is met and how EU-related impacts were determined, including which option(s) under paragraph 30 were applied. Moreover, the draft requires disclosure of the methodology and parameters used to estimate the reporting boundary, alongside the assumptions, inputs and the resulting level of accuracy, which may necessitate new estimation processes, control frameworks and auditable documentation. We recommend a more proportionate approach that preserves transparency while improving usability and reducing unnecessary burden: undertakings should provide one consolidated methodology for determining EU-related impacts, with a concise mapping listing the topics, sub-topics or groups of impacts to which the mixed approach is applied and the relevant paragraph 30 option(s). Consistent with the draft’s intent to avoid duplication, any additional topic-level narrative should be limited to material, topic-specific deviations or allocation keys, rather than repeating granular explanations.

		The Standard should allow preparers to use an existing group-level and/or EU subsidiaries' sustainability materiality process as the starting point, then perform only the incremental assessment needed to identify material EU-related impacts for ESRS-40a purposes. Preparers should disclose the relationship between the two processes, the principal differences in scope and methodology, and the additional procedures performed. This can be achieved without requiring a fully separate end-to-end process.
57.	Do you agree with the specifications in the ESRS-40a 2 ED that provide guidance on how to apply this Standard when reporting on EU-related impacts? ( ) Yes. ( ) No.	No.
59.	ii. Please explain why you selected this option and, if applicable, provide suggestions for improvement.	These provisions should be amended for consistency with a redrafted paragraph 28. They should use the same customer-based and location-based boundary, permit internal methodologies and assumptions, and avoid requirements that effectively reintroduce global tracing or allocation.
60.	Do you agree with the specifications in the ESRS-40a ED topical standards that provide guidance on how to apply this Standard when reporting on EU-related impacts? ( ) Yes. ( ) No.	No.
61.	i. If 'No.' to the previous question, please select the specifications below with which you disagree: ESRS-40a E2 AR 4 (primary microplastics); ESRS-40a E2 AR 9 and 10 (SoC and SVHC); no specifications in ESRS-40a E3	Select: ESRS-40a E2 AR 4, AR 9 and AR 10; ESRS-40a S1 paragraph 8, AR 1 and AR2; ESRS-40a S2 paragraph 8; ESRS-40a S3 paragraph 7; ESRS-40a S4 paragraph 7; and ESRS-40a G1 AR 7 11.

	(specification in GDR-M applies); no specifications in ESRS-40a E4 (specification in GDR-M applies); no specifications in ESRS-40a E5 (specification in GDR-M applies); ESRS-40a S1 (paragraph 8, AR 1, AR 2, AR 20, AR 39); ESRS-40a S2 (paragraph 8); ESRS-40a S3 (paragraph 7); ESRS-40a S4 (paragraph 7); ESRS-40a G1 (paragraph AR 7 metric for corruption and bribery); ESRS-40a G1 (paragraph AR 7 11 metric for political influence); ESRS-40a G1 (paragraph AR 7 13 metric for payment practices).	
62.	ii. Per each item selected, please explain why and, if applicable, provide suggestions for improvement.	These provisions should be conformed to the revised paragraph 28 boundary. In particular, ESRS-40a S1 paragraph 8 should retain paragraph 8(a), covering employees and non-employees in own operations located in the EU and roles primarily dedicated to EU activities, and remove paragraph 8(b) and AR 1. This would avoid an unworkable test based on involvement in products or services connected with the EU market and provide a clear, auditable boundary aligned with EU-incorporated operations. The remaining listed provisions should be amended to use the same customer-based and location-based tests consistently.
63.	Breakdown for own workforce. Do you think it would be useful for users of sustainability reports if companies that opt for the mixed approach were required to disaggregate the quantitative metrics in Disclosure Requirements	No

