ICAEW
REPRESENTATION 93/26

EXPOSURE DRAFT ESRS FOR CERTAIN NON-EU UNDERTAKINGS IN ACCORDANCE WITH ARTICLE 40A OF THE ACCOUNTING DIRECTIVE

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ICAEW welcomes the opportunity to respond to the Exposure Draft ESRS for Certain Non-EU Undertakings in Accordance with Article 40a of the Accounting Directive (ESRS-40a ED). ICAEW is a world-leading professional body established under a UK Royal Charter to serve the public interest. We support and regulate more than 173,800 chartered accountant members in over 147 countries. Our members work in finance and accounting roles in industry, in professional practice as auditors or advisers and in the public sector.

For this response, we obtained input from ICAEW's Non-Financial Reporting, Non-Financial Assurance and Sustainability Committees and incorporated feedback received from stakeholders at EFRAG's UK outreach event on 29 September 2026, hosted at ICAEW's offices at Chartered Accountants' Hall in London and online.

We address this letter to both EFRAG and the European Commission. Although the ESRS-40a proposals fall within EFRAG's remit, some of our comments concern Level 1 legislative and regulatory matters for the European Commission, the European Parliament and the Council. In our view, and as noted by participants at EFRAG's UK outreach event in September, some Level 1 issues are fundamentally challenging when it comes to applying ESRS-40a. We therefore send this letter to both organisations.

In addition to our detailed response to the Public Consultation Questionnaire, which is included as an **annex** to this letter, our overarching comments are set out below.

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Concerns about due process and timeframes

We first want to highlight our concerns about due process, particularly the time allowed for field testing and for EFRAG staff, the Technical Expert Group and the Sustainability Reporting Board to analyse and respond to consultation feedback.

The final ESRS-40a will need to consider:

- the extensive field testing with preparers, users and assurance practitioners across sectors and business models;
- those stakeholders' experience with application and whether the resulting disclosures would be decision-useful, preparable, and assurable, not simply reportable;
- the proportionality of the disclosures, with due consideration given to the balance of the costs and benefits of the information provided.

One month to analyse the field-testing results and one week to analyse consultation responses appear insufficient given the scale and reach of the proposals. The European Commission may wish to revisit the timetable if the process identifies significant practical or conceptual concerns, some of which we raise in this letter.

The proposals' effects on UK companies and other stakeholders

EFRAG's research indicates that the UK has the second-largest number of companies expected to be affected by the proposals. Some UK groups have significant activities in the EU market that may bring them within Article 40a of the Accounting Directive.

Some affected companies are also subject to the UK Listing Rules and will soon report using UK Sustainability Reporting Standards (UK SRS), while others may apply UK SRS voluntarily. UK SRS are closely aligned with the International Sustainability Standards Board (ISSB) Standards and have been developed through a rigorous endorsement and public consultation process, supported by detailed assessment criteria.

Our response reflects the potential effects of the proposals on non-EU groups with parent companies subject to Article 40a. Our comments therefore focus on:

- the practical challenges for non-EU groups with global operations applying ISSB-based standards at group level alongside ESRS-40a, including duplication, complexity and interoperability. The proposals would raise the burden for non-EU groups that are already subject to other sustainability reporting requirements; and
- the extent to which the resulting sustainability reports would meet European stakeholders' legitimate information needs.

Summary of our perspectives

We urge EFRAG to revisit the design of the proposals to improve alignment with the ISSB Standards and to better meet European stakeholders' legitimate information needs. Companies need clarity on the objective of the information when preparing disclosures and how that information might reasonably be used. We are concerned that, as drafted, the proposals risk producing compliance documents rather than coherent, decision-useful reporting. This outcome would not meet the stated objective of providing understandable and useful information to existing and potential investors, business partners and other users.

We have two specific recommendations, which we cover in more detail in the remainder of this letter:

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1. **The final standard should explicitly introduce an ISSB-plus approach (described below) that allows non-EU groups to use their group-level ISSB-based reporting as the baseline for ESRS-40a reporting.** ESRS-40a should require only clearly identified incremental impact disclosures and data points needed, whether for the European Commission's public policy objectives or for other users' purposes. This would be a pragmatic approach for the jurisdictions (over 40 as of the date of this letter) adopting or otherwise using the ISSB Standards. This includes the UK, Japan and other jurisdictions identified in EFRAG's analysis of companies expected to be within the scope of ESRS-40a, representing a significant proportion of affected non-EU groups. Non-EU groups that do not prepare ISSB-based reports would use ESRS-40a in full.
2. **The final standard should retain the mixed approach as an option (reporting a combination of EU-related and global impacts), but with a clearer basis for its use.** Incremental ESRS-40a disclosures should focus first on EU-related impacts for all sustainability issues and as a proportionality mechanism, permit global-level disclosures where impacts cannot be meaningfully disaggregated or attributed to the EU market.

