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COVER NOTE

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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 21 August 2023 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | C(2023) 5303 final |
| Subject: | COMMISSION DELEGATED REGULATION (EU) .../... of 31.7.2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards |

Delegations will find attached document C(2023) 5303 final.

Encl.: C(2023) 5303 final



Brussels, 31.7.2023
C(2023) 5303 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 31.7.2023

supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Accounting Directive (2013/34/EU¹) as amended by the Corporate Sustainability Reporting Directive (CSRD - 2022/2464²) requires large companies and listed small and medium-sized companies (SMEs), as well as parent companies of large groups, to include in a dedicated section of their management report the information necessary to understand the company's impacts on sustainability matters, and the information necessary to understand how sustainability matters affect the company's development, performance and position.³

This information must be reported in accordance with European Sustainability Reporting Standards (ESRS), to be adopted by the Commission by means of delegated acts that must specify the content and, where relevant, the structure to be used to present that information.⁴ This information shall include information related to short-, medium- and long-term time horizons, as applicable,⁵ and it shall contain⁶: (i) a brief description of the undertaking's business model and strategy; (ii) a description of the time-bound targets related to sustainability matters set by the undertaking; (iii) a description of the role of the administrative, management and supervisory bodies with regard to sustainability matters, and relevant expertise and skills or access to them; (iv) a description of the undertaking's policies in relation to sustainability matters; (v) information about the existence of incentive schemes linked to sustainability matters; (vi) a description of the due diligence process implemented by the undertaking with regard to sustainability matters; (vii) the principal actual or potential adverse impacts connected with the undertaking's own operations and with its value chain; (viii) any actions taken by the undertaking in relation to actual or potential adverse impacts, and the result of such actions; (ix) a description of the principal risks to the undertaking related to sustainability matters; (x) indicators relevant to the required disclosures. Where applicable, it shall contain information about the undertaking's own operations and about its value chain, including its products and services, its business relationships and its supply chain.

¹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

² Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15). This Directive strengthened and revised the non-financial disclosure requirements introduced in the Accounting Directive by Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (Non-Financial Reporting Directive – NFRD).

³ The sustainability reporting requirements for large undertakings and listed SMEs are set out in Articles 19a and 29a Accounting Directive. The Accounting Directive as amended by the CSRD also requires the branches or subsidiaries of certain non-EU companies to report certain sustainability information (Article 40a). The reporting obligation on these branches and subsidiary will apply as from financial year 2028 and the information to be reported will be specified in separate standards not covered by this delegated act.

⁴ Article 29b(1), first subparagraph, Accounting Directive.

⁵ Articles 19a(2), second subparagraph, and 29a(2), second subparagraph Accounting Directive.

⁶ Articles 19a(2) and (3) and 29a(2) and (3) Accounting Directive.

The sustainability reporting standards must also meet the following requirements: (i) ensure the quality of reported information⁷; (ii) avoid imposing a disproportionate administrative burden on undertakings⁸; (iii) specify the information that undertakings are to disclose about specific environmental, social and human rights, and governance factors⁹; (iv) specify the forward-looking, retrospective, qualitative and quantitative information, as appropriate, to be reported by undertakings¹⁰; (v) take account of the difficulties that undertakings may encounter in gathering information from actors throughout their value chain¹¹; (vi) specify disclosures on value chains that are proportionate and relevant to the capacities and the characteristics of undertakings in value chains, and to the scale and complexity of their activities¹²; (vii) not specify disclosures that would require undertakings to obtain information from SMEs in their value chain that exceeds the information to be disclosed pursuant to the sustainability reporting standards for SMEs¹³; (viii) take account, to the greatest extent possible, of the work of certain global standard-setting initiatives and of certain existing standards and frameworks, as well as the requirements stemming from specific pieces of Union acts¹⁴.

