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# JBCE response to public consultation on European Sustainability Reporting Standards

JBCE shares the EU's ambition to strengthen the framework for sustainable investment, contributing to the achievement of the European Green Deal objectives. We welcome on EFRAG's draft EU corporate sustainability reporting standards and the opportunity to share our feedback to the first batch of published draft standards.

JBCE believes corporate sustainability reporting is a communication tool of company's value creation process between the company and its stakeholders, as well as an internal management tool which enables companies to develop and evaluate their long-term business model and strategy. Therefore, it is our position that the sustainability reporting should never become a tick-box exercise used by companies solely as a compliance tool. On the other hand, the sustainability reporting standards must not impose excessive administrative burdens on companies, as this would hamper the broader efforts in creating and realising the innovations essential for the achievement of the European Green Deal.

JBCE therefore urges for the development of the sustainability reporting standards which take into account the **reasonable balance between flexibility of companies to communicate their corporate values, and comparability of sustainability information as well as alignment with the internationally recognised standards and frameworks** . In line with the above-mentioned principles, we take this opportunity to share our recommendations, as well as concerns on cross-cutting issues and specific disclosure requirements (Environment, Social and Governance) .

Lastly, it is important to ensure that the standards are aligned with the final adopted text of the Corporate Sustainability Reporting Directive (CSRD) to achieve the purpose of the directive. JBCE is aware that this consultation document was issued before the final adoption of CSRD, therefore we welcome **another round of opportunities** to comment the detail of the standard once legislation is officially finalised.

Cross-cutting issues we would like to address are the following;

- **Interoperability** with existing and upcoming EU legislations and international frameworks: fragmentation of other pieces of EU legislation and international framework would lead to the double reporting and inconsistency.
- The scope of **double materiality**: the ESRS 2 disclosures together with the application guidance are overly detailed and granular which will create a disproportionate administrative burden on reporting entities. Implementation of the draft ESRS standards are expected to require significant restructuring of the reporting approach and additional information.
- The application of the **rebuttable presumption**: we believe it would be more straightforward for companies to include only the topics which are material for them, leaving liberty for companies to communicate why certain items are evaluated 'not material' through an actual dialogue with investors or other stakeholders. The fact that all mandatory disclosure requirements are deemed to be material, until proved not to be material leads to very thick reports of poor quality, unclear for users.
- Necessity of **prioritisation and phase in approach**: implementation will lead to high costs for companies which hampers sustainability budget: this wide scope, complex and new requirements with cross references to financial reporting, the level of detail and granularity will lead to financial consequences for companies.
- **The scope of the value chain**: the entire value chain, both upstream and downstream, is difficult for companies to obtain and verify the relevant information.
- **Transparency and confidentiality issues**: too detail reporting requirements might be prejudicial to the company's commercial business which would go beyond what the required in the CSRD (article 29.a (3) and 19.a (3)).

We therefore offer our recommendations on both the cross-cutting issues mentioned above, as well as certain specific advice on Environment, Social and Governance requirements.

**1. Interoperability with existing and upcoming EU legislations and international frameworks**

JBCE supports the Commission's ambition to set a comprehensive reporting standard with aiming to lead the global sustainability reporting field, and values the efforts made to ensure harmonisation with recognised international standards such as ISSB and TCFD. However, we encourage for stronger obligation of ESRS's with ISSB's proposed global baseline and building block approach, as well as TCFD recommendation. It is important to highlight that, following the finalisation of interinstitutional negotiations on the CSRD, the co-legislators agreed that strong alignment with international standards is an important requirement for the ESRS's. Furthermore, we urge both EFRAG and the Commission to respect companies' current efforts to report the sustainability information international framework such as TCFD, and ensure that no double reporting is necessary. Companies should be allowed to report only the ESRS's additional requirements, on top of what is already being reported based on international frameworks. Companies should be allowed to reference these other reporting sources. As most of our member companies, both as EU large undertakings and third country undertakings, are conducting business across the globe, a big portion of them will have to comply with the sustainability information disclosure simultaneously in other regions than EU to meet with juridical and investors' requirements, on top of ESRS. Therefore, interoperability with international frameworks and ESRS's will lead to reduction of the excessive costs and administrative burdens for companies, leading to a better quality of reporting and a better comparability of reporting, and will also allow companies to move towards the achievement of the Green Deal sustainability targets.

