

## Template for comments on draft ESRS Delegated Act

The draft delegated on European Sustainability Reporting Standards (ESRS) comprises: the main text of the legal act; twelve draft standards (annex I); and a glossary of abbreviations and defined terms (annex II).

The twelve draft standards in Annex I are:

| Group         | Number  | Subject                           |
|---------------|---------|-----------------------------------|
| Cross-cutting | ESRS1   | General Requirements              |
| Cross-cutting | ESRS2   | General Disclosures               |
| Environment   | ESRS E1 | Climate                           |
| Environment   | ESRS E2 | Pollution                         |
| Environment   | ESRS E3 | Water and marine resources        |
| Environment   | ESRS E4 | Biodiversity and ecosystems       |
| Environment   | ESRS E5 | Resource use and circular economy |
| Social        | ESRS S1 | Own workforce                     |
| Social        | ESRS S2 | Workers in the value chain        |
| Social        | ESRS S3 | Affected communities              |
| Social        | ESRS S4 | Consumers and end users           |
| Governance    | ESRS G1 | Business conduct                  |

Each standard is divided into numbered paragraphs. Each standard also has an appendix A containing “application requirements” which are numbered as AR 1, AR 2 etc. Some standards also contain additional appendices.

To facilitate analysis of comments, respondents are kindly requested to use the simple template below when sending their comments.

## Name of respondent/responding organisation: Carbon Gap

### 1. General comments

The ESRS E1 represent many significant improvements to emissions reporting and the transparency of environmental information. For example, the simple fact of disaggregating emissions from carbon credits already changes the attractiveness of widespread unsubstantiated net zero claims at organisation level. The introduction of GHG intensity reporting is also something Carbon Gap welcomes as it would facilitate innovative financing mechanisms for carbon dioxide removal (CDR), such as those discussed in our [Bridging the Ambition Gap report](#).

However, the proposed Carbon Removal Certification Framework could be more explicitly integrated in GHG removals and credits reporting requirements. The EU is developing methodologies to verify the quality and integrity of carbon removals reliably. It would be a missed opportunity not to take advantage of this work for reporting on carbon credits in the same way it is done for GHG removals within undertakings' value chains.

The Disclosure Requirement E1-7 on GHG removals and GHG mitigation projects may also benefit from a clearer distinction between different kinds of carbon credits - that is, carbon credits generated from emissions avoidance, emissions reductions, and GHG removals respectively. Although all three types of credits ultimately result in less carbon in the atmosphere and benefit the climate, they represent different kinds of climate action with different roles in mitigation strategies. This should be reflected in how these credits are reported on and used in line with the [IPCC's definition of net zero](#).

### 2. Specific comments on the main text of the draft delegated act

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### 3. Specific comments on Annex I

| Standard | Paragraph or AR number or appendix | Comment |
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| ESRS E1 | Para 35b | The disaggregation of emission reduction targets from GHG removals and related carbon credits is a crucial improvement. By keeping these separate, the European Commission is ensuring that GHG removals do not deter an undertaking from mitigation action.   |
| ESRS E1 | Para 57b | Reductions and removals should not be conflated even when outside of an undertaking's value chain. The two should be separated into two different subparagraphs with b) for carbon credits generated by emission reductions and c) for carbon credits generated from GHG removals.   |
| ESRS E1 | Para 58b | <p>As the paragraph states, it is crucial to understand the extent and quality of carbon credits. However, only GHG removal credits should be eligible to make and substantiate neutrality claims as per the <a href="#">IPCC's definition of net zero</a> according to which emissions can only be balanced with physical removals.</p> <p>The definition of 'net zero target' in Annex II is aligned with the IPCC's definition, recognising that it is only by "permanently removing an equivalent volume of CO2" to residual emissions that a net zero state is achieved. This understanding of net zero should be reflected throughout the ESRS E1.</p>   |
| ESRS E1 | Para 61  | <p>Explaining the scope, methodologies and frameworks applied to net-zero targets is necessary and welcome. The definition of 'residual emissions' in between parentheses is also an improvement to EFRAG's draft as it includes nuance on sectoral variation. The figure of 90-95% emissions reductions is ambitious and reassures us that GHG removals should not replace emissions reductions.</p> <p>Unfortunately, 'a recognised sectoral decarbonisation pathway' remains too vague. As is the case with AR 28 below, public policies do not offer any such guidance on sectoral decarbonisation pathways. Crucially, there is a lack of public policies accurately defining and indicating the sectoral decarbonisation pathways to net zero. The EC's ESRS draft recognises this. We need future-proof provisions to integrate public policies that will define such pathways eventually.</p> <p>Indeed, only the most difficult to decarbonise processes and their emissions should be eligible to balance with carbon removals to ensure that this boundary is not manipulated to deter from reduction efforts. Carbon removals should only be used to balance hard-to-abate emissions. Without a clear attempt to hold actors accountable to standardised sector-specific definitions of what constitute residual emissions, net-zero claims cannot be substantiated in a robust and trustworthy manner. The definition should be revised on a regular basis to account for technological innovations. We strongly recommend that the EU establishes a transparent process for classifying emissions by empowering an agency to review and categorise emissions based on impact assessments and multi-stakeholder consultations. As technology evolves, costs reduce, and circumstances change, emissions will need to be re-classified.</p> <p>Lastly, the neutralisation of residual emissions, as per the IPCC's definition of net zero and the ESRS' own definition of 'net</p> |