The Commission must adopt these standards taking into consideration the technical advice provided by EFRAG¹⁵, a non-profit association established under Belgian law that serves the European public interest in both financial reporting and sustainability reporting by developing and promoting European views in the field of financial and sustainability reporting. EFRAG's technical advice must also meet certain requirements¹⁶. In 2022, EFRAG modified its governance to reflect its new role in the development of ESRS. In particular, it revised its membership to reflect a balance between stakeholders, including undertakings, investors, auditors, trade unions, civil society, academics and national accounting standard-setters.

⁷ Article 29b(2), first subparagraph, Accounting Directive.

⁸ Article 29b(2), first subparagraph, Accounting Directive.

⁹ Article 29b(2), second subparagraph, Accounting Directive.

¹⁰ Article 29b(3) Accounting Directive.

¹¹ Article 29b(4) Accounting Directive.

¹² Article 29b(4) Accounting Directive.

¹³ Article 29b(4) Accounting Directive.

¹⁴ Article 29b(5) Accounting Directive. The Union legislation that must be taken into consideration is the Sustainable Finance Disclosures Regulation (SFDR - 2019/2088) and related delegated acts, the relevant delegated acts adopted under the Taxonomy Regulation (2020/852), the relevant delegated acts adopted under the Benchmark Regulation (2016/1011), certain implementing acts adopted pursuant to the Capital Requirements Regulation (CRR - 575/2013), Commission Recommendation on the life cycle environmental performance of products and organisations (2013/179/EU), Directive on greenhouse gas emission allowance trading (2003/87/EC), Regulation on climate neutrality (2021/1119), EMAS Regulation (1221/2009), Whistleblowing Directive (2019/1937).

¹⁵ Article 49(3b) Accounting Directive. EFRAG was previously called the European Financial Reporting Advisory Group. In 2022 it changed its name to simply EFRAG.

¹⁶ Article 49(3b) Accounting Directive specifies the following requirements for EFRAG's technical advice: (i) it has been developed with proper due process, public oversight and transparency, with the expertise and balanced participation of relevant stakeholders, and with sufficient public funding to ensure its independence; (ii) it has been developed on the basis of a work programme on which the Commission has been consulted; (iii) it is accompanied by cost-benefit analyses that include analyses of the impacts of the technical advice on sustainability matters; (iv) it is accompanied by an explanation of how it takes account of the work of certain global standard-setting initiatives and of certain existing standards and frameworks, as well as the requirements stemming from specific pieces of Union acts; (v) participation in EFRAG's work at technical level is based on expertise in sustainability reporting and is not conditional on a financial contribution; (vi) the accompanying documents are submitted together with the technical advice.

The Accounting Directive requires the Commission to adopt a first set of sustainability reporting standards by 30 June 2023¹⁷. These standards must specify the information that companies are to report in accordance with Article 19a(1) and (2), and Article 29a(1) and (2) of the Accounting Directive, including at least the information that financial market participants need in order to comply with the disclosure obligations of the Sustainable Finance Disclosures Regulation (SFDR - 2019/2088)¹⁸.

EFRAG submitted to the Commission its technical advice on the first set of standards on 22 November 2022¹⁹. This technical advice was developed on the basis of a work programme on which the Commission was consulted on in December 2021. It is accompanied by a cost-benefit analysis that includes an analysis of the impacts of the technical advice on sustainability matters, by a note on the due process followed by EFRAG in the development of its technical advice, and by an explanation of how the technical advice takes account of the work of certain global standard-setting initiatives and of certain existing standards and frameworks, as well as the requirements stemming from specific pieces of Union acts.

This delegated act adopts the first set of European Sustainability Reporting Standards (ESRS) that undertakings shall use to carry out their sustainability reporting in accordance with Articles 19a and 29a of the Accounting Directive. The ESRS in this first set are sector-agnostic, meaning that they apply to all undertakings under the scope of the CSRD regardless of which sector or sectors the undertaking operates in. The Commission will monitor the implementation of the standards contained in this delegated act to ensure that they lead to the disclosure of relevant, reliable and comparable sustainability information.

