# ESRS-40a—EFRAG proposes standards for non-EU groups

**In depth**
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**What's inside**



## At a glance

On 23 July 2026, EFRAG **published an exposure draft** of the European Sustainability Reporting Standards for certain non-EU groups (draft ESRS-40a) for a 100-day public consultation. The standards would apply to non-EU groups with significant EU activities - and therefore also directly to a number of Swiss companies - beginning with financial year 2028 (reporting in 2029). The exposure draft is based on the revised European Sustainability Reporting Standards issued on 3 July 2026 (ESRS (2026)).

**Key takeaways**

- ESRS-40a would apply to non-EU groups that have an EU subsidiary or branch and meet specified turnover thresholds, with first reporting for financial years beginning on or after 1 January 2028.
- Draft ESRS-40a reporting would focus on impact materiality, so sustainability-related risks and opportunities would not be required disclosures.
- Draft ESRS-40a would allow reporting to be limited to EU-related impacts for topics other than climate change, if certain conditions are met.
- In scope non-EU groups may apply either ESRS-40a or ESRS (2026) to comply with EU reporting requirements.

This publication summarises draft ESRS-40a and the key differences from ESRS (2026). It also details the topics addressed in the related public consultation. Comments on the exposure draft are due by 31 October 2026. The 100-day public consultation period is also an opportunity for Swiss companies to provide feedback and help shape the future reporting framework before the 31 October 2026 deadline. For more information on developments related to EU sustainability reporting, see our other publications:

- *ESRS (2026)—a deep dive into the revised standards* (15 July 2026)
- *'Omnibus' directive finalised* (16 December 2025, updated 26 February 2026)

## What happened?

On 23 July 2026, EFRAG **published an exposure draft** of the European Sustainability Reporting Standards for "certain non-EU undertakings in accordance with Article 40a of the Accounting Directive" (draft ESRS-40a) and launched a 100-day public consultation period that closes on 31 October 2026. The exposure draft is based on the revised European Sustainability Reporting Standards issued on 3 July 2026 (ESRS (2026)), however, the draft ESRS-40a materiality assessment would only encompass impacts.

The **Public Consultation Questionnaire** requests feedback on four main topics:

- Exclusion of datapoints found In ESRS (2026) related to risks, opportunities, resilience, and dependencies
- An option to report using a 'mixed approach' for the reporting boundary
- Interoperability, presentation, and incorporation by reference
- Application of terms and concepts from European Union (EU) laws and regulations

In addition to the Public Consultation Questionnaire, EFRAG published a **basis for conclusions** which explains its considerations in preparing the exposure draft.

## Who would report under ESRS-40a?

EFRAG estimates that approximately 1,200 undertakings based outside the EU—primarily from the United States and the United Kingdom—are in scope of the Corporate Sustainability Reporting Directive (CSRD).[1] CSRD requires reporting from a non-EU undertaking (parent or group) if it meets both of the following criteria:[2]

- Generated consolidated turnover in the EU exceeding €450 million in each of the last two consecutive financial years
- Has an EU subsidiary or branch with turnover exceeding €200 million in the preceding financial year

The non-EU parent or group sustainability report will be required for financial years beginning on or after 1 January 2028 (reporting in 2029) and may be prepared in accordance with ESRS-40a or, alternatively, the reporting entity may report in accordance with ESRS (2026) or an 'equivalent' standard. To date, the European Commission (EC) has not made any equivalency determinations.

EU subsidiaries of the non-EU parent that would otherwise be subject to ESRS reporting may be exempt from those individual obligations if the non-EU sustainability report is prepared in accordance with ESRS (2026) or an 'equivalent' standard. The exemption cannot be applied if the non-EU sustainability report is prepared in accordance with ESRS-40a.

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[1] EFRAG, ESRS for Certain Non-EU Undertakings in Accordance with Article 40a of the Accounting Directive (ESRS-40a) Public Presentation, dated 22 July 2026, page 21.

[2] European Union (EU), *Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements (Directive EU 2026/470).*

## What are the key aspects of ESRS-40a?

CSRD requires that ESRS-40a cover substantially the same topics as ESRS (2026), including governance, business model and strategy, policies, targets and progress towards those targets, and due diligence. CSRD also specifies that non-EU groups would only be required to report on impacts; risks and opportunities are not in scope.[3]

Key aspects of draft ESRS-40a and differences compared with ESRS (2026) include the following:

### Materiality approach

ESRS-40a reporting would be based on an entity's impact materiality assessment. As a result, draft ESRS-40a do not include disclosure requirements or terminology relating to risks and opportunities, or related disclosures such as resilience and dependencies. For example, ESRS-40a exclude the following disclosures required by ESRS (2026):

- Current and anticipated financial effects of sustainability matters
- The identification of climate-related risks
- Scenario analysis
- Resilience in relation to climate change
- Transition risks
- Physical risks

