



DG FISMA  
Commissioner M. McGuinness  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgium

6 July 2023

Dear Commissioner McGuinness,

Congratulations on taking the final step towards finalising the first set of European Sustainability Reporting Standards; a cornerstone of the EU's sustainable finance agenda and the European Green Deal.

The Global Reporting Initiative (GRI) was very encouraged to see that, despite external pressures, the Commission has held firm to its commitment to ensure the first set of standards includes all cross-cutting and topical standards as outlined in the CSRD.

The Green Deal is grounded in the belief that the environmental and social impacts of economic activities need to be managed so future generations have a chance to live prosperously. This is the same core belief upon which GRI was founded 25 years ago. Therefore, we have really appreciated the opportunity to contribute to the development of the ESRS, as envisaged by the Commission, while striving for optimal alignment with our global standards. Reporting companies will most certainly benefit from this streamlining of European and global reporting requirements. It unquestionably fits with the call by President Von der Leyen to reduce the administrative burden of reporting. Our continued work with EFRAG on a digital taxonomy and multi-tagging system based on the final ESRS and GRI Standards also fits in the approach to minimize the reporting burden for MNE's and SME's alike throughout the value chains.

In the spirit of collaboration and shared aim to develop the highest quality standards possible, we have provided detailed suggestions for further optimization of the ESRS as described in the annex of the Delegated Act in the attached document. Our feedback is focused on ESRS 1 and 2.

In summary:

1. We believe there are opportunities to further align with widely accepted international due diligence instruments such as the UN Guiding Principles and the OECD MNE Guidelines. Lack of optimal alignment will create unnecessary confusion and burden for reporters and hinder the application of due diligence globally, as companies will be faced with different and, potentially, contradictory requirements at national level.
2. We are concerned that the phasing in of the social ESRS sends the wrong signal that these matters are less relevant than environmental and governance matters. Recognising that reporting on these topics is already standard practice by a majority of reporters this





change would lower the bar significantly on topics essential for the creation of social cohesion.

3. We recommend that selected disclosure requirements (see feedback document) on workers and human rights be reinstated as requirements that cannot be subjected to materiality. All reporters should be able to provide basic information about their workforce. This information provides crucial context for understanding the scope and nature of impacts that are subsequently reported in other disclosure requirements.
4. Mindful of the overarching objective of the Green Deal to become climate neutral by 2050, we urge the Commission to reinstate mandatory climate reporting elements of the original drafts. This will also help European companies required to report this information in other parts of the world. In order to address the reporting burden concerns laid out in the Long-Term Competitiveness communication, this requirement can be supplemented with permission for reporters to omit certain data points with a short explanation when omission is justified.

We really appreciated the opportunity given through the public consultation process to continue to provide input. GRI remains committed to help ensure qualitative standards meeting European needs and which are aligned with the global standards. We are looking forward to engaging with DG FISMA and EFRAG not only on the development of the next set of standards and keeping the standards of set 1 current and aligned, but also on the development of implementation support and guidance to reporters.

Eelco van der Enden  
CEO, Global Reporting Initiative

Carol Adams  
Chair, Global Sustainability Standards Board



## Template for comments on draft ESRS Delegated Act

The draft delegated on European Sustainability Reporting Standards (ESRS) comprises: the main text of the legal act; twelve draft standards (annex I); and a glossary of abbreviations and defined terms (annex II).

The twelve draft standards in Annex I are:

Group	Number	Subject
Cross-cutting	ESRS1	General Requirements
Cross-cutting	ESRS2	General Disclosures
Environment	ESRS E1	Climate
Environment	ESRS E2	Pollution
Environment	ESRS E3	Water and marine resources
Environment	ESRS E4	Biodiversity and ecosystems
Environment	ESRS E5	Resource use and circular economy
Social	ESRS S1	Own workforce
Social	ESRS S2	Workers in the value chain
Social	ESRS S3	Affected communities
Social	ESRS S4	Consumers and end users
Governance	ESRS G1	Business conduct

Each standard is divided into numbered paragraphs. Each standard also has an appendix A containing “application requirements” which are numbered as AR 1, AR 2 etc. Some standards also contain additional appendices.

To facilitate analysis of comments, respondents are kindly requested to use the simple template below when sending their comments.