Furthermore, as the ISSB sustainability reporting is now under process of developing, a review of the ESRS's would be welcome in light of these further international developments. As already mentioned, this should be done by allowing the 'incorporate by reference' principle, for the ISSB as well as GRI and TCFD.

We also want to draw attention to the existing proposals such as the Corporate Sustainability Due Diligence Directive (CSDDD). The definition of due diligence given in the ESRS 1 Appendix C does not refer to the CSDDD – in the pursuit of the harmonisation between different pieces of EU legislations, more alignment should be considered. However, taking into account that the CSDDD is still under legislative discussion, more detailed disclosure requirement on due diligence should come after the entry into force of the CSDDD . In the first phase, we propose that companies are allowed to report the due diligence information based on available existing framework such as GRI which is already used by companies. In a second step after entering into the force of CSDDD, the reporting requirements should be reviewed based on the due diligence requirements of CSDDD.

**2. The scope of materiality in combination with the rebuttable presumption:**

In principle JBCE welcomes the double materiality concept however, the ESRS 2 disclosures together with the application guidance are overly detailed and granular, which will add to the reporting burden. Implementation of the draft ESRS standards are expected to require significant restructuring of the reporting approach and significant additional information required.

Furthermore, we have a concern on the concept of "rebuttable presumption" which would lead to making the reporting more complex and increase the burden to companies, hence losing the relevance of reporting. It would be more effective both for companies and stakeholders to be given the liberty to include and explain only the topic which are material for them based on double materiality approach. As stated above, reporting is a communication tool for companies. It is more meaningful to communicate why certain items are evaluated 'not material' through an actual dialogue with investors or other stakeholders.

3. **Prioritisation and phase in approach should be allowed**

JBCE supports the ESRS's approach to report ESG information comprehensively. However, in order to make reporting more effective and more reliable, we strongly support the prioritisation and phase-in approach, e.g. start with only climate of ESRS E1 and own workers in ESRS S1. . The wide scope and new requirements with cross references to financial reporting, the level of detail and granularity will lead to real and huge financial consequences for companies and time to prepare. It will be necessary to expand own workforce and it requires significant restructuring of the reporting approach and significant additional information which leads to necessity to additional use of consultants (due to the complexity).

4. **The scope of the value chain should be limited to areas companies have a control**

The inclusion of both upstream and downstream value chain information which goes beyond the first tier is unrealistic. EFRAG proposed that approximations are used when this information is not available. Since most companies have many suppliers, this type of assessment would be very difficult even if it was limited to just the first tier - the further the value chain goes, the more rough the assumptions will become, costing everyone a lot of time and money without any guarantee that this exercise would actually result in any meaningful discoveries. Even more complex would be to assess the customers and end-of-life value chain parts. As the required disclosures involve information that companies cannot collect by themselves, but need to rely to third party information, there should be protection from possible liability issues.

It is also important to allow companies to report on the value chain information to the extent to which they have 'control'. Companies should not be put in a position where they aren't able to extract certain value chain information from, for example, their suppliers which have monopolies and therefore naturally higher commercial power. This issue has also been recognised by the co-legislators following the finalisation, of the interinstitutional negotiations, which went beyond the original Commission's proposal and included the legal language on the necessity of value chain disclosure requirements being 'proportionate and relevant to the scale and complexity of the activities, and the capacities and characteristics of undertakings in value chains (recital 46)'.

