ESRS-40a, Public consultation questionnaire

2. (untitled)

Do you provide your consent to publish your responses? Please select 'No' below if you do not want your responses to be made public; in this case, your feedback will be treated anonymously.

Yes

3.

1. **First Name:**

Anu

2. **Last Name:**

Kultalahti

3. **Name of the organisation:**

Finnwatch ry

4. **Country of headquarters:**

Finland

5. **Sector: [more detailed information about sector classification] - *It is possible to select multiple sectors.***

Other service activities

6. **Please enter your email.**

anu.kultalahti@finnwatch.org

7. **Which of the following stakeholder types do you represent?**

NGO

For preparers, are you:

If none of the above, please specify.

Please specify the country of headquarters of the ultimate parent company.

i. Please specify the country of headquarters.

ii. If you have selected point (iii) to the question for preparers above,please provide your feedback, if possible, on (these questions apply only to undertakings in scope of Article 40a of the Accounting Directive):

How many subsidiaries in your group are in scope of Articles 19a or 29a of the Accounting Directive?

iii. Please provide the location of your subsidiaries

iv. Please list the subsidiaries that are already reporting under Articles 19a or 29a of the Accounting Directive.

v. If you have selected point (iii) to the question for preparers above,do you plan to report according to ESRS (as enated by the EC in July 2026) for the whole group (double materiality)?

vi. Please select one or more of the reasons listed below for planning to report according to ESRS (as enated by the EC in July 2026) for the whole group (double materiality).

8. **Do you/does your (or will by FY2028) ultimate parent group report in accordance with jurisdictional standards based on ISSB standards on a group level?**

No.

Because you answered "Yes" to the previous question, please indicate if you report on:

9. **Do you/does your (or will by FY2028) ultimate parent group report voluntarily on a group level?**

No.

Because you answered "Yes" to the previous question, please indicate if you report on:

4.

---

10. **Do you agree with the way EFRAG has implemented the provisions of the Accounting Directive (Articles 40a–40d), particularly in deleting RORD-related disclosures and financial effects, as well as maintaining financial information that provides useful contextual information to understand the impacts and how they are managed?**

Yes.

11. **i. Please specify why**

While the deletion of certain disclosure requirements limits the reporting related to the financial risk related to the climate change, the remaining requirements – especially E1-4 and E1-5 – provide basis for reporting at least some contextual information on the matter.

5.

---

12. **Questions**

Do you support the inclusion of a 'mixed approach' option in the ESRS-40a ED, which allows limiting disclosures to EU-related impacts only for some topics?

No.

i. Please select from this list of reasons (choose one or more):

13. i. Please select from this list of reasons (choose one or more):

It fails to secure level-playing field for EU companies.
Despite the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED), it does not result in relevant and complete information, or it conflicts with faithful representation of impacts.
It results in mixed scopes in the same report (global for climate, EU-related for one or more groups of impacts/sub-topics/topics), making it difficult for users to understand and use the information;
Reporting on EU-related impacts raises significant practical challenges.

Please explain your reasoning behind selecting 'It captures impacts that have a link with EU' and, if applicable, provide suggested improvements

Please explain your reasoning behind selecting 'It provides a proportionate approach to third-country groups without imposing excessive costs connected to global reporting for all topics.' and, if applicable, provide suggested improvements.

Please explain your reasoning behind selecting 'It provides relevant information thanks to the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED).' and, if applicable, provide suggested improvements.

Please explain your reasoning behind selecting 'It does not impair comparability and auditability of sustainability reporting' and, if applicable, provide suggested improvements.

14. Please explain your reasoning behind selecting 'It fails to secure level-playing field for EU companies' and, if applicable, provide suggested improvements.

As EU companies need to report on their global impacts, they need to have in place all the necessary internal systems including data gathering to support reporting at the global level. Such systems require resources. Their global competitors, however, wouldn't necessarily have to have similar systems in place. Also, if non-EU companies did not need to report on their global impacts, they could benefit from weaker environmental and human rights standards elsewhere without needing to report on the related impacts. These factors put European companies at a disadvantage.

15. Please explain your reasoning behind selecting 'Despite the condition in AR 6 for paragraph 29 (ESRS-40a 1 ED), it does not result in relevant and complete information, or it conflicts with faithful representation of impacts.' and, if applicable, provide suggested improvements.

If we assume that identification of EU-related impacts in a meaningful way would be possible (which we think is not the case), those impacts would still be assessed only at the EU-level, i.e. sustainability information on non-EU-related impacts, even when those impacts were severe, would not be reported. This would results in incomplete and potentially misleading picture of a company's impacts. It would also lead to a misalignment with international due diligence standards. We also see a great risk of both unintentional and even intentional misidentification of EU-related impacts if the mixed approach was allowed.

