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European Financial Reporting Advisory Group
35 Square de Meeûs
1000 Brussels

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CC: Chiara Del Prete, Sustainability Reporting TEG Chair, EFRAG
CC: Dorota Zaliwska, Head of Unit DG FISMA, Corporate Reporting, Audit & Credit Rating Agencies, European Commission

Dear Mr Koktvedgaard,

Consultation response to the ESRS for Certain Non-EU Undertakings in Accordance with Article 40a of the Accounting Directive exposure draft

Ernst & Young Global Limited, the central coordinating entity of the global EY organisation, welcomes the opportunity to offer its views on the exposure draft for the ESRS for Certain Non-EU Undertakings in Accordance with Article 40a of the Accounting Directive (the exposure draft).

We support the overall direction of the exposure draft, including the use of the revised ESRS as a foundation and the inclusion of an optional mixed approach. We also support retaining the concepts of fair presentation and the ESRS presentation framework. In our view, these elements provide an appropriate foundation for reporting by certain non-EU undertakings and can promote alignment between EU and non-EU sustainability reporting.

Our support is subject to targeted improvements needed to make the requirements understandable, operable and capable of consistent application and assurance. In particular, we recommend that EFRAG clarifies the conditions for applying the mixed approach, including how an undertaking determines whether EU-related impacts can be “meaningfully identified,” how customer and location-based impacts should be identified throughout the value chain and what constitutes “a group of impacts.” We also recommend requiring greater transparency about how the mixed approach has been applied. Although we believe the mixed approach is auditable in principle, its auditability will depend on robust processes, reliable data, traceable allocation methods and sufficient documentation and evidence.

We support EFRAG’s efforts to facilitate interoperability and reduce duplicative reporting, including through incorporation by reference. We recommend clarifying that information prepared voluntarily under a recognized sustainability reporting framework may be incorporated by reference when the applicable conditions are met. We also encourage EFRAG to clarify how assurance-related conditions will operate when reporting incorporated from another jurisdiction is subject to different assurance standards. In addition, we encourage EFRAG to work closely with the ISSB to further enhance interoperability, including by developing detailed mapping between ESRS-40a and IFRS S1 and IFRS S2 that identifies the information that can be leveraged and any incremental disclosures necessary to comply with ESRS-40a. We also encourage EFRAG to

consider whether the IFRS Sustainability Disclosure Standards could serve as a foundation for ESRS-40a reporting and achieve equivalence over time.

Finally, we generally support the proposed principles-based approach for applying EU-derived terms and concepts to operations outside the EU through approximations or estimates accompanied by transparent disclosure. However, we believe additional guidance would promote more consistent application. In particular, we encourage EFRAG to clarify how non-EU undertakings may apply EU-specific concepts such as NACE classifications and references to the laws or practices of EU Member States. A non-exhaustive inventory or cross-reference of EU-derived terms and concepts that may require adaptation outside the EU would also be a useful implementation resource.

Overall, we believe the exposure draft provides a workable foundation for ESRS-40a reporting. Addressing these targeted matters would improve clarity, comparability and consistent application while preserving the proportionality and interoperability objectives underlying the proposal.

Our detailed responses to the public consultation questionnaire were submitted through the online survey form on EFRAG's website, on 30 October 2026. The Appendix to this letter provides an overview of our responses. Should you wish to discuss the contents of this letter with us, please contact Michiel van der Lof, Global Corporate Reporting Services Leader, at +44 20 7951 7732, or Laure Guegan, EMEIA Corporate Reporting Services Leader, at +33 1 46 93 63 58.

Yours faithfully

Ernst & Young Global Limited

Appendix

Revised ESRS as the basis for the ESRS-40a ED

We support EFRAG's decision to use the revised ESRS as the basis for ESRS-40a, including the removal of disclosures related to risks and opportunities and their financial effects, while retaining the contextual financial and operational information necessary to understand an undertaking's impacts and how they are managed. This approach reflects the latest policy decisions made through the ESRS simplification process, promotes alignment between EU and non-EU reporting frameworks, and mitigates the need for EFRAG to maintain two substantially different reporting architectures.

