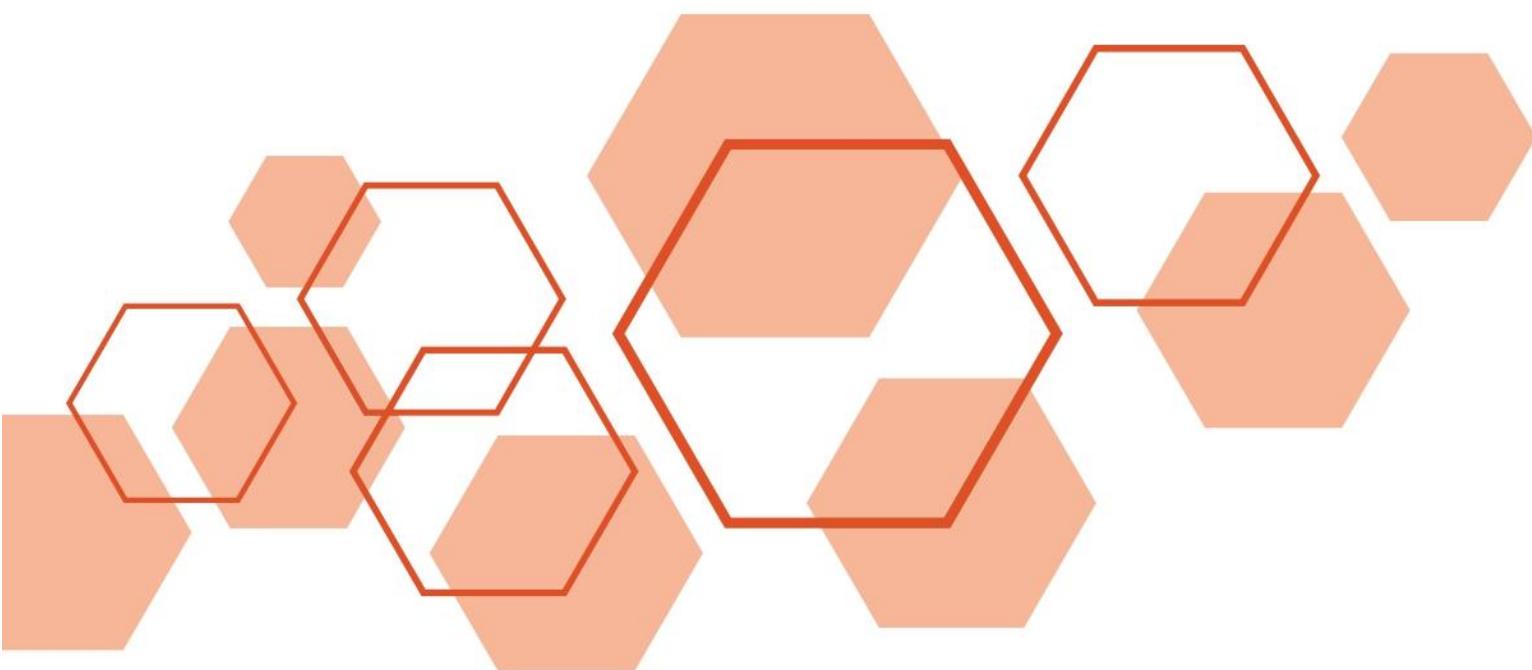


EXPOSURE DRAFT

ESRS S4

Consumers and end-users

April 2022



Open for comments until 8 August 2022

PTF-ESRS

Project Task Force on European sustainability reporting standards

 **EFRAG**

DISCLAIMER

This Exposure Draft has to be read in conjunction with the cover note for ESRS public consultation. It has been prepared under the sole responsibility of the EFRAG PTF-ESRS and is submitted to public consultation by EFRAG SRB to inform the upcoming standard-setting steps. It therefore does not reflect the EFRAG SRB's position at this stage, nor the position of the European Union or European Commission DG Financial Stability, Financial Services and Capital Markets Union (DG FISMA), nor the position of organisations with which the EFRAG PTF-ESRS has cooperated. The final version of the [draft] Standard will be produced by the EFRAG SRB starting from this Exposure Draft, taking into consideration the outcome of the public consultation and the requirements of the final CSRD.

[Draft] ESRS S4 Consumers and end-users is set out in paragraphs 1–38 and Appendices A: Defined terms and B: Application Guidance. All the paragraphs, including those in the Appendices A and B, have equal authority. Each Disclosure Requirement objective is stated in a bold paragraph, followed by a paragraph that illustrates the principle to be followed in the preparation of the respective disclosures. The [draft] Standard also uses terms defined in other [draft] ESRS and should be read in the context of its objective.

EXPLANATORY NOTE

In this first set of standards, the PTF-ESRS has focused on developing the disclosures that can be expected of all entities under the scope of the CSRD. This Standard therefore provides high-level disclosures regarding an undertaking's impacts on consumers and end-users and related risks and opportunities, when viewed in general across an undertaking's operations and upstream and downstream value chain.

Subsequent standards are expected to expand on this Standard by providing more detailed disclosures in relation to the sub-topics and specific issues that would be identified as material through the sector-specific or entity-specific materiality determination, which will include actions to address specific impacts and risks, along with related targets and performance measures.

In developing the [draft] Standard, initiatives from the Platform for Sustainable Finance, including the announced guidance on the Minimum Safeguards, as well as the proposal for an EU Corporate Sustainability Due Diligence Directive, were taken into consideration in order to ensure that the structure of the reporting would be compatible with upcoming developments in this area.

