

Draft ESRS-40a Consultation

Implications for Businesses

This briefing is prepared by WWF, Frank Bold and World Benchmarking Alliance (WBA).

EFRA, the body responsible for developing the sustainability reporting standards under the Corporate Sustainability Reporting Directive (CSRD), is **consulting on the draft ESRS-40a for large non-EU groups with significant operations and revenue in the EU**. The consultation will help shape the final reporting framework that will **apply from FY2028** (reporting in 2029).

A key issue under consultation is the **proposed "mixed approach"**, which could significantly **affect the comparability, usability and credibility** of sustainability disclosures in the EU market.

Why is there a separate standard for non-EU companies?

The **EU Corporate Sustainability Reporting Directive** requires the EU Commission to adopt a separate standard for groups with a non-EU parent company covered under **article 40a**, that generate a net turnover in the EU exceeding EUR 450 million and have either (a) an EU subsidiary undertaking with a net turnover exceeding EUR 200 million or (b) a branch in the EU with a net turnover exceeding EUR 200 million.

Under the CSRD, the **standard for non-EU groups covers the impact side of the EU's "double materiality" approach**, requiring disclosure of impacts on people and the environment, but not of their sustainability-related financial risks.

The EU's original interest in non-EU groups was based on the **aim of achieving comparable and reliable information on impacts**. Climate change, deforestation and labour exploitation in supply chains all have an impact on Europe, regardless of exactly in which nation states they occur. In this regard, requiring transparency by all entities operating or with significant businesses in the EU is **necessary to ensure a level playing field among companies**.

The question of whether companies should disclose such financial information is one for the non-EU states (in which their parent companies are based and/or their stocks are traded), since this is of primary interest to their investors and lenders.

As sustainability impacts and financial risk are deeply interconnected, **the EU supported the development of international standards under the IFRS Foundation**, which are limited to financial materiality and climate.

The **draft ESRS-40a therefore reflects an attempt to ensure a balanced and complementary framework**, by allowing non-EU entities to incorporate by reference disclosures from jurisdictionally mandated standards aligned with the IFRS S1/S2.

Controversial addition of a “mixed approach”

Under the **draft ESRS-40a**, companies would be able to **choose between three reporting pathways**:

- **Voluntary application of the full ESRS**, aligned with the standards used by EU companies covering both financial and impact materiality.
- **Global reporting under ESRS-40a**, covering material sustainability impacts across global operations and value chains.
- **The "mixed approach"**, under which sustainability impacts would be reported only in relation to EU-linked activities and value chains, while climate disclosures would remain global.

The **first two options are explicitly envisaged by the CSRD; the last one is not**. In addition, the voluntary application of the full ESRS carries the benefit of qualifying for the exemption for any EU subsidiaries of the group that are themselves in scope of Articles 19a or 29a of the Accounting Directive.

With the **last option, non-EU companies could easily exclude material information** on most environmental, social and governance **impacts occurring outside the EU reporting perimeter**. The problem is not only that this scope is much narrower, but also that it is impossible to define it in a way that 1) is not prone to manipulation and 2) that ensures comparable disclosures.

Experts do not support this “mixed approach”

The **mixed approach** was included in the consultation at the **request of the European Commission** and **against the recommendation from experts in EFRAG** technical bodies, including business and audit representatives who raised concerns about its implications, including:

- **Reduced comparability** between EU and non-EU companies
- **Increased complexity** for users of information
- **Difficulty separating** EU and non-EU impacts in practice
- Problems related to the **feasibility and reliability of auditing** the information
- **Misalignment with global due diligence** expectations and value-chain management
- **Loss of material information and risk of greenwashing** regarding significant environmental and human rights impacts occurring outside Europe

¹ In its [Basis for Conclusions](#), EFRAG clarifies that the draft was published for consultation under the condition that it is explicitly mentioned that TEG and SRB members were against it, and that its inclusion was a direct request from the European Commission.

“(...)The inclusion of the mixed approach in the ED results from a specific request from the EC. Without such a request, the EFRAG SRB would not have proposed the mixed approach as its own initiative.”

Why companies should follow and engage in this process

The **consultation** on the draft ESRS-40a opens a **discussion about how sustainability performance will be measured and compared** across all companies.

It also carries a **risk of undermining global standardisation**, by making fragmented reporting a norm.