We agree that removing disclosures related to risks, opportunities, resilience, dependencies and financial effects is consistent with the impact-focused reporting objective of ESRS-40a. We also support incorporating into ESRS-40a, where relevant, the reliefs, transitional provisions or simplifications available under the revised ESRS.

We support retaining fair presentation as part of the reporting objective. In our view, fair presentation should be assessed in the context of the stated objectives and requirements of ESRS-40a. Fair presentation can be achieved when reporting boundaries and reporting requirements are clearly described, material impacts are identified consistently, significant judgments and methodologies are transparent, and entity-specific information is provided when necessary to understand the reported impacts.

We also believe fair presentation can be achieved when an undertaking applies the mixed approach. If an undertaking satisfies the conditions and disclosure requirements for applying the mixed approach, together with the general fair presentation requirements in paragraphs 32-34 of ESRS-40a 1, we believe the resulting sustainability report can achieve fair presentation.

Mixed approach

Inclusion of a mixed approach in principle

We support including a 'mixed approach' option in ESRS-40a. Allowing an undertaking, subject to certain conditions, to limit the scope of its reporting to EU-related impacts supports proportionality by potentially reducing the reporting burden while still providing users with information about EU-related impacts. We support including the mixed approach as an option but not a requirement.

However, we recommend that EFRAG clarifies the application of the mixed approach and the criteria for its use so that the approach is operable and more consistently applied by undertakings.

Assessment of "meaningful identification": The meaningful identification of the EU-related impacts criterion in paragraph 29 of ESRS-40a 1 does not provide a sufficiently clear basis for determining eligibility to apply the mixed approach. Although AR 6 provides examples, they are not exhaustive, and undertakings may assert eligibility for the mixed approach in other more judgmental ways. We recommend that EFRAG provides additional guidance on the factors that should be considered when assessing whether this criterion is met, including the perspective from which meaningfulness should be evaluated. For example, the guidance could address the extent to which impacts must be identifiable at an EU level versus through a broader allocation approach. Although ESRS-40a 1 contemplates the use of allocations and estimations, applying allocations to the information may call into question whether EU-related impacts can be meaningfully identified. EFRAG

could also provide additional illustrative examples of circumstances that would, and would not, satisfy the criterion. These clarifications would provide a more robust basis for determining eligibility to apply the mixed approach and promote more consistent application.

Determination of EU-related impacts: Applying the mixed approach requires undertakings to identify customer-based and location-based impacts, including impacts throughout the value chain. This assessment may require significant judgment. For example, where non-EU operations or sites serve both EU and non-EU markets, an undertaking may need to determine how to allocate water withdrawals, biodiversity-related information or site-level environmental incidents to EU-related impacts. In some cases, an undertaking may determine that this information should not be allocated. We recommend that EFRAG requires undertakings to disclose the significant judgments made in determining EU-related impacts, including the allocation key or other basis used, why that basis was selected and any significant assumptions, limitations or exclusions. This transparency would enable users to understand how the mixed approach has been applied without prescribing a particular allocation methodology. Further, we recommend that EFRAG provides additional implementation guidance and illustrative examples to support consistent application, particularly when multiple reasonable methodologies could be used to determine EU-related impacts.

Level of disaggregation of impacts: The exposure draft would permit the mixed approach to be applied to "groups of impacts", but it is unclear what level of disaggregation is intended by this concept. We recommend that EFRAG clarifies whether a "group of impacts" can be assessed at the disclosure requirement, datapoint, or another level. For example, we recommend that EFRAG clarifies whether reporting boundaries may be determined separately for individual metrics of a sustainability matter, or whether a single impact should be evaluated as "a group of impacts".

