



MINISTERIO
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Comment letter on the EFRAG public consultation on the LSME ESRS

European Financial Reporting Advisory Group

35 Square de Meeüs

Brussels B-1000

Belgium

Madrid, 21st May 2024

Dear Madam/Sir,

First of all, ICAC welcomes the efforts carried out by EFRAG in the development of the draft of European Sustainability Reporting Standards for Listed Small and Medium Enterprises (LSME ESRS) as it was demanded by Corporate Sustainability Reporting Directive (CSRD).

We would like to share that the number of Spanish companies under the scope of LSME ESRS is reduced. Notwithstanding, currently only few of them disclose about sustainability issues in a written report which implies that the LSME ESRS means a challenge for them.

The current draft standard has been designed as a simplification of the Set 1 ESRS for large companies which means that there is consistency among both sets which is needed due to the key role of LSME ESRS as the limit of sustainability information that SMEs can be required for as CSRD establishes (Value Chain Cap). We would like to point out some issues about the questions of the consultation. The ICAC agrees with the possibility of incorporating data by reference to other reports published by companies as well as the inclusion of all EU datapoints if the topic would be material. In addition, it is appropriate to give undertakings the chance to incorporate entity-specific disclosures even more considering that all sectorial references have been removed in the current version of the draft. Furthermore, the arguments given regarding keeping current financial effect and anticipated financial effects as separate datapoints are also supported.

The significant reduction in the number of mandatory datapoints in comparison to ESRS Set 1 is highly appreciated. Notwithstanding, this decrease has been non-equitable among the different topics. It is positively valued that Biodiversity (E4) and Business Conduct (G1) maintain in the current version only few datapoints since it is adapted to the LSME reality. However, specific disclosure requirements as well as datapoints in Workers in Value Chain (S2), Affected





Communities (S3) and End Users (S4) have practically disappeared. Although it is understandable that topics S2, S3 and S4 would be likely less material for LSME, it is argued that they should include at least few datapoints in order to avoid that undertakings needs to look for ESRS Set 1 for references. Finally, Climate Change (E1), despite the reduction, continues with a high number of disclosures requirements and datapoints. Considering that most of the LSME in Spain currently do not disclose about sustainability, more reductions in this topic (E1) would be welcomed, although we are aware that climate change is the most demanded and known part.

Regarding interoperability with ISSB, ICAC supports the approach followed by EFRAG, since the simplification process could be not limited by the alignment with ISSB based on the lower level of activity at international level of the undertakings involved.

Some new phase-in provisions have been considered for the first year (E1-1, E1-2, S1-6, S1-9) as well as the threshold for its application related to the company size (mainly E4, S1- only one year- S2, S3 and S4) is fixed in 50 employees. Notwithstanding, not all undertakings in LSME could benefit from them since it is only applicable by those undertaking which start to report in the first year (that is, 2026). It is understandable that the sustainability statements of all LSME should be “complete” and comparable for the year 2028 but in order to give a similar treatment it would be advisable a transition period that would be also applicable to those companies which decide to start to disclose in 2027.

A new Section 3 (Policies, Actions and Targets) has been created in which all topics, policies, actions and targets have to be presented. This Section 3 allows to have a global vision, reduce the extension, and avoid duplicities through the sustainability statements which we consider highly positive. In the same line, a new Environmental topic has been created (E6 – Anticipated financial effects from material environmental-related matters other than climate) through the centralization of the anticipated financial effects of the majority environmental topics.

Other change regarding ESRS Set 1 is that reporting on opportunities and positive impacts would be made on voluntary basis which makes mandatory only reporting on negative impacts and risks. This could be not completely helpful for companies in the design of their sustainable strategies and imply a lack of balance in the report which predominantly will include information about the negative aspects that may bias stakeholders’ perception. Moreover, this approach could provoke that undertakings do not include the positive impacts on their





sustainability statements and do so in other corporate reports. This means that the positive impacts information would be out of the scope of the assurance, which could generate a greenwashing effect.