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Objective

1. The objective of this [draft] Standard is to specify disclosure requirements for undertakings which will enable users of the sustainability statements to understand:
 - (a) how the undertaking affects the consumers and end-users of its products and/or services (referred to in this [draft] Standard as “consumers and end-users”), in terms of material positive and negative actual or potential impacts;
 - (b) any actions taken, and the result of such actions, to prevent, mitigate or remediate actual or potential adverse impacts;
 - (c) the nature, type and extent of the undertaking’s material risks and opportunities related to its impacts and dependencies on consumers and end-users, and how the undertaking manages them; and
 - (d) the effects of risks and opportunities, related to the undertaking’s impacts and dependencies on consumers and end-users, on the undertaking’s development, performance and position over the short-, medium- and long-term and, therefore, on its ability to create enterprise value.
2. In order to meet the objective, this [draft] Standard requires an explanation of the general approach the undertaking takes to identify and manage any material actual and potential impacts on the consumers and/or end-users related to their products and/or services in relation to:
 - (a) information-related impacts for consumers/end-users, in particular privacy, freedom of expression and access to information;
 - (b) personal safety of consumers/end-users, in particular health and safety, security of a person and protection of children; and
 - (c) social inclusion of consumers/end-users, in particular non-discrimination and access to products and services.
3. This [draft] Standard derives from the draft CSRD stating that the sustainability reporting standards shall specify the information that the undertakings are to disclose about social factors in relation to consumers and end-users.
4. The [draft] Standard also requires an explanation of how such impacts, as well as the undertaking’s dependencies on consumers and end-users, can create material risks or opportunities for the undertaking. For example, negative impact on the reputation of the products and/or services can deteriorate business performance, while trust in products and/or services can bring business benefits, such as increased sales or widening of the future consumer base.
5. In addition, this [draft] Standard supports the undertaking’s disclosure of its alignment with the EU-Taxonomy regarding sustainable finance, especially regarding the approach and reporting needs set out by the “Minimum Safeguards”.

Interaction with other ESRS

6. This [draft] Standard shall be read in conjunction with ESRS 1 General Principles, and ESRS 2 General, Strategy, Governance and Materiality Assessment, as well as ESRS S1 Own workforce, ESRS S2 Workers in the value chain and ESRS S3 Affected communities.

Disclosure requirements

General, strategy, governance and materiality assessment

7. The provisions of this [draft] Standard shall be read in conjunction with and reported alongside the disclosure required by of ESRS 2.
8. Appendix B of this [draft] Standard contains specific application guidance to report on consumers and end-users that the undertaking shall follow when disclosing information under ESRS 2, in particular with regards to:
 - (a) the interaction between material impacts, risks and opportunities and the strategy and business model as per ESRS 2 Disclosure Requirements SBM 2, 3 and 4; and
 - (b) the outcome of the assessment of material sustainability impacts, risks and opportunities as per ESRS 2 Disclosure Requirements IRO 2 and 3.

Disclosure Requirement S4-1 – Policies related to consumers and end-users

9. **The undertaking shall state its policies that address the management of its material impacts of its products and/or services on consumers and end-users, as well as associated material risks and opportunities; and provide a summary of the content of the policies and how they are communicated¹.**
10. The principle to be followed under this Disclosure Requirement is to provide an understanding of the extent to which the undertaking has policies that address the identification, assessment, management and/or remediation of impacts on consumers and end-users specifically, as well as policies that cover material risks or opportunities related to consumers and end-users, or policies that cover impacts, risks and opportunities in one policy. It also aims to provide an understanding of how both the internal organisation, and the consumers and end-users whose interests they address, are made aware of their existence and content.
11. The summary of the description of the policy shall contain the information requirements defined in ESRS 1 Disclosure Principle 1 – On policies adopted to manage material sustainability matters.
12. Where a policy is publicly available on a website, the undertaking may provide a link to the policy.
13. The undertaking shall state specific human rights policy commitments that are relevant to consumers and end-users, including policies to monitor compliance with the UN Global Compact principles or OECD Guidelines for Multinational Enterprises, as well as those that address²:
 - (a) respect for the human rights of all stakeholders;
 - (b) respect for the human rights of consumers and end-users;
 - (c) engagement with affected stakeholders; and
 - (d) measures to provide and/or enable remedy for human rights impacts.

¹ This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting a mandatory indicator related to principal adverse impacts as set out by indicator #11 in Table 1 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (“Lack of processes and compliance mechanisms to monitor compliance with UN Global Compact principles and OECD Guidelines for Multinational Enterprises”).

² This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #9 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (respectively “Lack of a human rights policy”).

14. The undertaking shall summarise how the policy that addresses material impacts on, and risks and opportunities in relation to, consumers and end-users (including policy commitments, code of conducts and other relevant policies as outlined above) is communicated in an accessible form to consumers and end-users, business relationships, and other relevant stakeholders in the undertaking's value chain.
15. If the undertaking does not disclose the above required information, because it does not believe it has material impacts, risks or opportunities in relation to consumers and end-users or it has not adopted a policy and/or objectives as outlined in ESRS 1, it shall disclose this to be the case, shall provide reasons for not having adopted a policy or objectives, and may report a timeframe in which it aims to have such policy or objectives in place.