## Name of respondent/responding organisation: **Global Reporting Initiative (GRI)**

### 1. General comments

#### **#1 Alignment with international due diligence instruments**

The draft Delegated Acts have replaced the concept of ‘negative impacts caused or contributed by the undertaking and negative impacts which are directly linked to the undertaking’s own operations, its products or services through its business relationships’ from international due diligence instruments (e.g., UNGPs and OECD) with ‘impacts connected with the undertaking’. GRI proposes reintroducing the concept of impacts caused, contributed to and directly linked everywhere where relevant in the ESRS, as used in the draft ESRS from November 2022.

An example of the unintended consequences of this can be seen in AR 12 of ESRS, where ‘Impacts directly linked to the undertaking’ has now been changed to ‘Impacts connected with the undertaking’. However the examples in AR 12 remain impacts ‘directly linked’ only. This change could lead to the incorrect interpretation that impacts directly linked are *the only* impacts that an undertaking can be connected to. But undertakings can also cause and contribute to negative impacts. This dilutes an undertaking’s scope of responsibility, including its responsibility to provide remedy for impacts it causes or contributes to, and it could be harmful for the understanding and application of due diligence.

This lack of alignment with international due diligence instruments will create unnecessary confusion and burden for reporters and hinder the application of due diligence globally, as companies will be faced with different and contradictory requirements at national level. GRI urges the Commission to revert back to the wording of the draft ESRS from November 2022 on this point.

#### **#2 Phasing-in provisions for social ESRS**

GRI is concerned with the phasing-in provisions for undertakings with less than 750 employees to omit entire ESRS in the first year(s) of application (that is, to omit “own workforce” in the first year; and biodiversity, value-chain workers, affected communities, and consumers and end-users in the first two years). This seems to send a signal that social matters are less relevant compared to environmental and governance matters. Any undertaking should be able to report basic information about its workforce from the first year of application of the standards (particularly the disclosure requirements in ESRS S1). This is already standard practice by a majority of reporters and such change would lower the bar significantly. GRI strongly recommends reconsidering these phasing-in provisions.

At the same time, paragraph 17 of ESRS 2 seems to suggest that reporting on these topics is still required if material. GRI recommends providing clarity on what exact information from ESRS E4, S1, S2, S3 and S4 is required to be reported in these cases (as per paragraph 17 of ESRS 2). Are paragraphs 17

(a) – (e) referring to specific Disclosure Requirements or data points within E4, S1, S2, S3 and S4? For example, paragraph 17 (e) of ESRS 2 still requires undertakings to report “disclose metrics relevant to the matters in question”. Which metrics would undertakings need to report on – could they choose metrics other than those in E4, S1, S2, S3, S4?

Paragraph 17 of ESRS 2 should also be reinstated within ESRS 1, as this is critical information which is currently difficult to find within ESRS 2.

### **#3 Requiring basic information about workers and human rights from all undertakings**

GRI recommends that certain disclosure requirements on workers and human rights be reinstated as requirements that cannot be subjected to materiality for undertakings with 250 or more employees or ideally for all undertakings, particularly:

- S1-6 (Characteristics of the undertaking’s employees);
- S1-7 (Characteristics of non-employee workers in the undertaking’s own workforce);
- S1-8 (Collective bargaining coverage and social dialogue);
- information on human rights policy commitments (as included under S1-1, S2-1, S3-1, and S4-1);
- information on grievance mechanisms (as included under DR S1-3, S2-3, S3-3, and S4-3).

This is essential contextual information all undertakings should be required to report and which should not be subjected to an undertaking’s materiality assessment. All undertakings should be able to provide basic information about their workforce. This information provides crucial context for understanding the scope and nature of impacts of undertakings that are subsequently reported in other disclosure requirements.

### **#4 Scope of non-employees in own workforce**

The ESRS define non-employee workers in own workforce as either people with contracts with the undertaking to supply labour (self-employed people) or people provided by undertakings primarily engaged in ‘employment activities’ (NACE Code N78). This scope is too limited and does not reflect undertakings’ scope of responsibilities when it comes to workers they engage with. For example, contractors working on site (who are employees of a supplier and are thus not self-employed) and where the undertaking controls their work would be excluded. There may also be companies that supply workers and which do not classify as undertakings engaged in ‘employment activities’ as per NACE Code N78. GRI strongly recommends aligning with GRI’s terminology and scope which focuses on the control of work (‘workers who are not employees and whose work is controlled by the undertaking’) and which has been developed by experts from ILO, IOE and ITUC and has the backing of their institutions and is consistent with well-established practice.