16. Please explain your reasoning behind selecting 'It results in mixed scopes in the same report (global for climate, EU-related for one or more groups of impacts/sub-topics/topics), making it difficult for users to understand and use the information;' and, if applicable, provide suggested improvements.

When reporting includes various variables and at the same time, companies are under pressure to keep reporting short and concise, it often becomes difficult to understand the scope of specific information. This is because mixed scopes lead to fragmented information which does not produce a coherent whole.

Please explain your reasoning behind selecting 'The condition in AR 6 for paragraph 29 (ESRS-40a 1 ED) is too narrow and will have narrow application.' and, if applicable, provide suggested improvements.

Please explain your reasoning behind selecting 'The flexibility in paragraph 30 (ESRS-40a 1 ED) is too broad, as impacts are managed consistently at topical level.' and, if applicable, provide suggested improvements.

Please explain your reasoning behind selecting 'The flexibility in paragraph 30 (ESRS-40a 1 ED) is too broad, and it will result in lack of comparability across companies.' and, if applicable, provide suggested improvements.

17. Please explain your reasoning behind selecting 'Reporting on EU-related impacts raises significant practical challenges' and specify which challenges you anticipate.

The practical challenges that we anticipate mostly relate to challenges with meaningful identification of EU-related impacts, especially in global value chains or when impacts do not stop at the border, and difficulties in understanding and using reporting that applies mixed scopes. Reporting on EU_related impacts also reduced comparability of companies' sustainability statements.

18.

Definition of EU-related impacts. Paragraph 28(a) of the ESRS-40a 1 ED refers to EU-related impacts (customer component) as: *'impacts that arise from 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)'.*

Do you agree with this formulation, which remains at the principles-based level?

No.

19. Please recommend alternative factors to be considered by the undertaking that could be included in the Standard.

We do not have alternative factors to recommend; rather, we question the feasibility of the whole mixed approach and the possibility to identify EU-related impacts in a meaningful way. The end result (i.e. reporting on EU-related impacts only) is also in our view not desirable as it leads to uneven playing field, distorts the picture of a company's most severe impacts overall, and reduces the understandability and comparability of reporting.

20. For preparers, Do you intend to apply the mixed approach?

i. To which topic/sub-topic or group of impacts do you intend to apply the mixed approach?

ii. How would you apply it?

21. For users, Considering the transparency requirements for applying the mixed approach in paragraph 4(a) and AR 1 of the ESRS-40a 2 ED, and the specific provisions added in paragraphs 28–30, AR 6 and AR 7 of the ESRS-40a 1 ED, do you expect to be able to understand and compare a sustainability report that applies different reporting boundaries (e.g. global vs EU-related scope) across topics or sub-topics?

Please find the paragraphs mentioned above here.

No.

22. Please explain why.

For challenges to do with understanding reporting that applies different reporting boundaries, please see our response to previous questions. For comparability, different boundaries are a challenge because mixed approach allows non-EU companies to report on sub-set of impacts only, which may also distort the overall picture of a company's global material impacts, whereas European companies would still be reporting on their global impacts, so you would not be comparing like to like.

23. Please suggest possible amendments.

We suggest that mixed approach is not allowed.

6.

---

24. Despite the focus on impacts and the deletion of RORD, do you agree with the reference to fair presentation in the reporting objective of the ESRS-40a ED in paragraph 5 of the ESRS-40a 1 ED: 'the objective of the ESRS-40a ED sustainability report, taken as a whole, is to present fairly (see Chapter 2) all the undertaking's material sustainability-related impacts and how the undertaking manages them'? For further considerations, please refer to the Basis for Conclusions (BC87–BC90).

Yes

Please explain.

7.

---

25. Under the ED, companies can also apply the mixed approach option when reporting about human rights impacts. This means that they can restrict reporting to EU-related human rights impacts. Do you think human rights impacts should be excluded from the mixed approach and reported globally, regardless of where they occur or whether they are connected to products and services sold to the EU? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)

Yes, human rights impacts should be reported on a global scope.

26. Please explain, also with reference to the specific circumstances you have in mind.

Under the mixed approach, a company would first identify products and services that were or can be reasonably assumed to be
sold or provided in the EU market, and then identify and assess the impacts that arise from those products and services. This would mean that the adverse impacts that the company concludes are material to it are not necessarily its most severe impacts globally. This would potentially distort the picture of the non-EU companies' human rights impacts, and reduce the usefulness of the reported information for users as well as the comparability of EU and non-EU companies' reporting. The mixed approach also puts EU companies to disadvantage as non-EU companies could benefit from weaker environmental and social standards elsewhere without the need to report on the related impacts.

27. Under the ED, companies can limit the disclosure to EU-related impacts without considering whether the impacts can be geographically contained (both in terms of where the impacts occur and where their effects are experienced). Do you agree with this approach? (see the Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)

No.

