PENSIOEN FEDERATIE
FEDERATION OF THE DUTCH PENSION FUNDS

ESRS Consultation Response: Dutch pension funds urge to maintain link between SFDR and ESRS

We urge the European Commission to retract the changes to EFRAG's recommendations. In order to provide investors with consistent, comparable and reliable corporate sustainability disclosures, the Commission should:

- Ensure the alignment between ESRS and SFDR reporting;
- Reconsider the voluntary nature of certain disclosures, including the requirement for providing an explanation of why the undertaking may consider a particular sustainability topic not to be material;
- Retract flexibilities in disclosures of amongst others the financial effects arising from sustainability risks and in the methodology to use for the materiality assessment process.
- Not provide additional phase-ins.

Ensure the alignment of CSRD and SFDR reporting

Transparency on environmental and societal impacts is an important building block for the transition to a more sustainable economy. Investors are already covered by a full-fledged reporting framework under the Sustainable Finance Disclosure Regulation (SFDR), but currently lack high-quality corporate data. They need this data to understand sustainability risks and impacts in their portfolio and – importantly – to be able to fulfill the requirements of the SFDR. The Corporate Sustainability Reporting Directive (CSRD) was designed to meet the information needs of investors, as well as other stakeholders. EFRAG was subsequently tasked with designing the European Sustainability Reporting Standards (ESRS) and delivered advice which sought to ensure alignment between the CSRD and SFDR reporting, as required under article 29b of the CSRD.

This draft delegated act dilutes EFRAG's final technical advice that was agreed upon by representatives of companies, financial market participants and civil society. We note that the number of disclosure requirements in EFRAG's final advice has already been reduced by 40% compared to its initial proposal.

Limits to mandatory reporting on impacts hinder consistency and comparability

The draft Delegated Act renders all ESRS standards, disclosure requirements and data points subject to a materiality assessment. The Commission furthermore gives companies the ability to choose their own metrics for materiality assessments. Companies also do not have to report on the outcomes of why a sustainability topic would not be deemed material.

The European Commission should not permit companies to exclude reporting on crucial matters like greenhouse gas emissions, climate targets, transition plans and Principal Adverse Impacts. This approach would be inconsistent with the Commission's commitment to deliver on the objectives of the European Green Deal and EU Climate law.

Companies will now self-evaluate - under their materiality assessment - which greenhouse gas emissions are considered relevant. Especially in the case of Scope 3 emissions, which are difficult to estimate precisely, this will be problematic for investors because they need to fulfill their SFDR reporting obligations on the basis of data reported under the ESRS. The application of voluntary assessments for almost every ESRS disclosure would in addition put a lot of weight on external auditors to look at the process of the company assessments. We strongly prefer legal clarity by removing the materiality assessment.

Removing mandatory reporting for crucial information risks compromising the efficiency of the standards and their coherence with existing disclosure regulations such as the SFDR. Instead of ensuring consistency in corporate sustainability reporting, it will make reporting more fragmented and less consistent. This in turn will undermine the comparability of both corporate reporting and reporting by financial market participants under the SFDR.

The proposal will not reduce, but shift, regulatory burden

The limitations in the draft Delegated Act, compared to EFRAG's advice, may be perceived to reduce the regulatory burden on companies. However, given the requirements under the SFDR, financial market participants will still need to report on these issue. This puts the onus on the financial sector to still come up with data. The burden therefore is shifted to market participants, such as pension funds.

Do not further delay phase-in of topical standards.

Delays in reporting will affect information on Scope 3 greenhouse gasses emissions, biodiversity and social standards. This is not aligned with the consistency with SFDR reporting aimed at in primary CSRD legislation and will further delay reporting of crucial information for investors, considering EFRAG already proposed sequencing for the implementation of the different ESRS sub-standards.

Conclusion: the current version of the ESRS is not the promised building block to help investors realize the Green Deal.

Since the High-Level Expert Group on Sustainable Finance in 2017, the European Commission has put great emphasis on the role of private investment in the fight against climate change and broader sustainability goals. Dutch pension funds have supported this approach. However, the Commission now stops short of giving us the tools necessary to fulfil this role, to the strong disappointment of our members. We fervently hope that this approach will be reconsidered.