	S1-6 to S1-16 - e.g. health and safety metrics such as number and rate of work accidents - by workforce inside and outside the EU? (A company's workforce includes employees and non-employees.) ( ) Yes. ( ) No.	
PART 3, TOPIC 3 - Interoperability, presentation and incorporation by reference		
69.	Do you agree with the provisions in Chapter 9.3 on incorporation by reference, including as a possible way to achieve efficient reporting and to deal with double reporting when the group prepares a sustainability report in accordance with jurisdictional requirements based on IFRS S1 and IFRS S2, or in accordance with IFRS S1 and IFRS S2? ( ) Yes. ( ) No.	No
70.	If 'No.', please specify if you disagree with: • examples of sources (paragraph 120); • conditions for incorporation by reference (paragraphs 121-123);	Select: • Examples of sources in paragraph 120; • Conditions for incorporation by reference in paragraphs 121–123; • additional flexibility made available in the ED to third-country groups when incorporating by reference a substantial part of the ESRS-40a ED reported information (paragraph 124); and • requirement to add a content table (paragraph 125).

	• additional flexibility made available in the ED to third-country groups when incorporating by reference a substantial part of the ESRS-40a ED reported information (paragraph 124); • requirement to add a content table (paragraph 125).	
71.	ii. If "No", please explain and, if applicable, provide suggested improvements.	AFME members support incorporation by reference to reduce duplication, but the current provisions are too restrictive. As drafted, cross-referencing is permitted only where the underlying ISSB report is required by law or regulation, excluding companies in jurisdictions phasing in sustainability reporting, voluntary reporters and companies applying 'ISSB Standards as issued by the ISSB'. It is unclear when disclosure is "reported pursuant to a requirement in applicable laws or regulations," including phased-in or "comply-or-explain" regimes. In addition to the reports already listed, Paragraph 120 should also expressly permit incorporation by reference to: • sustainability statements of EU subsidiaries/branches prepared under full ESRS; • public sustainability disclosures made where the group operates (e.g., TCFD, ISSB, AASB/TSRS); and • sustainability disclosures prepared under ISSB Standards. The assurance condition in paragraph 121(d) is likely to be burdensome and undermine the practical availability of incorporation by reference. Firms should be able to rely on information assured under other recognised frameworks, even where assurance is not performed to identical standards. Paragraph 121(d) should also clarify that an EU subsidiary's sustainability statement, subject to statutory assurance under the Accounting Directive, satisfies this requirement. Paragraph 121(e) should apply only "to the extent applicable and available at the reporting date", so incorporation by reference is not prevented where digital tagging regimes are not yet operational. A new paragraph 126 should also clarify that, for ESRS 40a E1 targets and metrics, undertakings may incorporate by reference existing published climate disclosures. Incremental datapoints should be anchored to users' actual needs.

		ESRS 40a would be more workable if it allows proportionate cross-referencing to existing public climate disclosures, without requiring parallel reporting or re-expressing targets/metrics, datapoint-by-datapoint reconciliation, or extensive labelling where no material information gap exists. Where reporting boundaries differ, paragraph 120(e) supplementation should be limited to avoiding omission of material information.
72.	For preparers, if you are in scope of the ESRS-40a ED and, at the same time, (will) prepare (from YE2028) a sustainability report in accordance with jurisdictional standards based on IFRS S1 and IFRS S2, do you anticipate: ( ) To be able to avoid double reporting, by using incorporation by reference from the sustainability report prepared at group level in accordance with jurisdictional requirements. ( ) To be able to comply in a single report with the two frameworks, ensuring clear identification of the information that meets respectively the requirements in each of the two sets of standards, including the information that meets the requirements that are common to the two sets of standards. ( ) Not to be able to avoid double reporting, which means having to produce the same information in two standalone reports.	To be able to avoid double reporting, by using incorporation by reference from the sustainability report prepared at group level in accordance with jurisdictional requirements.
76.	Do you find the requirements for incorporation by reference sufficient	No.