### **#5 Presentation format of draft Delegated Acts for consultation**

GRI would like to recommend that the Commission provide a track change version and detailed overview of changes and supporting rationales in consultations of future ESRS, in order to provide transparency to the changes made and to facilitate the review of the contents in the short period of time allocated for the consultation.

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

--

**3. Specific comments on Annex I**

<b>Standard</b>	<b>Paragraph or AR number or appendix</b>	<b>Comment</b>
ESRS 1	Para 22 (a)	GRI welcomes the definition of affected stakeholder in paragraph 22 (a) of ESRS 1, as it is in line with international due diligence instruments and the GRI Standards. GRI proposes that the definition be retained as is in the final Delegated Acts.
ESRS 1	Para 43	<p>The definition of impact materiality in paragraph 43 of ESRS 1 is circular and lacks clarity. GRI proposes to align the definition of impact materiality more closely with that of the GRI Standards, which is the global standard for impact materiality: “A sustainability matter is material from an impact perspective when it pertains to the undertaking’s most significant actual or potential, positive or negative impacts on people or the environment over the short-, medium- or long term.”</p> <p>The GRI Standards definition is in line with international due diligence instruments with which the ESRS also seek to align. Lack of alignment will create unnecessary confusion and burden for reporters who wish to report on impact materiality on a global basis.</p>
ESRS 1	Para 130	<p>The meaning of paragraph 130 in ESRS 1 is not fully clear. GRI proposes to clearly state that undertakings are exempted from reporting entity-specific disclosures in the first three annual sustainability statements, and that in the first three years they shall prioritize the efforts cited under paragraphs 130 (a) and 130 (b).</p> <p>Without this clarification, this could be misinterpreted as undertakings only being allowed to report entity-specific disclosures in the first three years, and that entity-specific disclosures are limited to the types cited under paragraphs 130</p>

		(a) and 130 (b). However, undertakings should be required to report entity-specific disclosures beyond the first three years of application of the ESRS, and such disclosures should not be limited to those disclosures that undertakings have previously reported nor limited to sector-specific disclosures.
ESRS 1	AR 9 (a)	<p>GRI proposes reintroducing ‘sustainability context’ in paragraph AR 9 (a) of ESRS 1, as in the November 2022 drafts, as one of the elements an undertaking should assess as part of the impact materiality process. Understanding the sustainability context of the undertaking’s activities and business relationships is important, as undertakings need to understand the context in which they operate (what are the particular regional or sector challenges for example).</p> <p>Assessing the sustainability context entails, for example, considering the economic, environmental, human rights, and other societal challenges at local, regional, and global levels related to the undertaking’s sectors and the geographic location of its activities and business relationships (e.g., climate change, lack of law enforcement, poverty, political conflict, water stress); considering the organization’s responsibility regarding the authoritative intergovernmental instruments with which it is expected to comply (e.g., UNGPs, Paris Agreement) or the organization’s responsibility regarding the laws and regulations with which it is expected to comply.</p> <p>See GRI 3: Material Topics 2021, page 9, for more information on assessing sustainability context.</p>
ESRS 1	AR 12	The heading of AR 12 of ESRS 1 has been changed from ‘Impacts directly linked to the undertaking’ in the November 2022 drafts to ‘Impacts connected with the undertaking’ in the draft Delegated Acts. However the examples in AR 12 remain impacts ‘directly linked’ only. This change could lead to the incorrect interpretation that impacts directly linked are <i>the only</i> impacts that an undertaking can be connected to. But undertakings can also cause and contribute to negative impacts. This change dilutes an undertaking’s scope of responsibility, including its responsibility to provide remedy for impacts it causes or contributes to, and it could be harmful for the understanding and application of due diligence. GRI urges the Commission to revert back to the wording from November 2022.
ESRS 1	AR 16	AR 16 in ESRS 1 should make more clear that the list of sustainability matters to be considered in the materiality assessment is not limited to the list in AR 16 (i.e., it is not limited to those sustainability matters covered in the topical ESRS). Undertakings may identify other sustainability matters as material which are not listed in AR 16. This is in line with ESRS 1, paragraphs 30 and 130, which make clear that undertakings are required to report on all material sustainability matters, even if those matters are not covered by an ESRS or are covered with insufficient granularity. In such cases, undertakings are required to report entity-specific disclosures.
ESRS 1	Appendix E	The flowchart in Appendix E of ESRS 1 is missing a step/question: “Is the topic material?” “Yes/No”. If the topic is material but not covered by a topical ESRS, then the undertaking is required to provide entity-specific disclosures, as per paragraphs 30 and 130 of ESRS 1. GRI recommends adding this to the flowchart.