In future years the Commission is expected to adopt additional delegated acts for additional sets of standards. The CSRD requires the Commission to adopt by June 2024: sector-specific standards, proportionate standards for listed SMEs, and standards for non-EU companies.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Prior to the submission of its technical advice to the Commission, EFRAG organised multiple outreach events with various stakeholder groups from May to July 2022, and ran a public consultation on the 13 draft ESRS Exposure Drafts developed by the EFRAG Project Task Force from April to August 2022. In the light of the comments received during these consultations, EFRAG revised the Exposure Drafts addressing stakeholders' concerns. The main areas of modification were:

- (a) A significant reduction in the number of disclosure requirements and datapoints. EFRAG reduced the number of disclosure requirements by 40% and the number of individual data points by about 50%.
- (b) Taking further account of global reporting standards, in particular to ensure as much interoperability as possible with the future standards being developed by the International Sustainability Standards Board and with the standards of the Global Reporting Initiative.
- (c) A more central role for the materiality assessment process, and in particular removing the principle that all information prescribed in the standards should be

¹⁷ Article 29b(1), second subparagraph, of the Accounting Directive.

¹⁸ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

¹⁹ EFRAG's first set of standards is available at <https://www.efrag.org/lab6>.

considered material for the undertaking unless demonstrated otherwise (the so-called “rebuttable presumption”). According to EFRAG’s technical advice submitted to the Commission, all disclosures would be subject to materiality assessment by the reporting undertaking, with the exception of:

- All the disclosure requirements and datapoints in the “General disclosures” standard, which specifies essential information to be disclosed irrespective of which sustainability matter is being considered.
 - All the disclosure requirements and datapoints in the climate standard, which would be mandatory for all undertakings under scope.
 - All the disclosure requirements and data points that are included in the standards because they directly correspond to the information needs of other parties to meet their own disclosure requirements under separate pieces of legislation. This refers specifically to information that financial markets participants need to meet their disclosure requirements on principal adverse impacts under the Sustainable Finance Disclosure Regulation; the sustainability information that benchmark administrators need to meet their disclosure requirements under the Benchmarks Regulation; and the information that financial institutions need to meet their so-called “pillar 3” disclosure requirements under the Capital Requirements Regulation. These disclosure requirements and datapoints would also be mandatory for all undertakings under scope.
 - A number of disclosure requirements and data points relating to the undertaking’s own workforce, which would be mandatory for undertakings that have more than 250 employees.
- (d) The phasing-in of a number of disclosure requirements considered more challenging for undertakings. Undertakings would be allowed to omit metrics (data) on their value chains for a period of 3 years. In addition, there would be certain phase-ins of between 1 and 3 years for certain information on the following issues: the financial effects on the undertaking arising from climate; breakdown of employees by gender; collective bargaining coverage; adequate wages; social protection; and training and skills development.

EFRAG’s cost-benefit analysis on the first set of draft ESRS²⁰ presents an assessment of the impact of the first set of standards across different stakeholder groups (i.e. mainly EU undertakings, investors, NGOs, trade unions and society at large). The cost and benefit assessment distinguishes between direct costs and benefits, and indirect costs and benefits²¹. Overall, the costs are much more visible, tangible and measurable in the short term, while the benefits are mostly intangible and non-measurable, dependent on other legislative and non-

²⁰ Available at <https://www.efrag.org/lab6>. This analysis was commissioned to the Centre for European Policy Studies (CEPS) and its partner Milieu.

²¹ *The ESRS is likely to contribute to the reporting of more relevant, comparable, reliable and usable, digitally accessible, and mandatory sustainability information of a larger number of undertakings than NFRD. This will allow investors to take environmental and social risks better into account in their investment decisions and allows citizens, trade unions, NGOs, and other societal organisations to hold undertakings accountable for their societal and environmental impacts. The proper implementation of the ESRS is likely to ultimately contribute to a reduction in the systemic risks to the economy, increased capital flows to undertakings addressing sustainability issues and the strengthening of the social contract between undertakings and citizens. Moreover, it will contribute towards achieving the ambitious goals of the European Green Deal.*

legislative developments, and will only become evident in the medium to long term. These estimated costs and benefits are based on the proposed standards submitted by EFRAG and not the final proposed delegated act presented by the Commission.

