German Banking Industry Committee

Die Deutsche Kreditwirtschaft

Comments

Input on a revised Delegated Act concerning standards for sustainability reporting under the Corporate Sustainability Reporting Directive (CSRD)

Lobby Register No R001459
EU Transparency Register No 52646912360-95

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Berlin, 20 January 2026

The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks.

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General Comments

We acknowledge and welcome EFRAG's efforts to simplify the European Sustainability Reporting Standards (ESRS), in particular through the introduction of transitional provisions, phase-in mechanisms and reliefs for first-time reporters. The intention to enhance proportionality and feasibility, especially for complex value-chain-based disclosures, is clearly recognisable and appreciated.

However, from the perspective of the German Banking Industry Committee (GBIC), the Draft Amended ESRS does not yet deliver genuine simplification in practice. In several areas, the amendments primarily result in terminological adjustments, re-labelling of concepts or relocation of requirements, rather than a substantive reduction in reporting scope or operational burden. Against this background, we would like to raise the following specific points.

Relevance and materiality assessment – scope, addressees and interpretability

The revised requirements on relevance and materiality assessment set out in **ESRS 1 paragraphs 3, 4, 19–21, 23–24 and 94–96**, as well as in the related application requirements and stakeholder annex, continue to pose significant practical challenges. Despite the intention to enhance clarity, the framework still allows for considerable discretion, resulting in high implementation effort and legal uncertainty for undertakings.
In particular, **ESRS 1 paragraphs 4 and 23** define information as material if its omission, misstatement or concealment could influence decisions of both primary users of general-purpose financial reports and other users of general-purpose sustainability statements. This broad definition of addressees' risks diluting the focus of disclosures and expanding reporting requirements beyond what can be anticipated and operationalised in practice.
Many ESRS metrics are complex and require a high level of expertise to collect, interpret and assess. As in financial reporting, sustainability reporting presupposes a minimum level of expertise on the part of users, which is difficult to assume for an overly broad audience. Where information is addressed to a very broad audience, there is an increased risk of misinterpretation, including allegations of "greenwashing" or "social washing", even where disclosures are comprehensive and made in good faith. In practice, undertakings may disclose extensively and still face allegations that material information was 'obscured'. This risk is further amplified by the requirement that aggregation or disaggregation must not obscure material information, significantly increasing demands on structuring, prioritisation and cross-referencing. Moreover, the criterion that information "could reasonably be expected" to influence decisions is typically assessed ex post by auditors, supervisory authorities, media or other stakeholders. This incentivises extensive and defensive documentation of materiality assessments and shifts the focus from reporting to record and report justifications, increasing complexity and the potential for disputes.
Recommendation:
To address these challenges, we recommend narrowing the user group relevant for the materiality assessment to ensure that disclosure requirements remain focused, comparable and feasible in practice. The concept of materiality should be further limited through clearer and more precise definitions, in order to reduce the risk of ex-post interpretation and enforcement. In addition, a robust and documented materiality assessment process should be explicitly recognised as the primary safeguard, with process compliance taking precedence over outcome-based disputes. Proportionality and prioritisation should be embedded more clearly by confirming that undertakings may – and in some cases must – prioritise core information without this being construed as "obscuring". Finally, expectations regarding interpretability

Comments Input on a revised Delegated Act concerning standards for sustainability reporting under the Corporate Sustainability Reporting Directive (CSRD)

and potential "washing" allegations should be anchored to the perspective of a reasonable and informed user, rather than any conceivable user of the information.

Transitional provision related to comparative information
(ESRS 1 paragraphs 123 and 124)

Paragraph 123 defines "wave-one undertakings" as those that were required to report sustainability information for financial year 2024 under the CSRD for the first time, regardless of whether the respective Member State had transposed the Directive. Paragraph 124 clarifies that these undertakings are not required to disclose comparative information for financial year 2024. Paragraph 124 further states that other than wave-one undertakings are not required to disclose comparative information as required by Chapter 7.1 for their first reporting period.
Taken together, these provisions create a non-advantageous and potentially unintended effect for German undertakings and undermines the legislative power of the Member States:

- The exemption from comparative information applies only to financial year 2024.
- For all subsequent reporting periods, comparative information is required, regardless of whether an undertaking has been previously reported under CSRD.
- Consequently, wave one undertakings legally required to report for the first time on financial year 2026 would be obliged to disclose comparative figures for financial year 2025, despite the absence of a CSRD transposition and reporting obligation in Germany for that year.

This leads to a de facto obligation to retrospectively collect sustainability data for 2025, which was neither legally required and foreseeable nor is retrospectively feasible for many German companies.
Recommendation
We strongly recommend clarifying that the exemption from comparative information under paragraphs 123 and 124 (former 136) applies to the first mandatory ESRS reporting period of the undertaking, irrespective of the first reporting year according to the original CSRD and regardless the first year of the voluntarily reporting. It should be clear that undertakings are not required to retrospectively collect data for years in which they were not subject to CSRD reporting obligations according to the national law. Such clarification is essential to ensure legal certainty and proportionality across Member States with delayed CSRD transposition.