To that end, we wish to express our agreement with many of the views set out in the recent letters to the European Commission from the Japanese Government and Accountancy Europe.[1] Both letters articulate concerns about the approach taken to the forthcoming ESRS for non-EU groups and emphasise the need to recognise the application of the ISSB Standards by groups within the scope of ESRS-40a.

Introduce an explicit ISSB-plus approach

Given the European Commission's stated intention to improve interoperability with global sustainability standards when revising ESRS in July 2026, and to reduce the reporting burden on non-EU parent companies in scope, ESRS-40a should more clearly enable non-EU groups to use their ISSB-based sustainability reports as the starting point for meeting ESRS-40a requirements, with ESRS-40a specifying the additional impact-related disclosures that are needed.

We therefore suggest incorporating an explicit reference to the acceptance of a non-EU parent undertaking's group-level ISSB-based sustainability report in the final incorporation by reference provisions. Companies that do not apply ISSB-based standards would apply ESRS-40a in full.

Such an approach would address our concerns with meeting the proposed fair presentation requirement and should leverage non-EU groups' home jurisdiction assurance infrastructure, both of which are discussed in more detail below.

Adding an explicit ISSB-plus approach to the final incorporation by reference provisions

Given that a significant number of jurisdictions within the scope of ESRS-40a have adopted, or are in the process of adopting, ISSB-based reporting requirements, we encourage EFRAG to recognise such reporting as the baseline for preparing ESRS-40a sustainability disclosures. Parent companies in those jurisdictions already, or will soon prepare rigorous group-level (that is, using the reporting boundary of the parent company and its consolidated subsidiaries) sustainability reports using ISSB-based standards.[2]

[1] Government of Japan, "Comment on the Draft Delegated Regulation on Revised European Sustainability Reporting Standards (ESRS)", dated 13 May 2026, and Accountancy Europe, "Preliminary remarks from the accounting profession on European Reporting Standards for third-country groups", dated 24 June 2026.

[2] Even where no domestic sustainability reporting regime exists, we would encourage EFRAG to allow the use of an ISSB-based sustainability report to serve as the baseline for ESRS-40a purposes.

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We note that there is likely to be significant overlap between the sustainability-related risks and opportunities identified for ISSB reporting and the impacts relevant to ESRS-40a because many material impacts are likely to give rise over time to relevant sustainability-related risks or opportunities. Although IFRS S1 does not require those issues with overlapping effects to be specifically identified or categorised as impacts, ESRS-40a should enable companies to use ISSB-based disclosures where they already address matters that would also be relevant impacts, rather than requiring those disclosures to be repeated or specifically identified. For those impacts that do not give rise to financially material risks or opportunities, ESRS-40a should require an explicit, incremental impact-only top-up over the ISSB reporting.

This 'ISSB-plus' approach, which we set out in detail below, retains ESRS-40a's objective of ensuring transparency about the impacts non-EU groups have on people and the environment, which is central to the design of the reporting requirements. In addition, it would promote coherent, consistent and identifiable reporting while avoiding unnecessary duplication and reducing the reporting burden for non-EU parent companies already applying ISSB-based standards, and would support future equivalence discussions with jurisdictions adopting or otherwise using the ISSB Standards. This approach would also mitigate some of the interoperability issues arising from subtle, granular differences between ESRS and the ISSB Standards. We suggest a similar approach be considered to allow non-EU groups to meet their CSRD requirements when their subsidiaries use the exemption from reporting, rather than being required to prepare group-level full-ESRS sustainability statements per that exemption.

We suggest that the ISSB-plus approach be implemented as follows:

- A non-EU group parent entity would start with a baseline ISSB-based sustainability report that:
    - is prepared by a non-EU group parent company in accordance with the ISSB Standards as issued by the ISSB;
    - reflects financially material sustainability-related risks and opportunities, some of which will have material impacts associated with them;
    - is prepared voluntarily or because it is a mandatory requirement;
    - contains a statement of compliance with the ISSB Standards; and
    - reflects the transition reliefs in ESRS-40a.
- The entity would then add an incremental top-up of targeted impact-related disclosures in ESRS-40a (the 'plus') that:
    - fill a gap in information that is not already covered by the baseline ISSB-based sustainability report (that is, impacts that do not give rise, and are not expected to give rise, to financially material risks or opportunities);
    - are needed to meet the needs of EU stakeholders with a legitimate interest in the information, including existing and potential investors, business partners and others as defined in paragraph 6 of proposed ESRS-40a 1, or for the European Commission's public policy objectives; and
    - are specifically identified and well-defined so that it is clear which ESRS-40a disclosures are incremental, so in-scope groups do not each need to determine this (potentially inconsistently) on their own.