Following EFRAG's submission of its technical advice to the Commission and prior to the adoption of this delegated act, the Commission has carried out the following consultations, as required by the Accounting Directive²²:

- Joint consultation of the Member State Expert Group on Sustainable Finance and the Accounting Regulatory Committee²³;
- consultation of the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Environment Agency (EEA), the European Union Agency for Fundamental Rights (FRA), the European Central Bank (ECB), the Committee of European Auditing Oversight Bodies (CEAOB) and the Platform on Sustainable Finance.

In addition, the Commission published the proposed final version of the delegated act for a 4-week period of public feedback on the 'Have Your Say' portal from 9 June to 7 July 2023, in accordance with the better regulation guidelines.

These consultations confirmed that the draft standards submitted by EFRAG broadly meet the mandate of the CSRD and would achieve the intended policy goals in the context of the European Green Deal. At the same time, some respondents drew attention to the challenging nature for many undertakings of many of the disclosure requirements proposed by EFRAG, in particular for undertakings that have not previously been subject to legal requirements to report sustainability information. Some of the most challenging disclosure requirements in the draft standards submitted by EFRAG were deemed to relate to biodiversity, to the undertaking's own workforce, and to disclosures regarding value-chain workers, affected communities, and consumers and end-users.

Other respondents supported the draft standards submitted by EFRAG, including the proposed approach to materiality, the phasing-in of certain disclosure requirements and the specification of which disclosures should be mandatory. Many respondents stressed the need for coherence between the information that undertakings disclose under ESRS and the information needed by financial market participants, benchmarks administrators and financial institutions in order to comply with their own disclosure obligations respectively under the Sustainable Finance Disclosure Regulation, the Benchmarks Regulation and the Capital Requirements Regulation

Many respondents stressed the need for additional guidance to enable undertakings to apply the standards in an efficient and consistent manner, in particular but not only with regard to the materiality assessment process and the disclosure of value chain information. Some respondents also made proposals to improve the coherence of certain provisions of the standards with the CSRD or with other pieces of EU legislation.

Furthermore, in its strategy for long-term competitiveness, the Commission has stressed the importance of a regulatory system that ensures that objectives are reached at minimum costs. It has committed to rationalise reporting obligations, while maintaining the ambitious

²² Article 49(3b) of the Accounting Directive.

²³ In addition to the request for written comments submitted on 25 November 2022 to the ARC and on 28 November 2022 to the MSEGFSF, a joint ARC-MSEGFSF virtual meeting was organised on 15 December 2022.

objectives of its legislation. While certain reporting obligations are essential, they need to be as efficient as possible, avoiding overlaps, removing unnecessary burdens and using as much as possible digital and interoperable solutions. In the spirit of this commitment, the present initiative has further streamlined reporting obligations, while not affecting the pursuit of the objective of the Directive. More specifically, the Commission has made the following modifications to the draft standards submitted by EFRAG, with the specific aim of ensuring proportionality and facilitating the correct application of the standards by undertakings:

- Materiality: all standards and all disclosure requirements and data points within each standard will be subject to materiality assessment by the undertaking, with the exception of the disclosure requirements specified in the “General disclosures” standard. This differs from the EFRAG proposal only insofar as EFRAG proposed three other exceptions to the general principle of materiality (climate standard; datapoints derived from Sustainable Finance Disclosure Regulation, the Benchmarks Regulation and the “pillar 3” disclosure requirements of the Capital Requirements Regulation; and, in the case of undertakings with more than 250 employees, certain datapoints regarding the undertaking’s own workforce). By applying the principle of materiality more widely and requiring undertakings to focus on those impacts, risks and opportunities that have been assessed as material, this measure is expected to lead to a significant burden reduction for undertakings and help to ensure that the standards are proportionate. Disclosure requirements subject to materiality are not, however, voluntary. The information in question must be disclosed if it is material, and the undertaking’s materiality assessment process is subject to external assurance in accordance with the provisions of the CSRD. The standards require undertakings to perform a robust materiality assessment to ensure that all information necessary to meet the objectives and requirements of the Corporate Sustainability Reporting Directive will be disclosed. The Commission has asked EFRAG to prepare additional guidance for undertakings on, amongst other things, materiality assessment. The standards also specify that:
 - If an undertaking concludes that climate change is not a material topic and that therefore it does not report in accordance with that standard, it shall disclose a detailed explanation of the conclusions of its materiality assessment with regard to climate change. This provision is included in recognition of the widespread and systemic effects of climate change on the economy as a whole.
 - If an undertaking concludes that a datapoint deriving from the Sustainable Finance Disclosure Regulation, the Benchmarks Regulation or the “pillar 3” disclosure requirements under the Capital Requirements Regulation is not material, it shall explicitly state that the datapoint in question is “not material”. In addition, undertakings shall disclose a table with all such datapoints, indicating where they are to be found in its sustainability statement or stating “not material” as appropriate. These provisions aim to facilitate the compliance of financial market participants, benchmarks administrators and financial institutions with their own disclosure obligations respectively under the Sustainable Finance Disclosure Regulation, the Benchmarks Regulation and the Capital Requirements Regulation.
- Phasing-in certain requirements: in addition to the phase-ins proposed by EFRAG, the Commission has provided for further phase-ins that will help all companies, and in particular smaller companies that are subject to sustainability reporting

requirements for the first time, to apply the standards effectively. The additional phase-ins introduced by the Commission are:

- Undertakings with less than 750 employees may omit: scope 3 GHG emissions data and the disclosure requirements specified in the standard on “own workforce” in the first year that they apply the standards; and the disclosure requirements specified in the standards on biodiversity and on value-chain workers, affected communities, and consumers and end-users in the first two years that they apply the standards.
- All undertakings may omit the following information in the first year that they apply the standards: anticipated financial effects related to non-climate environmental issues (pollution, water, biodiversity, and resource use); and certain datapoints related to their own workforce (social protection, persons with disabilities, work-related ill-health, and work-life balance).
- Making certain disclosures voluntary: the draft standards submitted by EFRAG already included many voluntary datapoints. The Commission has further converted a number of the mandatory datapoints proposed by EFRAG into voluntary datapoints. This includes, for example: biodiversity transition plans; certain indicators about “non-employees” in the undertaking’s own workforce²⁴; and an explanation of why the undertaking may consider a particular sustainability topic not to be material.
- Further flexibilities in certain disclosures: in addition to making certain datapoints voluntary, the Commission has also introduced certain flexibilities for some of the mandatory datapoints. For example, there are additional flexibilities in the disclosure requirements on the financial effects arising from sustainability risks and on engagement with stakeholders, and in the methodology to use for the materiality assessment process. Furthermore, the Commission has modified datapoints regarding corruption and bribery and regarding the protection of whistle-blowers that might be considered to have infringed on the right not to self-incriminate.
- Coherence with EU legal framework: Technical modifications to ensure better alignment with other provisions in the Accounting Directive and with other relevant pieces of legislation, for example regarding the Pay Transparency Directive and the European Pollutant Release and Transfer Register.
- Interoperability with global standard-setting initiatives: the Commission and EFRAG have continued to engage closely with International Sustainability Standards Board and the Global Reporting Initiative to ensure a high degree of interoperability with ESRS, and further modifications to the draft ESRS have been made in light of that engagement.
- Editorial and presentational modifications: the Commission has made editorial and presentational changes to improve the clarity, usability, and coherence of the standards. This includes, for example, the introduction of a drafting convention to clearly identify all terms for which ESRS has a precise definition.