Companies that have invested in transparent reporting have a direct interest in **ensuring that the final framework remains consistent for all market participants**.

More specifically, the standard for non-EU group reporting under the CSRD is critical to:

I Preserve a level playing field

EU companies are expected to report material sustainability impacts across their global operations and value chains. A narrower reporting perimeter for non-EU competitors would create **an uneven competitive environment and reduce comparability** across companies serving the same customers and investors. It would also leave **EU companies at an immediate disadvantage**, allowing companies that profit from weaker environmental and social standards to be shielded from transparency obligations.

II Avoid artificial and unreliable separation of global impacts

Separating EU-related impacts from a company's global impacts would produce an **unreliable and potentially artificial picture of its sustainability impacts**. Human rights impacts, for example, often arise in **complex global value chains**, where the same suppliers and facilities serve multiple markets. Where impacts cannot be clearly linked to specific products and their destination, **distinguishing EU-related impacts may require additional tracing, assumptions or allocation methods**. Similar challenges arise for **environmental impacts** that cannot be meaningfully contained within jurisdictional boundaries, such as **transboundary pollution**. Applying an EU-specific perimeter could therefore require companies to **attribute impacts to the EU market even where no clear distinction exists in practice**.

This is particularly relevant in complex global value chains. WBA's 2026 Corporate Human Rights Benchmark finds that 57% of 105 companies in high-risk sectors disclose no information about their supply base. These **findings highlight the practical difficulty of tracing impacts through global supply chains, let alone allocating them to a particular destination market**.

Where impacts cannot be clearly attributed to a particular market, the resulting **separation may be difficult to apply reliably**, while adding complexity and burden for companies and assurers. The discretion involved could also create scope for **strategic boundary-setting, including the exclusion of significant impacts** from the reporting perimeter. This could make reporting more **difficult to verify and assure**.

A consistent **global perimeter avoids potentially artificial separation** and is often **simpler to govern, explain and assure**.



Preserve visibility over the most severe impacts

The severity of an impact should not determine its visibility in sustainability reporting differently depending on whether it is linked to the EU market. **Under the mixed approach, two equally severe impacts within the same company's global value chain could be treated differently** for reporting purposes solely because one has a sufficient EU nexus and the other does not.

Human rights illustrates this concern particularly clearly. WBA's analysis found that 57% of serious human rights allegations between 2018 and 2024, rising to 91% in apparel and 71% in food and agriculture. **Restricting disclosures to EU-related impacts could therefore reduce visibility over severe impacts elsewhere in the same company's value chain**, even though their severity for affected workers and communities is unchanged. This also marks a **departure from international human rights due diligence standards**, which prioritise impacts according to their severity for affected people rather than the destination market of associated products.



Maintain useful and comparable sustainability information for stakeholders

Different reporting perimeters would **reduce the usefulness and comparability of sustainability information** for investors, business partners and other stakeholders. Restricting disclosures to EU-related activities risks hiding severe environmental degradation or social abuses taking place outside the EU, creating a **misleading impression of overall corporate performance**. Investors, banks and business partners increasingly seek a comprehensive understanding of sustainability impacts across global operations.

In addition, using different reporting boundaries for different topics within the same report (e.g. global for climate but EU-only for pollution or other social sub-topics) would impair the overall understandability for users. **Fragmented reporting reduces the usefulness of disclosed information** and makes company performance **harder to compare**.

Ultimately, the mixed approach **opens the door for misapplication in good faith at best, and deliberate manipulation at worst**, undermining the fair presentation of sustainability risks and impacts and seriously **affecting the main objective of the CSRD to enable informed assessments** by financial market participants and other users of sustainability information.

Why engage in the consultation?

The consultation is the opportunity to **influence the final reporting framework** that will affect more than **1,000 large non-EU groups** operating in Europe.

Companies might wish to engage if they support:

- **Fair competition** between EU and non-EU companies
- **Consistent reporting requirements** across the EU market
- **Decision-useful and comparable** sustainability disclosures
- Greater **legal certainty and easier assurance**
- Reporting frameworks that **reflect global business operations and value chains**
- Protect adequate **understanding and implementation of sustainability reporting and due diligence processes**

You can engage in EFRAG's ongoing consultation until the 31st of October [here](#).

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