This suggestion, different in an important way from what is proposed in the ESRS-40a ED, would see the ISSB-based reporting being accepted as meeting the requirements in ESRS-40a without the need for detailed mapping across requirements, as long as the requirements in ESRS-40a 1 paragraph 121 are met (although see our comments on assurance, below). In considering the

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ISSB-plus approach, it is important to acknowledge that the ISSB Standards are not limited solely to climate-related disclosures. IFRS S1 contains requirements for disclosures about sustainability-related risks and opportunities beyond climate. The ISSB Standards include clear sources of guidance, such as the SASB industry-based guidance, to assist companies in identifying sustainability-related risks and opportunities and to help determine which information is material. This allows companies to achieve the standards' objective of providing a complete depiction of those risks and opportunities.

To illustrate why the ISSB-plus approach would be beneficial, we highlight the experience shared by a company participating in the ESRS-40a field testing at the 29 September UK outreach event. The participant explained that their mapping from UK SRS S2 to ESRS-40a E1 resulted in a 17-page disclosure mapping table (as required by paragraph 125 of ESRS-40a 1 when a 'substantial part' of the requirements is incorporated by reference). The exercise depended on the company's interpretation of interoperability between the two regimes. Other companies may reach different conclusions, particularly because the EFRAG-ISSB interoperability guidance published in May 2024 predates the current proposals. This company's experience demonstrates that, from a practical perspective, the proposals introduce duplicative requirements, as well as unnecessary reporting burden, that may not provide decision-useful information and, in fact, may confuse users and undermine, rather than enhance, understandability and transparency.

Meeting the fair presentation requirement

The proposed fair presentation requirement is unlikely to be workable under the proposals, and a number of issues were raised at the 29 September outreach event and in other stakeholder discussions:

- An in-scope EU subsidiary or branch may be required to report group-level information prepared by its non-EU parent or fellow subsidiaries, even though it does not control their systems or processes. It may therefore be unable to obtain or verify the information. The proposals do not explain who should make the fair presentation assertion, what work the reporting entity should perform on information supplied by other group entities or how responsibility should be divided between the subsidiary or branch and its parent. They also do not explain what evidence the assurance provider would need. Without additional clarity, the officers of the subsidiary may need to conduct due diligence on the parent, seek an indemnity or require other safe harbour provisions. Moreover, an assurance provider may be unable to accept a subsidiary-level engagement and instead require assurance to be undertaken by and for the group.
- Furthermore, the reporting subsidiary or branch may be reporting global information alongside EU-only information under the mixed approach. It is therefore unclear how the subsidiary or branch could assert that the report is a faithful representation (especially regarding completeness and accuracy) or that it has the other qualitative characteristics of relevance, comparability and understandability as required by Appendix B of proposed ESRS-40a 1.
- The mechanical removal of information about risks, opportunities, resilience and dependencies (RORD) introduces the risk that primary users will not have sufficient information to understand the effect an impact can have on a company's resilience, further hindering the ability to assert that the report gives a fair presentation.

Permitting the omission of information that has not been made available by the non-EU parent does not resolve these problems. A subsidiary or branch may comply with the omission requirements yet produce a report limited largely (if not entirely) to its own activities, which would

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not fairly present the non-EU group as a whole. It is also not clear whether a subsidiary or branch is permitted to omit information it receives if it does not believe that information is complete or accurate.

By contrast, an ISSB-plus approach would provide a stronger basis for fair presentation because the group-level ISSB report would be prepared as a whole under a single set of standards, with the ESRS-40a top-up clearly identified as additional information. This would make it easier for companies and their auditors to assess whether the sustainability report as a whole is fairly presented.

Leveraging the home jurisdiction assurance infrastructure

We recognise that the assurance requirement in ESRS-40a's incorporation by reference provisions stems from Article 40a(3) of the Accounting Directive.[3] However, given its reach, we believe ESRS-40a should leverage the local assurance infrastructure in a non-EU group parent company's home jurisdiction. This issue was raised at the 29 September outreach event.