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|                |                | <p>zero target’ in Annex II, can only be done through GHG removals, regardless of whether they come from inside or outside of an undertaking’s value chain. As such, we would suggest amending the last phrases as follows:</p> <p>“[ . . . ] how the residual GHG emissions (after approximately 90-95% of GHG emission reduction with the possibility for justified sectoral variations in line with a recognised sectoral decarbonisation pathway) are intended to be neutralised by, <del>for example,</del> GHG removals in <b>or out of</b> its own operations and value chain.”</p>  |
| <p>ESRS E1</p> | <p>Para 62</p> | <p>Compared to the current status quo, a reporting requirement on net zero claims is already a significant step forward. However, this paragraph does not align with the definition of ‘net zero target’ in Annex II. Whether it be a net zero target or a net zero claim, the definition of net zero should not change. Only carbon credits generated from GHG removal projects can legitimately balance emissions.</p> <p>A GHG neutrality claim should only be possible if a GHG neutrality or net zero state is actually achieved by an undertaking. That is, emissions must be reduced by 90-95% and residual emissions balanced with GHG removals of equivalent character (biogenic/biological, fossil/geological). As such, we suggest separating requirements on public claims of GHG neutrality and those of <i>progress towards</i> GHG neutrality.</p> <p>Alternative claims on the progress towards net zero or GHG neutrality could depend on the reporting of GHG emission reduction targets and net zero targets. From this information, civil society and authorities would be able to determine whether GHG neutrality claims match, impede or reduce an undertaking’s progress towards, and achievement of, their emissions reductions and net zero targets.</p> <p>Our suggestion is as follows:</p> <p>62. In the case where the undertaking may have made public claims of <b>progress towards</b> GHG neutrality that involve the use of carbon credits, it shall explain:</p> <ol style="list-style-type: none"> <li>a. <del>whether and</del> how these claims are accompanied by GHG emission reduction targets as required by Disclosure requirement ESRS E1-4 <b>and a net zero target</b>;</li> <li>b. <del>whether and</del> how these claims and the reliance on carbon credits neither impede nor reduce the achievement of its GHG emission reduction targets, <del>or, if applicable,</del> <b>and</b> its net zero target; and</li> <li>c. the credibility and integrity of the carbon credits used, including by reference to recognised quality standards</li> </ol> <p><b>62(new). In the case where the undertaking may have made public claims of GHG neutrality that involve the use of GHG</b></p> |

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|                |              | <p>removal carbon credits, it shall explain:</p> <ol style="list-style-type: none"> <li>a. how their GHG emission reduction targets as required by Disclosure requirement ESRS E1-4 and their net zero target have been met;</li> <li>b. how the sum of carbon credits generated from projects of GHG removal in biogenic sinks, GHG removals within an undertaking's value chain that are biogenic or from land-use change, and carbon uptakes from direct land use and land-use change matches the volume of residual biogenic emissions; and</li> <li>c. how the sum of carbon credits generated from projects of GHG removal from technological sinks, as well as technological and hybrid GHG removals within an undertaking's value chain matches the volume of residual emissions from fossil sources; and</li> <li>d. the credibility and integrity of the carbon credits used, by reference to the consensus methods on accounting for GHG removals applied, notably the EU regulatory framework for the certification of CO2 removals.</li> </ol> |
| <i>ESRS E1</i> | <i>AR 2</i>  | This Application Requirement recognises the lack of officially recommended decarbonisation pathways in public policies and provides good guidance in the meanwhile. Ideally however, there would be provisions for the future integration of such public policies.  |
| <i>ESRS E1</i> | <i>AR 27</i> | This Application Requirement provides good guidance on sectoral decarbonisation pathways without public policies on the matter. Ideally however, there would be provisions for the future integration of such public policies.  |
| <i>ESRS E1</i> | <i>AR 28</i> | As above, however the removal of mentions of the Science-based Targets initiative (SbTi) compared to EFRAG's draft is unfortunate. SbTi would help provide guidance in the absence of public policy.  |
| <i>ESRS E1</i> | <i>AR 44</i> | The disaggregation of Scope 1 biogenic emissions and carbon uptakes from direct land use and land use change as well as the exclusion of carbon credits is extremely appreciated. This level of transparency is necessary to implement the like-for-like principle when balancing residual emissions with GHG removals. This in turn ensures that the net zero state achieved by an undertaking is sustainable and maintains the balance of the natural carbon cycle. Please see the attachment to our consultation feedback for more information.  |
| <i>ESRS E1</i> | <i>AR 46</i> | As above, but for Scope 2 emissions.  |
| <i>ESRS E1</i> | <i>AR 47</i> | As above, but for Scope 3 emissions.  |
| <i>ESRS E1</i> | <i>AR 58</i> | The disaggregation of GHG removals and storage from the undertaking's own operations and its value chain by removal and storage activity is extremely appreciated. This level of transparency is necessary to implement the like-for-like   |