Regarding to materiality, the analysis that LSME needs to carry out is similar to large companies. ICAC welcomed the explicit mention that is not needed to carry out an individual materiality assessment of each actor involved in the value chain, allowing the aggregation and joint consideration of the principal impacts and/or risk for the majority of them just in case there is a particularity. Nevertheless, the complexity of the process continues and more guidance for large companies has been provided through the Materiality Assessment Implementation Guidance. Notwithstanding, large companies note the difficulties they are experienced. In this sense, although consistency is needed, some simplifications in the process for LSME would be necessary. In order to facilitate LSME undertakings' adoption of the materiality approach, some phase-ins could be incorporating. Then, the stakeholders' considered for the analysis could be limited to key stakeholders (DR 6 - SBM-2) for the first year/s. Another transitional provision would be that undertakings only considers disclosure of highly material topics for the first year/s which limits the number of topics to be developed the first year/s of adoption, although in that case it would be necessary to clarify the meaning of "highly material topics". Finally, the approach followed in VSME ESRS regarding that only it is needed to report about the outcome of the materiality assessment process could be also followed for the first year/s.

In terms of value chain, EFRAG has been carrying out a remarkable effort in order to clarify the requirements which is essential due to the role of value chain cap of LSME ESRS. In this line, the datapoints in which undertakings need to include information of the companies involved in the value chain have been explicitly stated (see Annex 3) and the trickle-down effect has been analysed in detail. That is, the number of value chain datapoints is reduced and subject to materiality. In addition, it is explicitly mentioned that a complex datapoint such as Scope 3 can be calculated using average emission factors which would be useful when undertakings have difficulties collecting the information from their suppliers. Moreover, it has been positively valued the introduction of the possibility of relying in the information disclosed in the sustainability statement by actors in the value chain (new paragraph 66 - Section 1) although if it is prepared following another standard as long as it has the same level of assurance.





Also, mainly in Section 1, the term “when it is impracticable” has been replaced by “with a reasonable effort”. The flexibility introduced with this change in comparative information, errors from prior periods and changes in the preparation or presentation of sustainability information has been positively valued.

With respect to specific sectorial standards, maybe it would be reasonable to consider them as a guide for implementing the ESRS considering the specificities of each industry. Taking into account the complexity of the drafts available, the possibility that they were not mandatory for LSME (and neither for VSME) should be an option to reckon, with some specific sector guidelines could be developed for both (LSME and VSME). This guideline could indicate which topics should be mandatory considering the industry and, if it were necessary, some specific indications or datapoints.

In addition, the “report if you have” approach is followed by some requirements (targets, stakeholder engagement, process to engage with affected stakeholders, process to remediate negative impacts and climate change transition plans) even though it could compromise comparability of reports. In order to avoid this situation, it is suggested that an approach similar to the Minimum Disclosure Requirements (MDR) of ESRS Set 1 could be followed, that is, companies needs to report about if they have or not this policy/strategy (explicitly), and then, if there is a negative answer, the disclosure about future plans would be done in a voluntary basis. Although this approach is also considered for Due Diligence (paragraph 22 – Section 2 and Appendix H Section 1), but later it is said that undertaking shall disclose about if they have or not the process in support of the information needs of financial market participants (paragraph 24 – Section 2).

Finally, LSME ESRS will be the standard for individual sustainability statements of LSME. That means that LSME groups would be not obliged to prepare the sustainability statement, although each LSME company needs to prepare the individual sustainability statement and follow the LSME ESRS. In this sense, it would be proportionate that if LSME groups prepare a consolidated sustainability statement in a voluntary basis following LSME ESRS, each LSME in the group would benefit from exemption of the publication of an individual sustainability statement as it was for large companies.





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Finally, the inclusion of more examples and the development of application guidelines specific for LSME would be appreciated by undertakings. It would be also interesting to be able to have Q&A platform specific for LSME or a specific section in the current Q&A of ESRS.

The ICAC would like to finalize this letter by acknowledging the work done by EFRAG preparing the draft.

Please do not hesitate to contact us if you would like to clarify any point of this letter.

Yours sincerely,

Santiago Durán Domínguez

Chairman of the ICAC