The Commission anticipates that the proposed additional phase-in measures will enable a total cost reduction during the phase-in period of EUR 1 172 million compared to the draft

²⁴ “Non-employees” are self-employed persons or persons who provided by undertakings primarily engaged in “employment activities” (NACE Code N78).

standards proposed by EFRAG. In addition, the Commission estimates that the proposed modifications with regard to materiality, combined with making certain disclosures voluntary, will reduce costs by EUR 230 million annually compared to EFRAG's proposal. These cost-estimates are based on the most substantial modifications that have been made compared to the EFRAG drafts. They are based on conservative assumptions, as the additional cost reductions induced by other modifications (further flexibilities on certain disclosures, improved coherence with EU legal framework, interoperability with global standard-setting initiatives and editorial and presentational modifications) could not be quantified at this stage in a meaningful way.

The Commission is putting in place an interpretation mechanism to provide formal interpretation of the standards. The Commission has also asked EFRAG to publish additional guidance and educational material, addressing the materiality assessment process and other issues.

The Commission has also assessed the consistency of this delegated act with the climate-neutrality objective set out in Article 2(1) of the European Climate Law (Regulation (EU) 2021/1119)²⁵, and with the objective of ensuring progress on adaptation as referred to in Article 5 of that Regulation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act is based on Article 29b(1), first subparagraph, of the Accounting Directive.

It specifies the European Sustainability Reporting Standards (ESRS) undertakings shall use to carry out their sustainability reporting in accordance with Articles 19a and 29a of the Accounting Directive.

This delegated act is accompanied by the following Annexes:

- Annex I, which includes:
 - *Cross-cutting standards:*
 - ESRS 1 General requirements
 - ESRS 2 General disclosures
 - *Standards on Environmental, Social and Governance matters:*
 - ESRS E1 Climate change
 - ESRS E2 Pollution
 - ESRS E3 Water and marine resources
 - ESRS E4 Biodiversity and ecosystems
 - ESRS E5 Resource use and circular economy
 - ESRS S1 Own workforce
 - ESRS S2 Workers in the value chain
 - ESRS S3 Affected communities
 - ESRS S4 Consumers and end-users
 - ESRS G1 Business conduct

²⁵ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (OJ L 243, 9.7.2021, p. 1).

- Annex II, which includes the list of Acronyms and the Glossary with the definitions to be used for the purposes of carrying out sustainability reporting in accordance with ESRS.

This delegated act applies from 1 January 2024 to the undertakings that were already subject to the non-financial reporting requirements introduced by the Non-Financial Reporting Directive. Its application will be phased-in for other categories of undertakings based on the phased approach set out in Article 5 CSRD.²⁶ Listed SMEs will have the option of meeting their reporting requirements under the CSRD by reporting according to separate, proportionate standards that the Commission will adopt by end June 2024.

²⁶ From financial years starting on or after 1 January 2024:

- i) large undertakings that are Public Interest Entities (PIEs) exceeding on their balance sheet dates the average number of 500 employees during the financial year;
- ii) PIEs that are parent undertakings of a large group exceeding on its balance sheet dates, on a consolidated basis, the average number of 500 employees during the financial year;

From financial years starting on or after 1 January 2025:

- i) large undertakings other than large undertakings that are Public Interest Entities (PIEs) exceeding on their balance sheet dates the average number of 500 employees during the financial year;
- ii) parent undertakings of a large group other than PIEs that are parent undertakings of a large group exceeding on its balance sheet dates, on a consolidated basis, the average number of 500 employees during the financial year;

From financial years starting on or after 1 January 2026 (with the option of voluntarily opting out for financial years 2026 and 2027):

- i) small and medium-sized undertakings with securities listed on the EU regulated markets, excluding micro-undertakings;
- ii) small and non-complex institutions, provided they are large undertakings or that they are small and medium sized undertakings with securities listed on the EU regulated markets, excluding micro-undertakings;
- iii) to captive insurance undertakings and captive reinsurance undertakings, provided that they are large undertakings or that they are small and medium sized undertakings with securities listed on the EU regulated markets, excluding micro-undertakings.