5. **Proportionality between transparency and confidentiality**

We believe that the reporting standards must ensure the transparency of companies on environmental, social and governance issues, while avoiding breaching confidentiality or divulging commercially sensitive information. As stated in article 29.a (3) and 19.a (3) in CSRD, ESRS should not go beyond what is defined in legislation. Therefore, companies should have the flexibility to define by themselves how to disclose information on e.g. future-oriented business plan, strategy and transformation of the strategy, etc., and leave out information that could potentially constitute breaches of confidentiality.

Taking one example; In ESRS E2 (pollution), it requires the information for each substance of concern on i) total amounts generated and/or used by the undertaking split into main classes of substances, ii) absolute turnover and share of total turnover of the undertaking realised with products and services that are or that contain substances of concern; and iii) absolute raw material cost and share of total raw material cost of the undertaking when substances of concern are procured to produce other products and services. These information might reveal company's business strategy and investment plan which are not publicised yet.

## Specific recommendation in topical standards

JBCE appreciates the EFRAG's work to propose the topical reporting standards for Environmental, Social and Governance. JBCE is aware that this consultation document was launched before the final adoption of CSRD, therefore, we urge the EFRAG and the Commission to provide another consultation opportunity to stakeholders to make the topical standards workable and proportionate for companies.

In followings, we provide our specific remarks on Environmental standards (ESRS E1-E5).

Although we are not providing specific comments on social and governance standards this time, we would like to point out, in general, that the issue of the social matter is context specific, therefore, those information should not be simply compared without narrative explanations.

**Specific remarks on Environment (ESRS E1-E5)**

The followings are comments that JBCE members wish to address as a priority.
Alignment on terminology, definitions and concepts should take place - ISSB, TCFD and GRI could be the basis, on top of which specific EFRAG requirements could be added in a phase-in approach.

1. The basic idea: all information that users of sustainability reporting need should be in. When this relates to very thorough financial assessments, based future gains/losses/stranded assets, companies should be able to distinguish where confidentiality is at stake.
2. The analysis is built on 3 pillars: strategies, implementation, performance measures. The depth of this analysis is tremendous. Often is required to go back to country or regional analysis. This is very challenging for companies.
3. E1: based on 1,5 degrees Climate Change scenario, with no to limited overshoot. Companies that do SBTi should be allowed to refer to their SBTi target setting standards, instead of having to explain again, in a bit different way, how they will come to alignment with the Paris Agreement.
4. For scope 3 emissions an explanation on screening, estimations, magnitude is required. Very clear guidelines are needed here.
5. Companies should describe how to align to the EU Action plan towards the Zero Pollution Plan for Air, Water and Soil. And come up with strategies till 2025 and 2030. This is a difficult exercise, which should be simplified.
6. E2: pollution: not only pollution, but ESRS E2 also addresses regulation around pollution. This is often very regional/national, and is too much in detail for this reporting.
7. E2: definition of Substance of concern include the candidate list of REACH. It is not appropriate to require the reporting on the items which are not concluded in the legislation.
8. E3: water and marine resources: very detailed requirements related to the Water Framework Directive, water discharges, pollutants etc. This is too detailed requests to be meaningful.
9. E4: biodiversity: here a transition plan is requested towards no net loss in 2030, net gain after that, full recovery in 2050. This is too difficult, and not well defined and developed.
10. E5: recycling: this standard has overlap with the other 4 environmental standards. This standard could be merged into the other 4 standards.
11. E5：Circularity：There is not unified target in EU and established measurable methodology in terms of circular economy.  JBCE wonders how this information will be evaluated and compared by financial actors.

JBCE encourages EFRAG and the Commission to continue their work on the development of the sustainability reporting standards. In order to maximise the effectiveness and meaningfulness of companies' sustainability reporting, we strongly advocate for prioritization and phase-in approach of the reporting information, which would result in increased quality of the reports.

JBCE remains available for further input and encourages EFRAG and the Commission for further involvement of stakeholders in the development of the sustainability reporting standards.

**About JBCE**

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organization representing the interests of about 90 multinational companies of Japanese parentage active in Europe. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceutical, textiles and glass products.

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