Disclosure Requirement S4-2 – Processes for engaging with consumers and end-users about impacts

16. **The undertaking shall explain its general processes for engaging with consumers and end-users and their representatives about actual and potential material impacts on them.**
17. The principle to be followed under this Disclosure Requirement is to provide an understanding of how the undertaking engages as part of its ongoing due diligence process with consumers and end-users about material actual and potential positive and/or negative impacts that do or may affect them, and whether and how perspectives of consumers and end-users are taken into account in the decision-making processes of the undertaking.
18. The undertaking shall explain whether and how the perspectives of consumers and end-users inform its decisions or activities. This shall include, where relevant, an explanation of:
 - (a) whether engagement occurs with affected consumers or end-users or their legitimate representatives directly, or with credible proxies that have insight into their situation;
 - (b) the stage(s) at which engagement occurs (for example, in the development stage of a product or service or in the related marketing and sales activities), and the type of engagement (e.g., participation, consultation, information, etc.), as well as the frequency of the engagement (e.g., quarterly, yearly, etc);
 - (c) what role or function within the undertaking has responsibility for ensuring this engagement happens and that the results inform the undertaking's approach; and
 - (d) how the effectiveness of, and, where relevant, outcomes and agreements from engagements are monitored.

Disclosure Requirement S4-3 – Channels for consumers and end-users to raise concerns

19. **The undertaking shall describe:**
 - (a) the channels it has in place for consumers and end-users to raise their concerns/complaints or needs directly with the undertaking; and/or
 - (b) the processes through which the undertaking supports the availability of mechanisms by its business relationships; and
 - (c) how it monitors issues raised and addressed.
20. The principle to be followed under this Disclosure Requirement is to provide an understanding of the formal means by which consumers and end-users can make their concerns and needs known directly to the undertaking and/or through which the undertaking supports the availability of mechanisms by its business relationships, how there is follow up with these consumers and end-users regarding the issues raised, and the effectiveness of these channels.

21. The undertaking shall describe the channels in place, together with information on how the undertaking supports or requires the availability of such channels and whether it has insight into the issues raised. The channels, for raising concerns or needs, include any grievance mechanisms, hotlines, dialogue processes or other means through which consumers and end-users can raise concerns about impacts or explain needs that they would like the undertaking to address. This could include both channels provided by the undertaking, and/or channels provided by its business relationships in the value chain available to consumers and end-users who can be materially impacted.
22. The undertaking shall explain whether and how it assesses that consumers and end-users, who can be materially impacted, are aware of and trust these structures or processes as a way to raise their concerns or needs and have them addressed, and whether the undertaking has policies in place regarding the protection of individuals that use them against retaliation. ³
23. If the undertaking cannot disclose the above required information because it has not adopted a channel for raising concerns and/or does not support the availability of mechanisms by its business relationships, it shall disclose this to be the case. It shall then also provide reasons for not having adopted such a channel or processes, and may report a timeframe in which it aims to have such a channel or processes to be in place.

Disclosure Requirement S4-4 – Targets related to managing material negative impacts, advancing positive impacts, and managing material risks and opportunities

24. **The undertaking shall explain the outcome-oriented targets it may have related to:**
 - (a) reducing negative impacts on consumers and end-users; and/or
 - (b) advancing positive impacts on consumers and end-users; and/or
 - (c) managing material risks and opportunities.
25. The principle to be followed under this Disclosure Requirement is to provide an understanding of the extent to which the undertaking is using outcome-oriented targets to drive and measure progress in addressing negative impacts, and/or advancing positive impacts, on consumers and end-users.
26. The undertaking shall describe any targets linked to specific material positive or negative impacts on consumers and end-users and/or to risks or opportunities associated with consumers and end-users.
27. The summary of the description of the targets shall contain the information requirements defined in ESRS 1 related to the Disclosure Principle 2 – On targets, progress and tracking effectiveness.
28. The undertaking shall disclose the process for setting the targets, including whether and how the undertaking engaged directly with affected consumers and end-users, or their legitimate representatives directly, or with credible proxies that have insight into their situation, in: (a) setting any such targets; (b) tracking the undertaking's performance against them; (c) identifying any lessons or improvements as a result of the undertaking's performance.

³ This information indirectly and for certain elements supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional principal adverse impact as set out by indicator #6 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments ("Insufficient whistle-blower protection").

Disclosure Requirement S4-5 – Taking action on material impacts on consumers and end-users and effectiveness of those actions

29. **The undertaking shall explain:**
- (a) what action is planned or underway to prevent, mitigate or remedy material negative impacts on consumers and end-users who are connected to its operations, products or services;
 - (b) any additional initiatives or processes it has in place with the primary purpose of positively contributing to improved social outcomes for consumers and end-users; and
 - (c) how it assesses the effectiveness of these actions, programmes and processes in contributing to intended outcomes for consumers and end-users.
30. The principle to be followed under this Disclosure Requirement is to provide an understanding of the types of processes, initiatives or engagements through which the undertaking:
- (a) works to prevent, mitigate and remedy material impacts on consumers and end-users, and
 - (b) seeks to achieve positive impacts for consumers and end-users, recognising that in both instances, the ultimate aim is to deliver improved outcomes for consumers' and end-users' lives.
31. The summary of the description of the approaches to taking action on material impacts shall contain the information requirements defined in ESRS 1 related to the Disclosure Principle 3 - On Actions, action plans and resources in relation to policies and targets.
32. The undertaking shall describe its approaches to:
- (a) identifying what action is needed and appropriate in response to a particular actual or potential material negative impact;
 - (b) taking action in reaction to specific material negative impacts on consumers and end-users, including any action in relation to its own practices regarding product design, marketing or sales, as well as whether wider industry or collaborative action with other relevant parties will be required; and
 - (c) ensuring that processes to provide or enable remedy in the event of negative impacts are available and effective in their implementation and outcomes.
33. The undertaking shall describe the approaches and processes through which it tracks the effectiveness of the actions it takes to address impacts. Where it has in place a target in relation to a material impact, as disclosed under ESRS S4-4 Disclosure Requirement, it shall explain how these efforts to track the effectiveness of its actions, including any indicators it uses, relate to the target and help the undertaking evaluate its progress.
34. The undertaking shall also describe whether it has additional initiatives or processes in place whose primary purpose is to deliver positive impacts for consumers and end-users, and how it tracks effectiveness of these initiatives and processes.