An entity would still be required to report on impacts that give rise to sustainability-related risks and opportunities or that are generated by actions taken to address risks or capture opportunities.[4]

The concept of fair presentation is maintained in draft ESRS-40a 1 *General requirements,* which states that the objective of the ESRS-40a sustainability report, taken as a whole, is to fairly present the entity's material impacts and how it manages them.[5] ESRS-40a 1 also retains the requirement to report only information that is material in the context of the decision-making needs of primary users of general-purpose financial reports and other users of general-purpose ESRS-40a sustainability statements.[6]

**Topics for feedback requested by the Public Consultation Questionnaire**

Topic 1, question 21: Removal of disclosures related to risks and opportunities, and retention of financial information disclosures if useful contextual information

Topic 1, question 39: Reference to fair presentation in the reporting objectives

### 'Mixed approach' to reporting

Draft ESRS-40a would permit an entity to report impacts for the entire non-EU group or apply a 'mixed approach'. The 'mixed approach' would require reporting of climate for the entire

[3] EU, ***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*, Article 40a, paragraph 1.
[4] Draft ESRS-40a 1 *General requirements,* AR 20.
[5] Draft ESRS-40a 1 paragraph 5.
[6] Draft ESRS-40a 1 paragraph 36.

group but allow the entity to report other impacts on an EU-only basis ('EU-related impacts'), if certain conditions are met.[7] The 'mixed approach' could be applied at different levels of granularity, including by topic, sub-topic, or a group of impacts within a topic or sub-topic.[8]

EU-related impacts are defined by draft ESRS-40a 1 paragraph 28 as arising from one or both of the following:

- "Products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties (downstream value chain actors such as distributors and traders)"
- The entity's European Union activities

Draft ESRS-40a 1 paragraph 29 provides the conditions that must be met to apply the 'mixed approach':

> "The option to limit the scope of reported information … is applicable only where a meaningful identification of the EU-related impacts is possible, enabling a faithful representation of those impacts for the purpose of ESRS-40a reporting, aligned with:
>
> a. how the undertaking's own operations, its products and its service offering are structured or managed; and
> b. how its upstream and downstream value chain or chains are structured and operate."

Draft ESRS-40a also include application requirements that are intended to support application of the 'mixed approach'. An entity applying the 'mixed approach' would be required to provide disclosures about whether and how it was applied.[9]

The inclusion of the 'mixed approach' in the exposure draft of ESRS-40a 1 was part of the EC's request to EFRAG in drafting the standards.[10] In its basis for conclusion, EFRAG raised concerns about the application of the 'mixed approach,' including the fact that using different reporting scopes for different topics within the same report may impair understandability and that relevant information may be lost through the 'mixed approach' especially in relation to impacts that cannot be confined to a specific geography.[11]

**Topics for feedback requested by the Public Consultation Questionnaire**

Topic 2, question 25: Support for a 'mixed approach'

Topic 2, question 31: Definition of 'EU-related impacts'

Topic 2, question 33: Intention of preparers to apply the 'mixed approach'

Topic 2, question 36: Understandability and transparency of reports prepared using the 'mixed approach'

Additional detailed questions on the 'mixed approach' include themes such as application when reporting impacts on human rights, achievability of fair presentation, implementation challenges for preparers and auditors, and sufficiency of application requirements.

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[7] Draft ESRS-40a 1 paragraphs 28–29.
[8] Draft ESRS-40a 1 paragraph 30.
[9] Draft ESRS-40a 2 *General disclosures,* paragraph 4(a) and AR 1.
[10] EFRAG, ESRS-40a Exposure Draft–Basis for conclusions, BC21.
[11] EFRAG, ESRS-40a Exposure Draft–Basis for conclusions, BC24.

## Interoperability

Draft ESRS-40a 1 provides additional guidance on incorporation by reference intended to support interoperability. Draft ESRS-40a 1 would allow an entity to incorporate by reference a substantial part of the ESRS-40a sustainability report from a sustainability statement prepared under other sustainability standards. There are conditions that must be met for an entity to incorporate information by reference, and the entity must include a table of contents to indicate the location of the incorporated information.[12] Draft ESRS-40a 1 paragraph 121 states that information incorporated by reference must meet all of the following requirements:

> "(a) constitutes a separate element of information clearly identified in the source document as addressing the relevant ESRS-40a DR or datapoint;
> (b) is published before or at the same time as the ESRS-40a sustainability report under Article 40(a);
> (c) is prepared in one of the official languages of the European Union or translated into such a language;
> (d) is subject to at least the same level of assurance as the rest of the ESRS-40a sustainability report. In this case, it is not required that the entire document containing the information be subject to assurance; and
> (e) allows the same technical digitalisation requirements as the other information in the ESRS-40a sustainability report."