	to lead to an understandable and auditable report? ( ) Yes. ( ) No.	
PART 3, TOPIC 4: References to EU laws and regulations and their feasibility		
78	For preparers, do you think that referring to terms and concepts from EU legislation as the default framework is feasible? ( ) Yes. ( ) No.	No
80	ESRS-40a 2 ED BP-1, paragraph 7, requires undertakings to disclose, where EU-derived concepts are applied to third-country operations using approximations or estimations, which disclosures are affected, how the information was prepared, what limitations arise, and which parts of the reporting boundary are concerned. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of how the undertaking treats differences between EU-derived concepts and other third-country concepts?	No
81	If no, please explain your reasoning	We recommend removing ESRS-40a 2 ED BP-1, paragraph 7 in its entirety. Paragraph 7 introduces a broad obligation to explain and reconcile differences between EU-derived concepts and third-country concepts,

		including approximations, estimations, limitations, and reporting boundaries. This is not necessary as it would be operationally burdensome for non-EU groups and risk creating an implied expectation to apply EU-law concepts extraterritorially. AFME members consider that the Standard must establish an operable hierarchy for third-country application. ESRS-40a should clarify that the Standard only includes terms and concepts in EU law for reference purposes and does not impose these laws on non-EU groups. We would recommend that the ESRS-40a requirements are principles based which focus on achieving the same or similar outcome as EU laws – with preparers able to use EU definitions where feasible and applicable to the preparer firm or local or internationally recognised equivalent concepts/terms, where this addresses the principled-based outcome that the relevant ESRS-40a requirement is seeking to achieve. The standard should avoid requiring repeated entity-by-entity reconciliation where a recognised local or international equivalent provides substantively comparable information.
PART 3, TOPIC 5: Any other comment		
82	Please provide any other comments or suggested improvements on ESRS-40a ED not covered in the questions above.	We would like to raise the following additional points: • **Value-chain proportionality for third-country groups.** Omnibus I reinforced the value-chain cap to protect smaller counterparties from disproportionate requests, but no equivalent safeguard applies under ESRS-40a. Third-country parents may need to collect value-chain information across jurisdictions with unevenly developed reporting regimes, including EU and non-EU SMEs, which risks being and contrary to the simplification objectives pursued by EU co-legislators. We recommend that EFRAG use mechanisms within its mandate to limit disproportionate value-chain information requirements, consistent with the proportionality principle already reflected elsewhere in the Standard (e.g. "reasonable and supportable information without undue cost or effort"). Where an EU subsidiary of an in-scope third-country parent already reports material sustainability information under CSRD covering EU activities, ESRS-40a should avoid requiring the non-EU ultimate parent to duplicate overlapping disclosures at group level. • **Adequate transition period.** Large international groups will need substantial time and resources to build the governance arrangements, data infrastructure, internal controls and reporting processes needed for Article 40a reporting. We therefore request an adequate transition period proportionate to the complexity, scale and reporting maturity of the undertakings concerned. • **Value-chain safe harbour.** We propose practical relief, or a safe harbour, where value-chain information cannot be obtained despite reasonable efforts; sufficient lead time for governance,

		systems, controls, data and assurance readiness; a stable digital taxonomy before first application; timely assurance guidance, and avoidance of duplicate global climate reporting where equivalent group-level disclosures already exist. • We recommend extending the subsidiary exemption from ESRS reporting, currently available to CSRD subsidiaries where the group reports under full ESRS, to groups reporting under ESRS-40a using an ISSB and ESRS-40a approach. EFRAG and ISSB should provide updated ESRS/ISSB interoperability guidance demonstrating the incremental disclosures needed to supplement ISSB reporting under both ISSB and ESRS-40a.

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The Association for Financial Markets in Europe (AFME) is the voice of the leading banks in Europe's financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent over 150 leading global and European banks and other significant market players. Our members play a vital role in Europe's financial ecosystem, underwriting around 90% of European corporate and sovereign debt, and 85% of European listed equity capital issuances. Importantly, AFME members are market makers, providing liquidity, which is essential for ensuring financial markets can function efficiently. We also represent law firms and other associate members which advise market participants and support AFME's legal and regulatory initiatives.

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