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|                |               | principle when balancing residual emissions with GHG removals. This in turn ensures that the net zero state achieved by an undertaking is sustainable and maintains the balance of the natural carbon cycle. Please see the attachment to our consultation feedback for more information.   |
| <i>ESRS E1</i> | <i>AR 59b</i> | The application and integration of the CRCF is welcome. This would help streamline public policies as well as provide a use case for the CRCF.  |
| <i>ESRS E1</i> | <i>AR 62</i>  | This Application Requirement is appreciated. It highlights that purchasing carbon credits is a way to finance mitigation efforts rather than only a way to claim to have compensated for negative climate impacts.<br><br>Requiring the separation of GHG emissions from carbon credits is also a crucial and significant improvement on the current situation. Furthermore, an undertaking needs to show “the extent of use” of its carbon credits which also improves transparency. However, there is no explicit mention of CRCF as a key quality criterium for GHG removal carbon credits which would increase their trustworthiness. |
| <i>ESRS E1</i> | <i>AR 63a</i> | The separation of reduction projects from removal projects is very important and thus welcome. Although the two types of credits ultimately result in less carbon in the atmosphere and benefit the climate, they represent different kinds of climate action with different roles in mitigation strategies. Their separation is therefore necessary and appreciated.   |
| <i>ESRS E1</i> | <i>AR 63b</i> | This is a great improvement on the EFRAG draft. The disaggregation of GHG removal carbon credits by sink (technological or biogenic) is the last piece of information necessary to implement the like-for-like principle when balancing residual emissions with GHG removals. This in turn ensures that the net zero state achieved by an undertaking is sustainable and maintains the balance of the natural carbon cycle. Please see the attachment to our consultation feedback for more information.  |
| <i>ESRS E1</i> | <i>AR 63c</i> | It is unfortunate that there is no equivalent to AR 59b for GHG removal carbon credits. The application and integration of CRCF would increase the trustworthiness of these carbon credits.   |
| <i>ESRS E1</i> | <i>AR 63d</i> | As above.   |
| <i>ESRS E1</i> | <i>AR 64</i>  | The paragraphs referenced should be 57(b) and 60 to reflect the numbering of the European Commission’s draft of the ESRS.   |
| <i>ESRS E1</i> | <i>AR 64a</i> | In accordance with our feedback on the definition of ‘recognised quality standards for carbon credit’ in Annex II, GHG removal carbon credits should at a minimum align with the CRCF’s quality requirements. This would ensure a level-playing field for standard developers, certifiers, suppliers and users of such credits.   |
| <i>ESRS E1</i> | <i>AR 64e</i> | Preventing the opaque practice of offsetting by combining carbon credits with emissions is a crucial improvement. By  |

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|                |               | keeping the two separate, the European Commission is ensuring that carbon credits generated from GHG removals and emission reductions do not deter an undertaking from mitigation action. It allows authorities and civil society to hold an undertaking accountable to their emission reduction commitments and obligations. |
| <i>ESRS E1</i> | <i>AR 64f</i> | The disaggregation of emission reduction targets from GHG removals and related carbon credits is a crucial improvement. By keeping these things separate, the European Commission is ensuring that GHG removals do not deter an undertaking from mitigation action.   |

#### 4. Specific comments on Annex II

| Defined term                                    | Comment   |
|---|---|
| Carbon credits                                  | As opposed to EFRAG’s draft, this definition doesn’t differentiate between different kinds of carbon credits. There must be a clear distinction between carbon credits generated from emissions avoidance, emissions reductions, and GHG removals respectively. Although all three types of credits ultimately result in less carbon in the atmosphere and benefit the climate, they represent different kinds of climate action with different roles in mitigation strategies. This should be reflected in how these credits are reported on and used in line with the <a href="#">IPCC’s definition of net zero</a> . |
| Emission reductions                             | This is a satisfying definition.  |
| GHG removal & storage                           | As above.   |
| Net zero target                                 | As above. However, broadening this definition to ‘net zero’ more generally rather than only a ‘target’ would prevent inconsistencies in the treatment of net zero targets and net zero claims. It would also allow the ESRS E1 to align with the <a href="#">IPCC’s definition of net zero</a> .  |
| Recognised quality standards for carbon credits | At a minimum, carbon credits from GHG removals should align with CRCF. This would ensure a level-playing field for standards, certifiers, suppliers and users of credits. The European Union is developing methodologies to verify the quality and integrity of carbon removals reliably. It would be a missed opportunity not to take advantage of this work for reporting on carbon credits.  |