An entity must also ensure that the overall cohesiveness and readability of the sustainability report is not impaired by incorporating information by reference.[13]

**Topics for feedback requested by the Public Consultation Questionnaire**

Topic 3, question 66: Presentation requirements

Topic 3, question 69: Conditions and requirements for incorporation by reference

Topic 3, question 72: Relevance and benefit for entities reporting under IFRS S1 and S2 and ESRS-40a

Topic 3, question 76: Sufficiency of incorporation by reference requirements for understandability and auditability

## EU terms and concepts

Draft ESRS-40a include a number of references to EU laws and regulations, consistent with ESRS (2026). Examples of these EU laws and regulations include the NACE sector classification system, the list of pollutants and transfer registries in the European Pollutant Release and Transfer Register (E-PRTR) and Industrial Emissions Portal Regulation (IEPR), and the definition of adequate wages in EU Minimum Wage Directive.

Draft ESRS-40a would require additional disclosures when an entity applies concepts and terms derived from EU laws and regulations to operations outside of the EU using approximations or estimates, including identification of the disclosures affected, an

[12] Draft ESRS-40a 1 paragraphs 124–125.
[13] Draft ESRS-40a 1 paragraph 123.

explanation of the approach used, and a description of the resulting limitations and the parts of the reporting boundary to which they apply.[14]

**Topics for feedback requested by the Public Consultation Questionnaire**

Topic 4, question 78: Feasibility of using EU regulation as the default reference framework

Topic 4, question 80: Sufficiency of proposed requirements to disclose methodologies when approximations or estimates are used

### Transitional provisions

Draft ESRS-40a include transitional provisions similar to those included in ESRS (2026) and phase-in provisions that would permit entities to phase-in specified datapoints or topical reporting requirements over time. See the appendix for details of the transitional provisions included in draft ESRS-40a.

### Other notable differences with ESRS (2026)

Other notable differences between draft ESRS-40a and ESRS (2026) include the following:

- Value chain cap—ESRS 1 (2026) paragraph 66 limits the sustainability information an entity may require from protected entities in its value chain to certain disclosures in the voluntary sustainability reporting standard. There is no value chain cap in draft ESRS-40a.
- EU Taxonomy—draft ESRS-40a do not include requirements related to the EU Taxonomy because EU Taxonomy Article 8 only applies to non-EU groups if they are listed in the EU.

## What’s next?

The 100-day comment period for public feedback is open until 31 October 2026. Comments may be submitted by completing the **online survey**. EFRAG also announced that it will conduct targeted stakeholder engagement activities, including educational webinars, field tests on selected topics to assess feasibility, and workshops with national standard-setters and preparers from non-EU jurisdictions.[15]

Following the comment period, EFRAG will analyse the feedback received and prepare its technical advice. EFRAG expects to hand over its technical advice on ESRS-40a to the European Commission in January 2027. The European Commission is then expected to conduct its own public consultation on ESRS-40a and adopt a delegated act mid-2027.

[14] Draft ESRS-40a 2 paragraph 7.
[15] EFRAG, Cover Note ESRS for non-EU groups, paragraph 8.

## Appendix: Transitional provisions in draft ESRS-40a

| Relevant for reporting year | ESRS-40a transitional provision |
|---|---|
| First financial year | Comparative information is not required. |
| | May omit information on substances of very high concern (SVHC) for reporting entities that are users of articles containing such substances |
| | Selected disclosure requirements in ESRS-40a S1 *Own workforce* may be omitted:<br>▪ Characteristics of non-employees in the undertaking's own workforce (S1-6)<br>▪ Collective bargaining coverage and social dialogue for own employees in non-EEA countries (S1-7)<br>▪ Social protection (S1-10)<br>▪ Persons with disabilities (S1-11)<br>▪ Training and skills development metrics (S1-12)<br>▪ Selected datapoints on health and safety (S1-13)<br>▪ Datapoints on health and safety for nonemployees (S1-13)<br>▪ Work-life balance metrics (S1-14) |
| First two financial years | May omit all disclosure requirements of:<br>▪ ESRS-40a E4 *Biodiversity and ecosystems*<br>▪ ESRS-40a S2 *Workers in the value chain*<br>▪ ESRS-40a S3 *Affected communities*<br>▪ ESRS-40a S4 *Consumers and end-users* |
| First three financial years | If an entity cannot obtain all the necessary information regarding its value chain, it shall disclose the efforts made to obtain that information, why the information is not available, and the entity's plans to obtain the information in the future.<br><br>May omit quantitative information about substances of concern as required by ESRS-40a E2-5 *Substances of concern and substances of very high concern* |

**To have a deeper discussion contact:**

**Petra Schwick**
Partner, Assurance
PwC Switzerland
petra.schwick@pwc.ch

**Christine Blass**
Director, Assurance
PwC Switzerland
christine.b.blass@pwc.ch

**Anina Duttweiler**
Senior Manager, Assurance
PwC Switzerland
anina.duttweiler@pwc.ch

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