Additional disclosures for disaggregation of impacts: We recommend that EFRAG requires an undertaking to disclose the level of disaggregation at which it applies the mixed approach as part of the disclosure requirement in paragraph 4(a) of ESRS-40a 2, including:

- The reasons why an undertaking has chosen to apply paragraph 28 of ESRS-40a 1 at different levels of disaggregation (e.g., at the topic level for social standards and sub-topic level for environmental standards)
- Whether and why the level of disaggregation changed during the current reporting period
- The allocation key(s) used to determine EU-related impacts and metrics, together with the reasons the allocation key(s) were selected
- The significant judgments, assumptions, limitations and exclusions associated with applying the mixed approach, identifying impacts (and the related materiality assessment) and determining the allocation key(s).

Impacts that cannot be geographically contained: We recommend that EFRAG limits exceptions to the overall premise of the mixed approach. As a result, we do not support requiring information about human rights at the global level. We acknowledge that some users may be interested in human rights impacts globally, but the same may be true for other types of impacts. Applying different reporting boundaries to particular sustainability matters, such as human rights, or requiring undertakings to assess whether impacts can be geographically contained, would introduce additional complexity and subjectivity without a clear improvement in decision-usefulness of the information. We believe the same general principle should apply across

sustainability matters such that the EU-impact basis remains consistent. Similarly, assessing whether environmental impacts can be geographically contained would also be highly subjective. We, therefore, support EFRAG's approach to determining reporting boundaries based on where impacts originate within an undertaking's operations and value chain rather than the potentially broader geographic area where the effects of those impacts may be experienced. We agree with EFRAG's conclusion in paragraph BC54 that requiring an undertaking to evaluate whether an impact can be geographically contained could unduly restrict the use of the mixed approach. In our view, the approach in the exposure draft is more operational and supports consistent application across sustainability matters.

Auditability of the mixed approach

We believe the mixed approach is auditable in principle. An assurance practitioner could obtain assurance over information reported using allocations and estimates if the undertaking maintains sufficient documentation and other evidence supporting the underlying information and the methodologies applied.

However, the auditability of the information would depend heavily on robust preparer processes, reliable data, traceability, documentation and evidence. Furthermore, as noted above, we are also concerned about the clarity and enforceability of the eligibility conditions for applying the mixed approach. Without further guidance, an assurance provider might not be able to challenge an undertaking that asserts it is eligible to apply the mixed approach because the "meaningful identification" criterion could be interpreted differently.

We don't expect the use of an allocation methodology under the mixed approach to significantly reduce the cost of assurance. An assurance provider would still be required to subject the entire population of information to testing and then evaluate whether the allocation key applied is appropriate.

ESRS-40a and topical specifications

We support specifying how ESRS-40a applies when reporting on EU-related impacts, but recommend that EFRAG make the topical specifications more complete and consistent, including for ESRS-40a E3-E5, value chain workers and affected communities. We also recommend clarifying how topical specifications interact with the general allocation requirements in ESRS-40a 2. We do not support requiring undertakings applying the mixed approach to disaggregate own workforce metrics between workers inside and outside the EU.

Interoperability, presentation and incorporation by reference

We support retaining the ESRS presentation requirements in ESRS-40a. A consistent presentation framework would promote comparability and enable undertakings already familiar with ESRS reporting to apply ESRS-40a efficiently.

We welcome EFRAG's recognition of the significant overlap between ESRS-40a and other sustainability reporting requirements and strongly support efforts to facilitate interoperability and avoid duplicative reporting, including through incorporation by reference. Given differences in the objectives, scope and focus of sustainability reporting frameworks, cross-referencing requirements should enable users to readily identify and understand incorporated information and any relevant differences. At the same time, those requirements should remain sufficiently flexible to reduce undue burden that would discourage the use of incorporation by reference and result in duplicative reporting. Overall, we believe

the approach in the exposure draft appropriately balances these considerations and provides a workable foundation for incorporation by reference.