Disclosure Requirement S4-6 – Approaches to mitigating material risks and pursuing material opportunities related to consumers and end-users

35. **The undertaking shall explain:**
- (a) what action is planned or underway to mitigate material risks for the undertaking arising from its impacts and dependencies on consumers and end-users; and
 - (b) what action is planned or underway to pursue material opportunities for the undertaking in relation to consumers and end-users.

36. The principle to be followed under this Disclosure Requirement is to provide an understanding of the ways in which the undertaking is addressing the material risks and pursuing the material opportunities related to consumers and end-users.
37. The undertaking shall explain how the actions it has planned or is implementing in response to material risks arising from consumers and end-users are expected to mitigate those risks, and how it tracks their effectiveness in practice, including any evidence to date of their success.
38. The undertaking shall explain how the actions it has planned or is implementing to pursue material opportunities for the undertaking arising from its impacts and dependencies on consumers and end-users are expected to achieve the opportunities, and how it tracks their effectiveness in practice, including any evidence to date of their success.

Appendix A: Defined terms

This appendix is an integral part of the [draft] ESRS S4 Consumers and End-users.

Consumer	Individuals who acquire, consume or use goods and services for personal use, either for themselves or for others, and not for resale or commercial purposes.
End-users	Individuals who ultimately use or are intended to ultimately use a particular product or service.

Appendix B: Application Guidance

This appendix is an integral part of the [draft] ESRS S4 Consumers and End-users Standard. It describes the application of the requirements set for in paragraphs 7-38 and has the same authority as the other parts of this [draft] ESRS S4 Standard.

Objective

- AG 1. The undertaking may highlight special issues relevant to a material impact for a shorter period of time, for instance initiatives regarding the health and safety of consumers and end-users in relation to contamination of a product or severe breach of privacy due to a massive data leak.
- AG 2. Undertakings shall not omit any information in relation to the value chain that they themselves possess or should be able to produce within a reasonable time frame. Reporting on most Disclosure Requirements in this [draft] Standard does not rely on data from third parties but can be responded to by referring to the undertakings' own policies, targets, action plans and resources (where available), including as they relate to their third-party business relationships.

General, strategy, governance and materiality assessment

Consumers and end-user-related specific application guidance on ESRS 2 Disclosure Requirement SBM 2 (paragraphs 38 (a) and (b)) on the views, interests, rights and expectations of stakeholders

- AG 3. The Section on ESRS 2 Disclosure Requirement SBM 2 requires the undertaking to provide an understanding of if and how it considers whether its business model and strategy play a role in creating, exacerbating or (conversely) mitigating significant material impacts on consumers and end-users, and whether and how the business model and strategy are adapted to address such material impacts.
- AG 4. When responding to ESRS 2 Disclosure Requirement SBM 2 paragraphs 38 (a) and (b), the undertaking shall explain how the views, interests, rights and expectations of (actual or potential) materially affected consumers and end-users, including respect for their human rights, inform its strategy and business model. Consumers and end-users are a key group of affected stakeholders.
- AG 5. While consumers and end-users will often not be engaging with an undertaking at the level of its strategy or business model, their views shall inform the undertaking's assessment of its strategy and business model. Where possible, the undertaking shall also seek the views of the (actual or potential) materially affected consumers and end-users' legitimate representatives or those of credible proxies that have insight into their situation (such as national consumer protection bodies for some consumers).

Consumers and end-users-related specific application guidance on ESRS 2 Disclosure Requirement SBM 3 (paragraphs 41 (a) to (c)) on the interaction between material impacts and the strategy and business models

- AG 6. When responding to ESRS 2 Disclosure Requirement SBM 3 paragraphs 41 (a) to (c), the undertaking shall explain whether and how actual and potential impacts on consumers and end-users as identified in ESRS 2 Disclosure Requirements IRO 1, 2 and 3 (a) originate from or are connected to, and (b) inform and contribute to adapting, the undertaking's strategy and business model(s). Impacts on consumers and end-users can originate in an undertaking's business model or strategy in a number of different ways. For example, impacts may relate to the undertaking's value proposition (e.g., providing online platforms with potential for online and offline harm, providing products that harm when overused, misused or when used as intended). Impacts may also relate to the undertaking's value chain (e.g., speed in developing products or services, or

delivering projects, with risks to health and safety), or its cost structure and the revenue model (e.g., sales-maximising incentives that put consumers at risk).