It is not clear whether Article 40a(3) recognises assurance reports provided by firms in the parent company's home jurisdiction when a firm is not expressly "authorised to give an opinion on the assurance of sustainability reporting". From a practical perspective, a non-EU group parent company's group auditor or another assurance provider subject to an established regulatory regime in the parent company's home jurisdiction should be permitted to provide the assurance opinion on the ESRS-40a sustainability report. For UK parent companies, those auditors would include statutory auditors as they are regulated by professional accountancy bodies and are subject to robust professional regulation, quality management requirements, ethical standards and independent oversight. Other assurance providers operating within the UK's developing sustainability assurance framework, specifically the forthcoming UK Government-endorsed UK Voluntary Register for Sustainability Assurance Providers, should be permitted to provide the assurance opinion on the ESRS-40a sustainability report only if they are subject to the same competency requirements, quality assurance arrangements, ethical obligations and regulatory oversight. A non-EU group parent company using an additional assurance provider registered in an EU member state to meet the requirements in Article 40a(3) would add cost and complexity without necessarily improving assurance or reporting quality.

We therefore ask the European Commission to consider how the forthcoming UK register could be recognised for ESRS-40a and Article 40a(3) purposes and, more broadly, in the context of CSRD assurance arrangements for non-EU groups. We understand EU-UK discussions on the latter are underway.

EU-related impacts as the basis for an incremental ESRS-40a top-up

For non-EU groups using the ISSB Standards, the ISSB-based sustainability report would provide the group-level baseline for sustainability-related risks and opportunities, including climate- and non-climate-related impacts that are also financially material. The incremental ESRS-40a top-up would then be limited to impacts not already covered by the ISSB Standards (including the industry-based disclosures in the SASB Standards).

Starting with EU-related impacts as the incremental ESRS-40a top-up

[3] Article 40a(3) states, "Member States shall require that the sustainability report referred to in paragraph 1 is published accompanied by an assurance opinion expressed by one or more person(s) or firm(s) authorised to give an opinion on the assurance of sustainability reporting under the national law of the third-country undertaking or of a Member State."

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However, in our view the incremental ESRS-40a top-up should, in principle, focus on EU-related impacts (that is, those impacts connected with the sale of products and services and activities carried out in the EU market). We therefore suggest that ESRS-40a should not begin with global-level impact disclosures, as proposed, but with EU-related disclosures. This would be a proportionate approach that would better align the ESRS-40a top-up disclosures with EU stakeholders' legitimate interest in the impacts that non-EU groups have (or may have) in Europe. We therefore also suggest that the final standard make a clear and specific reference to EU-related impacts in paragraph 5 of ESRS-40a 1, which states the objective of the ESRS-40a sustainability report.

Permitting global-level disclosures when EU-level disaggregation is not practical or meaningful
ESRS-40a should, however, also permit global-level impact disclosures when impacts cannot be meaningfully isolated to Europe (that is, when there is no appropriate allocation methodology that can be applied on a consistent basis) or when the parent company manages, monitors and reports the relevant impacts at group level. We note that the latter will often be the case for climate-related impacts when using an ISSB-plus approach because the ISSB Standards require all financially material sustainability-related (including climate) disclosures to be made at group level. The ISSB-plus approach is therefore consistent with the proposal that climate disclosures be at a global level in the ESRS-40a ED.

Practical benefits of an ISSB-plus approach combined with the mixed approach as an ESRS-40a top-up
An ISSB-plus approach with an incremental ESRS-40a top-up would recognise both aspects of the mixed approach, with clearly identifiable additional ESRS-40a disclosures where EU-related (or global) impacts are not covered by the ISSB baseline. From a practical perspective, this approach would:

- **Use existing systems and processes** by allowing non-EU groups to draw on ISSB-aligned reporting systems, data collection processes and governance arrangements designed to capture relevant sustainability-related risks, opportunities and impacts.
- **Support clearer reporting for users** by preserving a coherent group-level baseline for investors while providing additional information about EU-related impacts for EU stakeholders when that information is needed and can be prepared on a meaningful basis.

Concluding points
In conclusion, we urge EFRAG and the European Commission to revise the ESRS-40a proposals in the light of the Level 1 legal and regulatory issues raised – and take the time necessary to do so – so that they deliver coherent, decision-useful reporting while avoiding unnecessary duplication, cost and complexity for non-EU groups.

The final standard would benefit from establishing an explicit ISSB-plus approach, leveraging ISSB-based group reporting to serve as the baseline for ESRS-40a. It should require only a clearly defined incremental top-up for material impact information not already covered. The mixed approach should remain available, with EU-related impacts as the starting point and global disclosures used where disaggregation is not meaningful or reliable.

Such a reporting framework would provide a more workable basis for fair presentation, make better use of established reporting and assurance arrangements in third-country jurisdictions (including recognition of appropriate UK assurance providers in Article 40a(3) of the Accounting Directive) and better meet European stakeholders' legitimate information needs while supporting interoperability, comparability and high-quality sustainability reporting.

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