28. Please explain, also with reference to the specific circumstances you have in mind.

We think that although ESRS-40a-1 para 29 stipulates that mixed approach should only be used when meaningful identification of EU-related impacts is possible, this is not a strong enough safeguard. As a minimum, impacts that cannot be geographically contained, should be excluded from mixed approach (e.g. pollution). Impacts in global value chains are also difficult to separate on the basis on the end market and should therefore be excluded. However and as previously mentioned, we do not agree with the mixed approach to begin with.

29. Do you think that fair presentation can be achieved under the mixed approach? (see Basis for Conclusions, sub-chapter detailed discussions of key topics, BC46–BC61)

No.

30. Please explain.

Under the mixed approach, a company can look only at a subsection of its impacts. The conditions set out in ED ESRS-40a-1 para 29 are difficult to apply in practice so may relatively easily be applied wrongly, and are also open for intentional misuse, which then may lead to unfair presentation and give an artificial picture of a company's impacts. Fair presentation, however, is an important principle in reporting and therefore, we think that mixed approach should go and fair presentation be kept.

31. Do you agree with the flexible formulation of the option, which allows companies to choose the scope of reporting (global or EU-related impacts) at topic, sub-topic or group-of-impacts level, irrespective of how other topics, sub-topics or groups of impacts within the same topic are treated?

No.

32. i. Please explain

Even though companies would be required to report which scope is applied when, the fact that the scope may vary from impact to impact is likely to make the reported information difficult to understand and compare.

ii. SUB-QUESTION FOR PREPARERS: If you replied 'Yes.' to the above question, are you considering, within the same topic, reporting at EU-related level for some groups of impacts or sub-topics, and reporting at global level for some other groups of impacts or sub-topics?

iii. Please explain for which topic this would happen and the rationale behind this choice.

33. For preparers and assurance providers, do you anticipate implementation challenges when applying the mixed approach?

i. If "Yes.", please select one or more of the following.

Because you identified as a challenge 'How to identify the most appropriate allocation key and report on metrics', please specify which metrics you are referring to. Please specify why.

Because you identified as a challenge 'How to demonstrate the condition in AR 6 for paragraph 29 of ESRS-40a 1 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to identify the products and services that were or can be reasonably assumed to be sold or provided in the EU market, including by third parties', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to perform a materiality assessment focused on EU-related only impacts (chapter 3 of ESRS-40a 1 ED)', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report on policies, actions and targets for EU-related impacts', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a 2 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a E2 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a E3 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a E4 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a E5 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a S1 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a S2 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a S3 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a S4 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'How to report in accordance with ESRS-40a G1 ED', please explain why and, if applicable, suggest improvements.

Because you identified as a challenge 'Providing transparency on the use, assumptions and results of the mixed approach (paragraph 4(a), AR 1 for paragraph 4(a) of ESRS-40a 2 ED)', please explain why and, if applicable, suggest improvements.

34. ESRS-40a 2 ED BP-1, paragraph 4(a), requires the undertaking to disclose whether the sustainability report has been prepared using the mixed approach and, if so, to explain – per topic, sub-topic, or group of impacts – how EU-related impacts were determined and how the conditions set out in the ESRS-40a 1 ED, paragraphs 29 and 30, and AR 6 have been met. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of when and how the mixed approach is applied?

Please include your suggestions, if any, on how these requirements can be improved.

35. Do you agree with the specifications in the ESRS-40a 2 ED that provide guidance on how to apply this Standard when reporting on EU-related impacts?

i. If 'No.' to the previous question, please select one or more of the specifications below with which you disagree:

Please explain why you selected GDR-T (AR 52) and, if applicable, provide suggestions for improvement.

Please explain why you selected GDR-M (AR 44 to AR 47) and, if applicable, provide suggestions for improvement.

Please explain why you selected GDR-A (AR 36) and, if applicable, provide suggestions for improvement.

Please explain why you selected GDR-P (AR 34) and, if applicable, provide suggestions for improvement.

Please explain why you selected I-2 (AR 27) and, if applicable, provide suggestions for improvement.

Please explain why you selected I-1 (AR 23) and, if applicable, provide suggestions for improvement.

Please explain why you selected SBM 3 (AR 21) and, if applicable, provide suggestions for improvement.

Please explain why you selected SBM 2 (AR 19) and, if applicable, provide suggestions for improvement.

Please explain why you selected SBM 1 and, if applicable, provide suggestions for improvement.

Please explain why you selected GOV 4 and, if applicable, provide suggestions for improvement.

Please explain why you selected GOV 3 and, if applicable, provide suggestions for improvement.

Please explain why you selected GOV 2 (AR 12) and, if applicable, provide suggestions for improvement.

