DUFAS ESRS Comment Letter

To	EFRAG
From	DUFAS (the Dutch Fund and Asset Management Association)
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The Dutch Fund and Asset Management Association (DUFAS) supports the introduction of an EU-level sustainability reporting framework. There is an increasing demand from asset managers for ESG data due to the growing sustainable investment activities of asset managers and the requirements for complying with European regulatory frameworks. Therefore, DUFAS welcomes the proposal for a Corporate Sustainability Reporting Directive (CSRD) published by the European Commission and the European Sustainability Reporting Standards (ESRS) which will expand the availability of ESG data from European companies.

Summary of our recommendations

DUFAS supports the introduction of an EU-level sustainability reporting framework and further global harmonization. The ESRS should be improved by including a review or auditing requirement for the materiality assessment to avoid subjectivity and by adding further transparency when PAI indicators are not considered material by a company. The ESRS would also benefit from a legal definition of 'value chain' that distinguishes between the real economy and the financial sector and further defining other key terminology. Finally, reporting requirements under CSRD and SFDR must be harmonized. DUFAS supports provisions which exempt regulated financial undertakings from reporting topics under CSRD which already are disclosed under SFDR.

More extensively explained

Align with requirements of other Sustainable Finance regulations and global frameworks

DUFAS and its members support and encourage the explicit requirement in the CSRD that the European sustainability reporting standards (ESRS) should be coherent with other legislation, in particular the Sustainable Finance Disclosure Regulation (SFDR) and the EU Taxonomy. We are also pleased that the ESRS Exposure Drafts (i) account for and specifically flag disclosures related to the SFDR principal adverse impact (PAI) indicators and (ii) explicitly refer to the Taxonomy disclosure requirements and address the needs set out by the minimum safeguards. We do emphasize that European investees represent a minority of assets under management for most asset managers, so the CSRD and ESRS are only part of the solution for the data required to comply with SFDR and the EU Taxonomy. As such, we advocate to align the European reporting standards with global reporting frameworks, such as ISSB, GRI and SASB.

Facilitate difference between portfolio and company materiality

Disclosures should be based on material topics for the information to be relevant. The principal that mandatory ESRS disclosures are presumed material unless rebutted through a materiality assessment is well suited to the ESG data needs of asset managers. DUFAS would like to point out that material topics can differ between portfolios and individual investee companies. For example, the SFDR PAI indicators cover a wide range of sustainability matters, whereas for a company only a subset may be considered material. In the current ESRS exposure drafts, individual indicators under a materiality threshold may be omitted without an explicit explanation or statement. As asset managers must explain data gaps for entity-level PAI indicators, DUFAS and its members suggest that companies that consider a PAI indicator immaterial should always explicitly report that this is the case, and why this the case.

Ensure subjectivity of materiality rebuttals is minimized
We support the role of a materiality assessment and the requirement to establish explicit thresholds and/or criteria to determine whether a topic is not material. However, we do have concerns about the potential subjectivity in the materiality assessment. DUFAS suggests that the materiality assessment should be reviewed or audited which would ensure a more robust process and minimize subjectivity.

Formally define value chain
We recommend having a legal definition of 'value chain', in particular for regulated financial undertakings. The concept of value chain is referred to in CSRD and throughout the ESRS exposure drafts, but the lack of a legal definition creates uncertainty for asset managers due to the nature of the investment value chain. In contrast to suppliers and purchasers, there often are no operational and contractual ties between investors and investees. Therefore, DUFAS recommends including a formal definition of 'value chain', possibly in technical standards, that distinguishes between value chains in the real economy and the financial sector that is harmonized with the definition in the proposed Corporate Sustainability Due Diligence Directive to avoid confusion and diverging interpretations.

Further define key terminology to ensure comparability of disclosures
The terminology within the ESRS should be further defined, again possibly in technical standards, and be aligned with existing standards. Avoiding the possibility that terminology can be interpreted in multiple ways ensures that disclosures of different companies are comparable. Furthermore, deviating from the terminology in existing (global) standards reduces the comparability of investee company disclosures. This complicates disclosure requirements under SFDR as asset managers require data from non-EU firms which may represent the majority of assets under management.

Avoid duplication of reporting requirements
Finally, we urge aligning the reporting requirements for entities under SFDR and CSRD to avoid duplication. DUFAS supports the CSRD provisional agreement which excludes sustainability matters linked to financial products as defined under SFDR from being reporting under CSRD. This avoids duplicated reporting efforts under SFDR and CSRD. Besides financial product disclosures, asset managers and other financial market participants disclose on sustainability matters at entity-level under SFDR. Most relevant are the disclosures on (i) policies on the integration of sustainability risks in the investment decision-making process and (ii) the SFDR PAI statement covering impacts of investee companies. DUFAS and its members believe that the SFDR reporting requirements provide sufficient information to affected stakeholders and users of sustainability reporting to warrant an exception for reporting under CSRD. Hence, the CSRD should include an explicit provision which exempt financial market parties from the obligation to disclose aforementioned topics in so far these already have been disclosed under the SFDR.

DUFAS: Dutch Fund and Asset Management Association
Since 2003, DUFAS has been committed to a healthy asset management sector in the Netherlands. DUFAS has more than 50 members: from large asset managers who invest Dutch pension and insurance assets to smaller, specialist asset managers. DUFAS increases awareness of the social relevance of investing, helps to develop sector standards and represents the sector in the implementation of new laws and regulations. In addition, DUFAS is committed to a single European market with equal regulations.

More information

Would you like to respond, or should you have any questions? We would be pleased to hear from you. Please feel welcome to e-mail Randy Pattiselanno, DUFAS manager strategy & regulatory affairs, rp@dufas.nl.