Consumers and end-users-related specific application guidance on ESRS 2 Disclosure Requirement SBM 4 (paragraphs 47 (a) to (d)) on the interaction between material risks and opportunities and the strategy and business models

- AG 7. When responding to ESRS 2 Disclosure Requirement SBM 4 paragraphs 47 (a) to (d), the undertaking shall provide an understanding of the relationship between its material risks and opportunities arising from impacts and dependencies on consumers and end-users and its strategy and business model.
- AG 8. Impacts on consumers and end-users that originate in the business model or strategy can also bring material risks to an undertaking. For example, if an undertaking's business model depends on the use of facial recognition technology in its products, where these capabilities are misused by third parties to track and persecute individuals, the undertaking may face reputational risk or have to abandon or invest in changing its technology to address regulator, investor or consumer concerns. If an undertaking's business model is premised on incentivising its sales force to sell high volumes of a product or service (e.g., credit cards or pain medicine) at speed, and this results in large-scale harm to consumers, the undertaking may face lawsuits and public opprobrium affecting its future business and credibility.

Consumers and end-users-related specific application guidance on ESRS 2 Disclosure Requirement IRO 2 and 3 on the outcome of the assessment of material sustainability impacts, risks and opportunities

- AG 9. The undertaking shall ensure that all consumers and end users who can be materially impacted through the undertaking's own operations or in its upstream or downstream value chain by a business relationship related to the undertaking's products, services and activities are included in the scope of its reporting under ESRS 2. When responding to ESRS 2 Disclosure Requirement IRO paragraph 77(a), the undertaking shall provide the following information:
- (a) a brief description of the types of consumers and end-users subject to material impacts by its operations or through its value chain:
 - i. Consumers and end-users of products that are inherently harmful to people and/or increase risks for chronic disease;
 - ii. consumers and end-users of services that potentially negatively impact their rights to privacy, have their personal data protected, freedom of expression and non-discrimination;
 - iii. consumers or end-users who are dependent on accurate and accessible product- or service- related information, such as manuals and product labels, to avoid potentially damaging use of a product or service;
 - iv. consumers or end-users who are particularly vulnerable to health or privacy impacts or impacts from marketing and sales strategies, such as children or financially vulnerable individuals;
 - (b) in the case of negative impacts, whether they are widespread or systemic in contexts where the undertaking operates or sells or provides its products or services (e.g., state surveillance that affects the privacy of service users), or whether they are related to individual incidents (e.g., a defect linked to a particular product) or to specific business relationships (e.g., a business partner uses marketing that inappropriately targets young consumers);
 - (c) in the case of positive impacts, a brief description of the activities that result in the positive impacts (e.g., product design that improves its accessibility for persons with disabilities) and

the types of consumers and end-users that are positively affected or could be positively affected, including their geographic location;

(d) any material risks and opportunities for the business arising from impacts and dependencies on consumers and end-users.

AG 10. In describing the main types of consumers and end-users negatively affected following the process set out in ESRS 2 Disclosure Requirement IRO 1, the undertaking shall explain how it has developed an understanding of how consumers and end-users with particular characteristics, those working in particular contexts, or those using particular products or services may be at greater risk of harm. For example, this may be because consumers and end-users are young and may be more susceptible to impacts on their physical and mental development, or they lack financial literacy and may be more susceptible to exploitative sales or marketing practices, or they are women in a context where women are routinely discriminated against in their access to particular services or in the marketing of particular products.

AG 11. In describing the material risks and opportunities for the business arising from impacts and dependencies on consumers and end-users the undertaking shall explain which, if any, of those material risks and opportunities arise from its material positive or negative impacts on consumers and end-users. This could be because a material impact on consumers and end-users could affect the undertaking's future cash flows, for example, if some consumers or end-users boycott a product or service following a health scare or major data privacy breaches.

AG 12. The business risks could also arise because of the undertaking's dependency on consumers and end-users where low likelihood but high impact events may affect the undertaking's future cash flows, for example, where a global pandemic leads to severe impacts on certain consumers' livelihoods resulting in major changes in patterns of consumption.

Disclosure Requirement S4-1 – Policies related to consumers and end-users

AG 13. This disclosure requires the undertaking to provide a summary of the policies or commitments the undertaking has developed that are relevant to managing the undertaking's material impacts on consumers and end-users and/or to the management of related risks and opportunities identified under ESRS 2 Disclosure Requirements IRO 1, 2 and 3.

AG 14. The summary shall also include the most relevant (if any) external-facing sales, marketing codes of conduct or similar documents for itself or its business relationships that set out the undertaking's commitments or expectations about the management of impacts on consumers and end-users whether through its own activities or those of its business relationships.

AG 15. The summary shall include an explanation of how the external facing policies are embedded, for example through internal-facing sales and distribution policies and aligned with other policies relevant to consumers and end-users.

AG 16. The summary shall also include which position or function within the undertaking has ultimate accountability and operational responsibility for the implementation of the policy, unless this information is already provided under ESRS 2 as part of the Governance section, in which case a cross-reference will fulfil this disclosure requirement.

AG 17. The policy may take the form of a stand-alone policy regarding consumers and end-users or be included in a broader document such as a code of ethics or a general sustainability policy. The summary shall include the key information necessary to ensure a faithful representation of the policy in relation to consumers and end-users, including an explanation of significant changes to the policy adopted during the reporting year (e.g., new expectations for business customers, new or additional approaches to due diligence and remedy).

AG 18. The summary shall explain whether the undertaking's policy covers all consumers and end-users that could be affected by the material impacts identified under ESRS 2 IRO-2 and 3, or whether they only cover some consumers and end-users and if so, why.