COMMISSION DELEGATED REGULATION (EU) .../...

of 31.7.2023

supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC²⁷, and in particular Article 29b(1), first subparagraph, thereof,

Whereas:

- (1) Directive 2013/34/EU, as amended by Directive (EU) 2022/2464²⁸, requires large undertakings, small and medium-sized undertakings with securities admitted to trading on the EU regulated markets, as well as parent undertakings of large groups, to include in a dedicated section of their management report or consolidated management report the information necessary to understand the undertaking's impacts on sustainability matters, and the information necessary to understand how sustainability matters affect the undertaking's development, performance and position. Undertakings are to prepare this information in accordance with sustainability reporting standards starting from the financial year indicated in Article 5(2) of Directive (EU) 2022/2464 for each category of undertakings.
- (2) The Commission is required to adopt by 30 June 2023 a first set of standards specifying the information that undertakings are to report in accordance with Article 19a(1) and (2), and Article 29a(1) and (2) of that Directive, including at least the information that financial market participants need in order to comply with the disclosure obligations of Regulation (EU) 2019/2088 of the European Parliament and of the Council²⁹.
- (3) The Commission has taken into account the technical advice provided by the EFRAG. EFRAG's independent technical advice meets the criteria set out in Article 49(3b), first, second and third subparagraphs, of Directive 2013/34/EU. To ensure proportionality and to facilitate the correct application of the standards by undertakings, the Commission has introduced modifications to EFRAG's technical advice as regards the materiality approach, the phasing-in of certain requirements, the

²⁷ OJ L 182, 29.6.2013, p. 19.

²⁸ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15).

²⁹ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability- related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

conversion of certain requirements into voluntary datapoints, the introduction of flexibilities in a number of disclosure requirements, the introduction of technical modifications to ensure coherence with the Union's legal framework and a high degree of interoperability with global standard-setting initiatives, as well as editorial modifications.

- (4) These sustainability reporting standards meet the requirements set out in Article 29b of Directive 2013/34/EU.
- (5) Common sustainability reporting standards should therefore be adopted.
- (6) In accordance with Article 29b(1), fourth subparagraph, of Directive 2013/34/EU this Regulation should not enter into force earlier than 4 months after its adoption by the Commission. Considering that Article 5(2) of Directive (EU) 2022/2464 requires certain categories of undertakings to apply these sustainability reporting standards for financial years starting on or after 1 January 2024, this Regulation should enter into force on the third day following that of its publication in the Official Journal of the European Union.
- (7) In accordance with Article 49(3b), fourth subparagraph, of Directive 2013/34/EU, the Commission has consulted jointly the Member State Expert Group on Sustainable Finance, referred to in Article 24 of Regulation (EU) 2020/852 of the European Parliament and of the Council³⁰, and the Accounting Regulatory Committee, referred to in Article 6 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council³¹. In accordance with Article 49(3b), fifth subparagraph, of Directive 2013/34/EU, the Commission has requested the opinion of the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA), in particular with regard to the consistency of this Regulation with Regulation (EU) 2019/2088 and the delegated acts adopted pursuant to that Regulation. In accordance with Article 49(3b), sixth subparagraph, of Directive 2013/34/EU, the Commission has also consulted the European Environment Agency, the European Union Agency for Fundamental Rights, the European Central Bank, the Committee of European Auditing Oversight Bodies and the Platform on Sustainable Finance established pursuant to Article 20 of Regulation (EU) 2020/852,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

The sustainability reporting standards that undertakings are to use for carrying out their sustainability reporting in accordance with Articles 19a and 29a of Directive 2013/34/EU following the timetable set out in Article 5(2) of Directive (EU) 2022/2464 are set out in Annexes I and II of this Regulation.

³⁰ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

³¹ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

Article 2

Entry into force and application

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2024 for financial years beginning on or after 1 January 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31.7.2023

For the Commission
The President
Ursula VON DER LEYEN