Please explain why you selected GOV 1 (AR 11) and, if applicable, provide suggestions for improvement.

36. Do you agree with the specifications in the ESRS-40a ED topical standards that provide guidance on how to apply this Standard when reporting on EU-related impacts?

i. If 'No.' to the previous question, please select the specifications below with which you disagree.

Please explain why you selected ESRS-40a E2 ED AR 4 (primary microplastics) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a E2 ED AR 9 and 10 (SoC and SVHC) and, if applicable, provide suggestions for improvement.

Please explain why you selected 'No specifications in ESRS-40a E3 ED (specification in GDR-M applies)' and, if applicable, provide suggestions for improvement.

Please explain why you selected 'No specifications in ESRS-40a E4 ED (specification in GDR-M applies)' and, if applicable, provide suggestions for improvement.

Please explain why you selected ''No specifications in ESRS-40a E5 ED (specification in GDR-M applies)' and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a S1 ED (paragraph 8, AR 1, AR 2, AR 20, AR 39) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a S2 ED (paragraph 8) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a S3 ED (paragraph 7) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a S4 ED (paragraph 7) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a G1 ED (paragraph AR 7 metric for corruption and bribery) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a G1 ED (paragraph AR 7 11 metric for political influence) and, if applicable, provide suggestions for improvement.

Please explain why you selected ESRS-40a G1 ED (paragraph AR 7 13 metric for payment practices) and, if applicable, provide suggestions for improvement.

37. **Breakdown for own workforce. Do you think it would be useful for users of sustainability reports if companies that opt for the mixed approach were required to disaggregate the quantitative metrics in Disclosure Requirements S1-6 to S1-16 – e.g. health and safety metrics such as number and rate of work accidents – by workforce inside and outside the EU? (A company's workforce includes employees and non-employees.)**

i. If 'Yes.', should all quantitative metrics in S1-6 to S1-16 have to be disaggregated in that way or only some?

ii. If for 'Only some.', please specify which ones.

8.

38. **Questions**

Do you agree with the presentation requirements in ESRS-40a ED?

i. If "No.", please explain why.

ii. If 'No.', please provide suggested amendments.

39. **Do you agree with the provisions in Chapter 9.3 on incorporation by reference, including as a possible way to achieve efficient reporting and to deal with double reporting when the group prepares a sustainability report in accordance with jurisdictional requirements based on IFRS S1 and IFRS S2, or in accordance with IFRS S1 and IFRS S2?**

i. If 'No.', please specify if you disagree with.

ii. If "No", please explain and, if applicable, provide suggested improvements.

40. **For preparers, If you are in scope of the ESRS-40a ED and, at the same time, (will) prepare (from YE2028) a sustainability report in accordance with jurisdictional standards based on IFRS S1 and IFRS S2, do you anticipate:**

In this case, please specify how you plan to support understandability and identification of disclosures that meet the disclosure requirements in the respective frameworks.

Please explain why and illustrate the challenges you anticipate.

Please provide suggestions for amendments.

41. **Do you find the requirements for incorporation by reference sufficient to lead to an understandable and auditable report?**

If applicable, please provide suggested improvements.

9.

42. For preparers, Do you think that referring to terms and concepts from EU legislation as the default framework is feasible?

If not, please specify which disclosure requirements you are referring to.

Please find attached an Excel file containing a list of disclosure requirements where you can provide your comments. Please note that comments are also allowed on disclosure requirements not mentioned in this file - there is a specific tab for it in the Excel file.

Please download the file here.

A practical note: to correctly use the Excel file, please download it, complete the fields, and then upload the document.

Please upload the populated Excel File in this box.

43. ESRS-40a 2 ED BP-1, paragraph 7, requires undertakings to disclose, where EU-derived concepts are applied to third-country operations using approximations or estimations, which disclosures are affected, how the information was prepared, what limitations arise, and which parts of the reporting boundary are concerned. Do you consider these requirements to be clear, feasible and sufficient to ensure proper understanding of how the undertaking treats differences between EU-derived concepts and other third-country concepts?

44. If no, please explain your reasoning.

10.

45. Please provide any other comments or suggested improvements on ESRS-40a ED not covered in the questions above.

11.

Answer in Excels for Part 2 - Topic 1 - Question 1.

1. Would you retain any deleted datapoints?
2. Do you have comments on deleted, amended or new paragraphs?

Please note that comments are not allowed on paragraphs that remained unchanged.

A practical note, to correctly use the Excel file, please download it, complete the fields, and then upload the document.

Please download the file Excel here

NOTE: The Excel File contains several validations. Please make sure to not break those validations. Only files with intact validations and not corrupted will be considered as valid by EFRAG Secretariat.

Please upload the populated Excel File in this box.