- AG 19. The summary shall state if any material impacts are not covered by or addressed in a relevant policy and explain any plans it has to address the gap. When preparing this disclosure, the undertaking shall consider whether severe human rights issues and incidents connected to its consumers and end-users have been reported and, if applicable, disclose these⁴.
- AG 20. The undertaking shall disclose whether the relevant policies are mandatory or are only recommendatory in nature for those who are expected to follow or implement them. If they are mandatory, the undertaking shall explain how it ensures adherence by staff internally and/or from its business relationships, as relevant.
- AG 21. The undertaking shall disclose the extent of the alignment of its policy or policies with internationally recognised standards relevant to consumers and end-users, including the standards set out in Universal Declaration of Human Rights and the two Covenants that implement it. The undertaking shall also state whether its policies enable it to monitor compliance with the UN Global Compact principles and/or the OECD Guidelines for Multinational Enterprises. The undertaking shall also disclose the extent to which violations in relation to the UN Global Compact principles and/or the OECD Guidelines for Multinational Enterprises that involve consumers and end-users have been reported in its upstream and downstream value chain and, if applicable, an indication of these⁵.
- AG 22. Where the undertaking is, through its policy commitment, explicitly referring to alignment with the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises and the United Nations (UN) Guiding Principles on Business and Human Rights, it shall state so, if it has not disclosed this as part of disclosures under ESRS 2.
- AG 23. The undertaking shall explain how its policies are communicated to those individuals or entities for whom they are relevant, either because they are expected to implement them (for example, the undertaking's employees, contractors and business customers), because they have a direct interest in their implementation (for example, consumers and end-users, investors) or both. The undertaking shall explain if and how it tailors dissemination to different audiences to help ensure that the policy is accessible and that they understand its implications. Elements of information may include communication tools and channels (e.g., flyers, newsletters, dedicated websites, social media, face to face interactions, consumer representative organisations) or identification and removal of potential barriers for dissemination, such as through translation into relevant languages or the use of graphic depictions.

Disclosure Requirement S4-2 – Processes for engaging with consumers and end-users about impacts

- AG 24. This disclosure requirement focuses on how the undertaking gains insight into the perspectives of consumers and end-users regarding impacts that do or may affect them, and how the undertaking takes their perspectives into account in their activities or decisions.
- AG 25. The undertaking shall disclose whether engagement occurs directly with consumers or end-users, or their legitimate representatives, or with credible proxies who have knowledge of their interests, experiences or perspectives (such as national consumer protection bodies for some consumers).

⁴ This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #14 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (“Number of identified cases of severe human rights issues and incidents”).

⁵ This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting a mandatory indicator related to principal adverse impacts as set out by indicator #10 in Table 1 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (“Violations of UN Global Compact principles and Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises”).

- AG 26. The undertaking shall explain any steps it takes to gain insight into the perspectives of consumers and end-users that may be particularly vulnerable to impacts and/or marginalised.
- AG 27. The undertaking shall disclose the due diligence stage(s) at which engagement occurs, for example in assessing impacts, taking action on them or evaluating the effectiveness of the undertaking's approach. It shall explain whether engagement occurs on a regular basis, at certain points in a project or business process (for example, in the development stage of a new product or service or in marketing and sales activities), in response to legal requirements and/or in response to stakeholder requests, and whether the result of the engagement is being integrated into the undertaking's decision-making processes.
- AG 28. The undertaking shall describe if and how inputs from consumers and end-users are taken into account in the identification of the material impacts, in particular, inputs from potentially affected consumers and end-users.
- AG 29. The undertaking shall state what position or function has operational responsibility for such engagement and/or ultimate accountability, and whether it requires certain skills of, or provides training or capacity-building for, relevant staff to undertake engagement. The undertaking shall disclose whether this is a dedicated role or function or part of a broader role or function. If it cannot identify such a position or function, it shall explain why not. This requirement could also be fulfilled with reference to ESRS 2 Disclosure Requirement GOV 1.
- AG 30. Wherever possible, the undertaking shall provide examples from the reporting period to illustrate how the perspectives of consumers and end-users have informed specific decisions or activities of the undertaking.

Disclosure Requirement S4-3 – Channels for consumers and end-users to raise concerns

- AG 31. This disclosure requirement focuses on information about channels for consumers and end-users themselves to proactively raise concerns about actual or potential impacts on them and have them addressed. This shall be disclosed in addition to any other mechanisms an undertaking may use to gain insight into the perspectives of consumers and end-users, such as customer satisfaction surveys.
- AG 32. The undertaking shall explain whether it operates the channels itself or participates in any third-party grievance mechanisms. Third party mechanisms could include those operated by the government, NGOs, industry associations and other collaborative initiatives. The undertaking shall explain whether these mechanisms are accessible to all consumers and end-users who may be potentially or actually materially impacted by the undertaking (or individuals or organisations acting on their behalf or who are otherwise in a position to be aware of adverse impacts), and through which consumers and end-users (or individuals or organisations acting on their behalf or who are otherwise in a position to be aware of adverse impacts), can raise complaints or concerns related to the undertaking's own activities.
- AG 33. The undertaking shall explain whether and how consumers and end-users that may be affected are able to access channels at the level of the undertaking they are affected by, in relation to each material impact. Relevant channels may include hotlines, or other grievance mechanisms operated by the relevant undertaking or by a third party. Where the undertaking is relying solely on information about the existence of such channels provided by its business relationships to answer this requirement, it shall state that.
- AG 34. The undertaking may explain whether these various mechanisms treat grievances confidentially and with respect to the rights of privacy and data protection and whether they allow for consumer and end-users to use them anonymously (for example, through representation by a third party).
- AG 35. In explaining whether and how the undertaking knows that consumers and end-users are aware of and trust any of these channels, it shall include relevant and reliable data it may have about the effectiveness of these channels from the perspective of consumers and end-users themselves.