		The flowchart currently indicates that if a topic is not covered by a topical standard, the undertaking can omit all disclosures requirements of the topical standard, but this does not seem correct, as there is no topical standard to omit in this case.
ESRS 2	Para 45 (a) (i) & 45 (b)	<p>The addition of ‘key’ under paragraphs 45 (a) (i) and 45 (b) of ESRS 2 is not clear. GRI proposes that 45 (a) (i) should be asking for the ‘categories of stakeholders’ the undertaking engages with, in line with paragraph 45 (a) (ii), and in line with the GRI Standards.</p> <p>In addition, because the ESRS definition of stakeholder covers both affected stakeholders and those who affect the undertaking, GRI believes it is important to require a breakdown of the information in SMB-2 accordingly. It is crucial for the undertaking to clearly articulate who the stakeholders it affects are; the current disclosure risks obscuring information on affected stakeholders.</p> <p>In addition, GRI recommends adding a requirement on how the undertaking seeks to ensure meaningful engagement with affected stakeholders, as this is a key expectation under due diligence.</p>
ESRS 2	Para 57	<p>GRI welcomes the fact that the explanation of why the undertaking may consider a particular sustainability topic not to be material is no longer required, which is in line with the approach taken by the GRI Standards.</p> <p>The GRI Sector Standards require explaining why any of the likely material topics identified for the sector in the GRI Sector Standards are not material. Thus, GRI recommends that future sector-specific ESRS require explaining why any topics that are likely material for the sector are determined as not material by undertakings.</p>
ESRS 2	Para 67	<p>The CSRD, Article 19a 2 f iii, states that undertakings shall report a description of “any actions taken by the undertaking to prevent, mitigate, remediate or bring an end to actual or potential adverse impacts, and the result of such actions”. In line with this, GRI proposes adding a requirement to report actions taken to prevent or mitigate negative impacts under Minimum Disclosure Requirement – Actions MDR-A, paragraph 67 of ESRS 2. This information is key for understanding an organization’s due diligence and it is an explicit requirement under the CSRD.</p> <p>This has also been flagged to the Commission by ESMA in their response: “29. Lastly, ESMA advises the Commission to amend ESRS 2, DC-A to further specify, in line with Article 19a(2)(f)(iii), of the Accounting Directive that undertakings shall also disclose actions to prevent or mitigate <i>potential</i> negative impacts, as the current text only addresses actions to mitigate <i>actual</i> negative impacts.”</p>
ESRS S1	Para 50 (a)	The limitation introduced for the country breakdown in paragraph 50 (a) of ESRS S1 “for countries representing at least 10% of its total number of employees” sets a threshold that is too high. It could lead to a lack of transparency as to where the employees of undertakings are located. For undertakings with operations in many countries and a fairly even



		distribution of employees in those countries, it could mean that they may not need to report a breakdown by country (because very few countries have at least 10% of the total employees). GRI proposes to remove “representing at least 10% of its total number of employees”.
ESRS S1	Para 51	GRI proposes that the breakdowns by region in S1-6 should be reverted back to being a requirement (shall). These breakdowns provide critical insight into regional variations and provide important context for understanding the scope and nature of impacts arising from employment practices.
ESRS S1	Para 56	GRI proposes that the information in paragraph 56 of ESRS S1 should be reverted back to being a requirement (shall). This information is important to give context to the total number of non-employees that is reported under paragraph 55 (a). A number alone is unlikely to be sufficient on its own to provide meaningful information.
ESRS S1	Para 61	GRI proposes that the information in paragraph 61 of ESRS S1 should be reverted back to being a requirement (shall). This information is important to understand how far undertakings go into applying terms and conditions in collective agreements to employees who are not covered by those agreements.
ESRS S1	Para 88 (d) & 89	GRI proposes that the information in paragraph 88 (b) of ESRS S1 should be reverted back to cover also non-employees in the undertaking’s own workforce as a requirement (shall), as these are often the workers at highest risk of work-related ill health.
ESRS G1	Para 25	GRI proposes that the information in paragraph 25 of ESRS G1 should be reverted back to being a requirement (shall), as research conducted by GRI shows that this information is already reported by companies in the EU. At least, GRI proposes that paragraph 25 (d) on public legal cases should be required, as this information would be available in the public domain.

#### 4. Specific comments on Annex II

Defined term	Comment