We recommend broadening or clarifying the conditions for incorporation by reference so that they do not exclude information reported voluntarily. Paragraph 120 of ESRS-40a 1 permits incorporation by reference to information “reported pursuant to a requirement in applicable laws or regulations.” This language appears to limit incorporation by reference to information that an undertaking is legally required to report, thereby excluding information prepared voluntarily under a recognised sustainability reporting framework. We believe incorporation by reference should also be available for voluntarily prepared information, including information prepared in accordance with, for example, the IFRS Sustainability Disclosure Standards or Global Reporting Initiative Standards, provided that the information satisfies the other applicable conditions set out in paragraph 121 of ESRS-40a 1 for incorporation by reference. We believe information should be eligible for incorporation by reference based on the nature and quality of the information and whether the applicable conditions are met, rather than on whether the information was prepared pursuant to a legal or regulatory requirement. Clarifying this point would further EFRAG’s objective of promoting interoperability and avoiding duplicative reporting.

We also encourage EFRAG to consider how the assurance-related conditions for incorporation by reference would operate in practice. The exposure draft would require the information incorporated by reference be “subject to at least the same level of assurance as the rest of the ESRS-40a sustainability report.” However, it is not clear if the same level of assurance in this criterion is only in reference to the type of assurance performed (i.e., limited versus reasonable assurance), or if it would also require the assurance to be performed under the same assurance standard. If the latter, we believe this criterion, as written, may constrain the ability to incorporate otherwise suitable information in jurisdictions where applicable assurance requirements differ. We recommend that EFRAG clarifies this point to avoid unintentionally limiting the practical benefits of incorporation by reference.

We encourage EFRAG to continue its interoperability work, including working with the ISSB to develop practical guidance identifying which ESRS-40a requirements would be met by applying the ISSB standards. This guidance could include a mapping between ESRS-40a and IFRS S1 and IFRS S2, particularly for climate-related disclosures, that clearly identifies information prepared under the IFRS Sustainability Disclosure Standards that can be leveraged and any incremental information necessary to comply with ESRS-40a.

We encourage EFRAG to consider whether the IFRS Sustainability Disclosure Standards could serve as a foundation for ESRS-40a reporting and to work closely with the ISSB to further enhance interoperability and achieve equivalence over time. Such an approach could reduce duplication, improve efficiency for preparers, and further support global comparability. We recognize that additional work would be needed to operationalize this approach, including consideration of how impact materiality-related disclosures would be incorporated and how incremental requirements would be identified, particularly outside the climate reporting context.

References to EU laws and regulations

We generally support the principles-based approach in the exposure draft that address circumstances in which terms and concepts derived from EU laws and regulations are applied to activities outside the EU, through the use of approximations or estimates, together with disclosure of the approach used. We believe this provides an appropriate principles-based mechanism for addressing differences between EU and non-EU contexts while providing transparency regarding significant assumptions and adjustments.

We found the Excel list of EU references provided as part of the consultation particularly useful and recommend that EFRAG considers making a similar resource available as educational material to support implementation of the final standard. For example, EFRAG could provide a non-exhaustive inventory or cross-reference of EU-derived terms and concepts that may require adaptation, approximation or estimation when applied to operations outside the EU.

Based on our review, we have identified certain EU-specific terms or concepts that may warrant additional clarification to support consistent application outside the EU:

NACE classifications: Certain disclosure requirements refer to activities categorized using NACE classifications. Undertakings outside the EU may use national or other industry classification systems rather than NACE, which could create uncertainty as to whether they are required to map their activities to NACE for purposes of those disclosures. We suggest clarifying whether ESRS-40a would permit an undertaking outside the EU to use a similar industry classification system where NACE is not used in its jurisdiction, or otherwise specify the circumstances in which an alternative classification system may be used.

References to Member States: Certain terms are defined by reference to the laws or practices of an EU Member State. For example, the definition of “family-related leave” refers to leave “as defined by each Member State.” In contrast, other provisions expressly address application outside the EU. For example, the reference to criminal records specifies “the criminal record of the convicting European Union Member State or, if outside the EU, in the equivalent register or record of the jurisdiction concerned.” Although the general provisions in paragraph 7 of ESRS-40a 2 BP-1 may address how such references should be applied by undertakings outside the EU, we suggest clarifying whether references to Member States should similarly be understood to refer to the equivalent laws, practices or concepts in the relevant non-EU jurisdiction, and apply this approach consistently throughout ESRS-40a.