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ESG in the banking, financial and insurance sectors - ESAs opinions on European Sustainability Reporting Standards

On 26 January 2023, the ESAs (ESMA, EIOPA, and EBA) published their respective opinions on the first set of European Sustainability Reporting Standards.

On 26 January 2023, the European Insurance and Occupational Pensions Authority ("**EIOPA**"), the European Securities and Markets Authority ("**ESMA**") and the European Banking Authority ("**EBA**", together with EIOPA and ESMA, the "**ESAs**") published their respective opinions on the first set of European Sustainability Reporting Standards ("**ESRS Set 1**") submitted by the European Financial Reporting Advisory Group ("**EFRAG**").

The opinions follow a request made by the EU Commission to each of the ESAs to assess, in particular, the consistency of ESRS Set 1 with the provisions of Regulation (EU) 2019/2088 ("**SFDR**") and its related delegated acts.

1. Background

ESRS Set 1 specifies the rules and requirements regarding the reporting on sustainability-related aspects under the Corporate Sustainable Reporting Directive ("**CSRD**").

2. Key considerations

2.1 EIOPA opinion

EIOPA considers that ESRS Set 1 overall meets the objectives of promoting the disclosure of high quality material sustainability information, facilitating interoperability with other EU legislation and global standards, and being conducive to consistent and proportionate application by undertakings.

EIOPA notes, however, that some aspects could be enhanced:

- Clarification of:
  - the "information that would be prejudicial to the commercial position of the undertaking if disclosed" and how to identify it;
  - the boundaries of the value chain for insurers and pension funds to ensure that the material sustainability impacts can be reported in a proportionate and risk-based manner; and
  - the extent of the expected assurance operations ahead of the first reporting under the CSRD.
- Streamlining the definition of "materiality" in accordance with that provided in IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information.

- Fostering comparability with certain SFDR-related indicators and continued dialogue among all relevant stakeholders would be beneficial to ensure consistent and coherent implementation.

- Avoidance of the fragmentation of sustainability reporting requirements across jurisdictions and ensuring compatibility between ESRS and IFRS.

2.2 ESMA opinion

ESMA finds that ESRS Set 1 broadly meets the objective of being conducive to investor protection and not undermining financial stability.

ESMA draws attention to the need to:

- Add further details to the materiality assessment sequence and clarify the level of detail the undertaking should adopt when providing the required information.

- Clarify how the materiality thresholds should be set once the sustainability matters have been ranked according to their severity.

- Closely monitor developments at the regulatory level so as to adapt the ESRS accordingly.

- Separate the disclosures of impacts, risks, and opportunities in the disclosure requirements, to align with international reporting standards.

- Replace wording such as “shall disclose”, “shall consider”, “shall consider disclosing”, and “may disclose” with “shall disclose” (for mandatory disclosure) and “may disclose” (for optional disclosure).

2.3 EBA opinion

EBA acknowledges the overall consistency of ESRS Set 1 with international standards and any other relevant EU law and welcomes the extent of alignment with the Pillar 3 disclosure requirements reached at this stage.

EBA emphasises, however, a few aspects that merit further consideration by the EU Commission, including:

- Dedication of resources and time to the development of the sector-specific standards for credit institutions in order to develop a dedicated reporting framework for credit institutions.

- Close monitoring of IFRS developments - both before and after the adoption of ESRS Set 1.

- A request to EFRAG to provide further guidance in order to improve the practical implementation of the materiality assessment.

- Further clarification of how the definition of value chain applies to credit institutions (i.e. what are the boundaries of the value chain and the affected stakeholders).

- Substitution of “shall consider” and the alignment of all ESRS Set 1 terminology with that used in the Accounting Directive (e.g. “joint venture”, “associates”).

3. Next steps

ESRS Set 1 is expected to be adopted by the EU Commission *via* delegated acts by 30 June 2023, after the Commission has considered the opinions published by the ESAs, as well as those submitted by other public bodies.

Complying with and adapting to the ever-evolving ESG framework is a constant challenge – please, contact our experts to help you to meet this challenge and stay ahead of the game.

To read EIOPA’s opinion, **click here_**

To read ESMA’s opinion, **click here_**

To read EBA’s opinion, **click here_**

To read ESRS Set 1, **click here_**

your contacts

STEPHANE BADEY
Partner
Regulatory Consulting

Learn more_

ISABELLE LEBBE
Partner
Investment Management

Learn more_

EMMANUELLE MOUSEL
Partner
Banking & Financial Services
Insurance & Reinsurance Law

Learn more_

ANTOINE PETER
Manager
Regulatory Consulting

Learn more_

Arendt & Medernach SA
Registered with the Luxembourg Bar
RCS Luxembourg B 186371

arendt.com

41A avenue JF Kennedy
L-2082 Luxembourg
T +352 40 78 78 1