Examples of sources of information are surveys of consumers and end-users that have used such channels and their levels of satisfaction with the process and outcomes.

AG 36. In describing the effectiveness of channels for consumers and end-users to raise concerns, the undertaking may be guided by the following questions, based on the “effectiveness criteria for nonjudicial grievance mechanisms”, as laid out in the UN Guiding Principles on Business and Human Rights. The below considerations may be applied on an individual channel basis or for the collective system of channels:

- (e) do the channels hold legitimacy by providing appropriate accountability for their fair conduct and building stakeholder trust?
- (f) are the channels accessible?
- (g) do the channels have known procedures, set timeframes and clarity on the processes?
- (h) do the channels ensure reasonable access to sources of information, advice and expertise?
- (i) are the channels transparent and providing sufficient information to meet any public interest at stake?
- (j) does the outcome accord with internationally recognised human rights?
- (k) does the undertaking identify insights from the channels that support continuous learning in both improving the channels and preventing future impacts?
- (l) does the undertaking focus on dialogue with complainants as the means to reach agreed solutions, rather than seeking to unilaterally determine the outcome?

For more information, see Principle 31 of the UN Guiding Principles on Business and Human Rights.

Disclosure Requirement S4-4 – Targets related to managing material negative impacts, advancing positive impacts, and managing material risks and opportunities

AG 37. This Disclosure Requirement is set to capture targets related to impacts on consumers and end-users, as well as topic-specific targets in relation to each specific material impacts on consumers and end-users and/or targets related to risks and opportunities associated with consumers and end-users. Any targets reported related to impacts shall clearly relate to the intended outcomes to be achieved in the lives of consumers and end-users.

AG 38. Targets related to risks and opportunities may be the same as or distinct from targets tied to impacts. Therefore, no distinction is to be made per se, but what the target is aiming at shall be disclosed (i.e., impact and/or risks and opportunities)". For example, a target to ensure equal access to finance for underserved consumers could both reduce discrimination impacts on those consumers and enlarge the undertaking's pool of customers.

AG 39. The undertaking shall state any topic-specific targets it has set in relation to each material impact and explain how it arrived at those targets. Where the undertaking does not have any such targets it shall state this and explain any plans it has to address the gap.

AG 40. The undertaking may also distinguish between short, medium and long-term targets covering the same policy commitment. For example, an undertaking may have as a main objective to make its online services accessible to people with disabilities, with the long-term goal of having adapted 100% of its online services by 2025, and with the short-term objective of adding x number of accessible features every year up and until 2025.

AG 41. In general, when disclosing targets in relation to consumers and end-users, the undertaking shall disclose whether and the extent to which targets are defined in terms of the intended outcomes to be achieved for consumers and end-users and that they are measurable/verifiable, and stable over time in terms of definitions and methodologies to allow for continuity in the data points derived

from the targets. Any standards or commitments on which the targets are based shall also be clearly defined in the reporting (for instance code of conducts, sourcing policies, global frameworks or industry codes).

AG 42. In relation to both overarching and specific targets, the undertaking shall explain whether and how consumers and end-users themselves were or are involved in the process of defining the target(s), tracking performance against it/them and/or identifying lessons related to implementation.

AG 43. Where an undertaking has changed or replaced a target in the reporting period, this shall be explained, for instance by linking it to significant changes in the business model or to broader changes in the accepted standard or legislation from which the target is derived.

Disclosure Requirement S4-5 – Taking action on material impacts on consumers and end-users and effectiveness of those actions

AG 44. This Disclosure Requirement focuses on what measures the undertaking has in place to respond to its material impacts on consumers and end-users as well as those measures aimed at achieving additional positive impacts. The undertaking shall disclose whether and to what extent its measures have the ultimate aim of delivering improved outcomes in the lives of consumers and end-users but start from the standpoint of the negative impact that they aim to prevent, mitigate or remedy. The Disclosure Requirement also enables an undertaking to disclose additional initiatives or processes through which it aims to deliver positive impacts, and which are not part of an effort to address negative impacts.

AG 45. It takes time to understand negative impacts and how the undertaking may be involved with them through its value chain, as well as to identify appropriate responses and putting them into practice. It is therefore unlikely that an undertaking will be able to show that all challenges have been addressed. Therefore, the undertaking shall explain:

- (a) its general and specific approaches to addressing material negative impacts;
- (b) its initiatives aimed at contributing to additional material positive impacts;
- (c) how far it has progressed in its efforts during the reporting period; and
- (d) its aims for continued improvement.

AG 46. In relation to each material impact, the undertaking shall explain which internal functions are involved in managing the impact and what types of action they take to address negative and advance positive impacts. Appropriate action will vary according to whether the undertaking causes or contributes to a material impact, or whether it is involved because the impact is directly linked to its operations, products or services by a business relationship.

AG 47. The undertaking shall explain whether and how it ensures that its own practices do not cause or contribute to material negative impacts on consumers and end-users, including, where relevant, its practices in relation to marketing, sales and data use. This may include explaining what approach is taken when tensions arise between the prevention or mitigation of material negative impacts and other business pressures.

AG 48. Given that material negative impacts affecting consumers and end-users may not be caused by the undertaking alone and may be linked to entities or operations outside its direct control, the undertaking shall explain whether and how it seeks to use leverage with relevant business relationships to manage those impacts. This may include using commercial leverage (for example, enforcing contractual requirements with business relationships or implementing incentives), other forms of leverage within the relationship (such as providing training or capacity-building on proper product use or sale practices to business relationships) or collaborative leverage with peers or other actors (such as initiatives aimed at responsible marketing or product safety) to motivate business relationships to take action.