Undue cost or effort – reassessment and supervisory practice

While the Draft Amended ESRS 1 refers to the principle that information may be omitted where it is not available without undue cost or effort, it does not clarify whether undertakings may rely on an assessment made in a prior reporting period or whether reassessment is required for each reporting period.
Although this issue is not reflected as a separate item in the comparative table, the absence of an explicit clarification has significant practical implications. In supervisory practice, including audit and enforcement, undertakings will be required to demonstrate for each reporting period why the information in question continues to be unavailable without undue cost or effort. In the absence of an explicit rule, auditors cannot rely on a prior-year assessment.

Comments Input on a revised Delegated Act concerning standards for sustainability reporting under the Corporate Sustainability Reporting Directive (CSRD)

As a result, undertakings will be required to repeatedly reassess, document and justify the same data gaps year after year, even where underlying data availability has not materially changed. This creates recurring compliance, documentation and audit costs and risks undermining the stated objective of simplification and proportionality pursued by the amended ESRS.

Recommendation:

To ensure that the undue cost or effort principle delivers effective relief in practice, we recommend clarifying that undertakings may rely on a prior-period assessment unless there is evidence of material changes in business activities, value chains or data availability that would reasonably require reassessment.

Long-term use of estimates

The Draft Amended ESRS 1 allows the use of estimates where actual data are not available, in line with the general ESRS approach of relying on reasonable and supportable information. However, the standards do not clarify whether such estimates may be retained and reused across multiple reporting periods, or whether they are expected to be recalculated or replaced on an annual basis.

In the absence of an explicit clarification, supervisory and audit practice is likely to interpret the use of estimates as a period-specific determination. This implies that undertakings may be required to revisit, update or justify estimates in each reporting period, even where underlying assumptions, methodologies and data availability have not materially changed.

This creates legal uncertainty and operational inefficiencies, particularly for complex disclosures such as value chain metrics, forward-looking impacts or portfolio-based indicators, where estimates are inherently model-based and resource-intensive to produce. Requiring frequent re-estimation without a change in underlying conditions risks generating artificial volatility in reported information while offering limited informational benefit to users.

Recommendation:

To enhance legal certainty and ensure proportionality, we recommend clarifying in ESRS 1 that estimates may be carried forward across reporting periods, provided that the underlying assumptions, methodologies and data availability remain unchanged, and that estimates are reviewed and updated only where there is evidence of material change or improved data availability.

Comments on application guidance related to materiality assessment

AR 12(b)

"*AR 12 (b) if the undertaking provides financial loans to an undertaking for business activities that, in breach of agreed environmental standards, result in the contamination of water and land surrounding the operations, this negative impact is connected with the undertaking through its relationship with the undertaking it provides the loans to*." The example illustrating how negative environmental impacts caused by a borrower may be connected to a financial institution through the provision of loans may be misleading. While banks may in individual cases become aware of environmental breaches by counterparties, the ESRS materiality assessment does not require comprehensive case-by-case investigations of all borrowers. In practice, financial institutions identify and assess impacts using risk-based, sectoral and portfolio-level approaches. Without clarification, the example could be interpreted as implying an obligation to assess environmental breaches at individual counterparty level, which would go

Comments Input on a revised Delegated Act concerning standards for sustainability reporting under the Corporate Sustainability Reporting Directive (CSRD)

beyond what is operationally feasible and proportionate.
Recommendation:
Clarify that the example is illustrative only and does not imply an obligation to identify or assess environmental breaches at individual borrower level.

AR 23 (in relation to paragraph 43)

The newly introduced wording provides that management shall inform workers' representatives and discuss with them the relevant sustainability information and the means of obtaining and verifying such information. While dialogue with workers' representatives is generally welcomed, this wording could be interpreted as requiring their involvement in decisions on how sustainability information is sourced and verified. Such an interpretation may complicate the materiality assessment process, in particular for financial institutions that rely on external data providers and portfolio-based methodologies.
Recommendation: Clarify that this provision aims to promote transparency and dialogue, without introducing additional procedural or co-determination requirements regarding data sourcing and verification.

ESRS 2 SBM-3 Interaction of material IRO with strategy and business model, and financial effects (Par. 27 ff. incl. AR 17 ff. and also requirements in topical standards)

In general, we welcome EFRAG addressing the need for reliefs on anticipated financial effects (AFE). However, the proposed simplifications and transitional provisions are not sufficient to resolve the issues raised by the preparers. We still consider it very challenging to report quantitative information related to AFE, particularly regarding but not limited to opportunities.
Moreover, the documentation of the conditions mentioned in ESRS 2 par. 28 and 29 and the explanations required in ESRS 2 Par. 31 would be matter of annual audit and could be burdensome.
Recommendation: Only qualitative information on AFE should be required. Quantitative information could be voluntarily provided, e.g. if an internationally active undertaking aims to comply also with the ISSB standards.
A quantitative disclosure requirement could be assessed when the quantification methodologies – including for financial undertakings – are developed and proven in voluntary disclosure practice.
If the requirement for quantitative information for reporting purposes is retained, there should be at least less restrictive explanation requirements, reduced data points (cf. ESRS E1 Par. 38 – 39, AR 29) and no limitations on which models/methods are used in order not to undermine internally developed models or specified by other regulations methods.

ESRS E1 AR 13 for Par. 23

Under certain conditions in ESRS E1 AR 13, financial institutions are exempted from disclosing absolute values for their scope 3, category 15 emission intensity targets. We strongly support this exemption for financial institutions.
Recommendation: The exemption of financial institutions from disclosing absolute values for their scope 3, category 15 emission intensity targets should be part of the simplified ESRS.