- AG 49. If the undertaking reports on its participation in an industry or multi-stakeholder initiative as part of its actions to address material negative impacts, the undertaking shall make clear how the initiative, and its own involvement, is aiming to address the material impact concerned. It may report under ESRS S4-4 Disclosure Requirement regarding any relevant targets set by the initiative and progress towards them.
- AG 50. The undertaking shall also explain whether and how it considers actual and potential material impacts on consumers and end-users in decisions to terminate business relationships and whether and how it seeks to address any negative impacts that may result from termination.
- AG 51. The undertaking shall explain what resources are allocated to the management of its material impacts with a level of specificity and detail that allows readers to gain a thorough understanding of how the impacts are managed.
- AG 52. Where the undertaking has caused or contributed to actual material negative impacts on consumers and end-users during the reporting period, it shall explain whether and how it has provided or enabled remedy (to the extent of its contribution).
- AG 53. Where material negative impacts have occurred during the reporting period, but the undertaking has not caused or contributed to them, it may explain whether and how it has taken a role in using its leverage to help enable remedy for the consumers and end-users.
- AG 54. The undertaking shall explain how it tracks the effectiveness of its actions to manage material impacts during the reporting period and any lessons learned from the previous and current reporting periods. Processes used to track the effectiveness of actions can include stakeholder feedback, measurement systems, grievance mechanisms, court proceedings and/or related court decisions, external performance ratings, and benchmarking. Where there is a relationship with a target under ESRS S4-4 Disclosure Requirement, the undertaking shall explain the connection.
- AG 55. In reporting on effectiveness, the undertaking shall enable the understanding of the links between the actions it has taken and the effective management of impacts. For example, to show the effectiveness of training of sales representatives to eliminate discrimination in the delivery of its services, the undertaking may report survey feedback from vulnerable or marginalised consumers and end-users showing that their ability to access services has improved since the time the undertaking began training on these issues. Additional information the undertaking may provide includes data showing a decrease in the number of complaints identified through for instance consumer-facing channels.
- AG 56. With regards to initiatives or processes whose primary aim is to deliver positive impacts for consumers and end-users, the undertaking shall describe any initiatives or processes it has in place that are based on affected consumers and end-users' needs and their level of implementation. This description shall include:
- (a) information about whether and how consumers and end-users and legitimate representatives or their credible proxies play a role in decisions regarding the design and implementation of these programmes or processes;
 - (b) information about the intended or achieved positive outcomes for consumers and end-users of these programmes or processes.
- AG 57. The undertaking may explain whether any such initiatives are designed to also support the achievement of one or more of the UN Sustainable Development Goals (SDGs). For example, through a commitment to advance UN SDG 3 to "ensure healthy lives and promote well-being for all at all ages" the undertaking may be actively working to make its products less addictive and harmful to physical and psychological health, which can benefit both the consumers and end-users themselves, but also their families and communities.
- AG 58. The undertaking shall state the intended positive outcomes of its actions for consumers and end-users and disclose any evidence of achievement of these outcomes. The undertaking shall be careful to distinguish evidence of certain activities having occurred (e.g., that x number of

consumers have received information about healthy eating habits) from evidence of actual outcomes for consumers and end-users (e.g., that x number of consumers have changed their eating habits and improved their overall health).

AG 59. The undertaking may explain whether these initiatives or processes also play a role in mitigating material negative impacts disclosed under ESRS 2 Disclosure Requirement IRO 1; for example, where a programme that aims to support heightened digital awareness of the risk of online scams has led to a reduction in the number of cases of end-users experiencing breaches of data privacy.

Disclosure Requirement S4-6 – Approaches to mitigating material risks and pursuing material opportunities related to consumers and end-users

AG 60. This Disclosure Requirement assumes that the undertaking has determined its material sustainability-related business risks and opportunities following the process set out in ESRS 2 Disclosure Requirement 2 -IRO 1.

AG 61. This Disclosure Requirement focuses on how the undertaking seeks to monitor, manage and mitigate business risks, and pursue business opportunities, related to its impacts or dependencies on consumers and end-users. This disclosure shall include:

- (a) business risks related to an undertaking's impacts on consumers and end-users might include the reputational or legal exposure where poorly designed or defective products result in injuries or deaths;
- (b) business risks related to an undertaking's dependencies on consumers and end-users might include the loss of business continuity where an economic crisis makes consumers unable to afford certain products or services;
- (c) business opportunities related to an undertaking's impacts on consumers and end-users might include market differentiation and greater customer appeal from offering safe products or privacy-respecting services; and
- (d) business opportunities related to an undertaking's dependencies on consumers and end-users might include the achievement of a loyal future consumer base by ensuring, for example, that LGBTQI communities are respected and included in the products or services offered by the undertaking.

AG 62. The undertaking shall highlight external developments that influence whether dependencies turn into risks.

AG 63. The undertaking shall disclose policies, targets, action plans or resources related to the management of risks and opportunities in line with ESRS 2. Where the risks and opportunities arise from a material impact, the undertaking may cross-reference its disclosures on policies, targets, action plans and resources in relation to that impact.

AG 64. The undertaking shall explain the extent to which and how its processes to manage material risks related to consumers and end-users are integrated into its existing risk management processes.



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