

 DRAFT

# ESRS S3

AFFECTED COMMUNITIES

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## Table of contents

<b>Objective</b> .....	3
<b>Interaction with other topical ESRS</b> .....	3
<b>Disclosure Requirements</b> .....	3
<b>Impacts, risks and opportunities management</b> .....	<b>3</b>
Disclosure Requirement S3-1 – Policies related to affected communities .....	3
Disclosure Requirement S3-2 – Engagement with affected communities, existence of channels for affected communities to raise concerns or needs and approaches to remedy .....	4
Disclosure Requirement S3-3 – Actions and resources related to affected communities .....	5
<b>Metrics and Targets</b> .....	<b>6</b>
Disclosure Requirement S3-4 – Targets related to affected communities .....	6

## Objective

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1. The **sustainability statement** shall include information in relation to ESRS S3 *Affected Communities* if this **topic** relates to material **impacts, risks** and **opportunities** to cover all the reporting areas listed in paragraph 5 of ESRS 1 *General Requirements*. If not all the sub-topics prescribed by this Standard are to be reported following the **materiality** assessment, paragraph 30 of ESRS 1 *General Requirements* applies.
2. The objective of this Standard is to set out DRs providing information in relation to the reporting areas referred above that implement and complement the cross-cutting provisions of ESRS 1 *General Requirements* and ESRS 2 *General Disclosures*.
3. In this Standard, each DR is introduced by a disclosure objective except for **policies, actions** and **targets**, for which the provisions in ESRS 2 GDR-P, GDR-A and GDR-T provide the necessary framing for the relevant DRs.
4. The objective of this Standard is also to enable an understanding of the extent to which the undertaking aligns or complies with the international and European human rights instruments and conventions, including the International Bill of Human Rights; the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises; and the UN Declaration on the Rights of Indigenous People.
5. This Standard sets out DRs related to **affected communities**, in particular with respect to the following sub-topics:
  - (a) communities' economic, social and cultural rights (including land-related impacts, security-related impacts, adequate housing and food, water and sanitation);
  - (b) communities' civil and political rights (including freedom of expression, freedom of assembly, impacts on human rights defenders); and
  - (c) rights of **indigenous peoples** (including **free, prior and informed consent (FPIC)**), self-determination, cultural rights).

## Interaction with other topical ESRS

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6. Social and environmental **topics** interact with each other. The points of interaction between ESRS S3 *Affected Communities* and the other topical standards are the following:
  - (a) all the social standards, i.e. ESRS S1 *Own Workforce*, ESRS S2 *Workers in the Value Chain*, ESRS S3 *Affected Communities* and ESRS S4 *Consumers and End-users*, are aligned in terms of content and structure and are related to each other. The disclosures in the social standards address material information needed for reporting on **impacts** on people, **risks** and **opportunities** related to each **stakeholder** group, including in relation to sustainability due diligence; and
  - (b) this Standard is related to the environmental standards (ESRS E1 to E5) because impacts on **affected communities** may stem from environmental impacts, risks and opportunities that the undertaking discloses under those. For example, the undertaking's climate or biodiversity **transition plan** may affect the lands, territories and natural resources of **indigenous peoples**.

## Disclosure Requirements

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### Impacts, risks and opportunities management

#### Disclosure Requirement S3-1 – *Policies related to affected communities*

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7. (14 amended) The undertaking shall describe its **policies** for managing the material **impacts, risks** and **opportunities** related to **affected communities** in accordance with ESRS 2 GDR-P. It shall state whether these policies cover specific affected communities (for example, a community of **indigenous peoples** or a community living around a **site**) or all affected communities.

8. (15 amended) The undertaking shall disclose any particular **policy** provisions for preventing and addressing **impacts** on **indigenous peoples**.

#### APPLICATION REQUIREMENTS

AR 1 for para. 7 (Policies related to affected communities)	(AR 11 amended) Examples of <b>policy</b> aspects to disclose are the means of communication the undertaking uses to communicate its policies to the individuals, groups of individuals or entities for whom they are relevant, either because they are expected to implement them (for example, the undertaking's <b>employees</b> , contractors and <b>suppliers</b> ) or because they have a direct interest in their implementation.
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#### Disclosure Requirement S3-2 – *Engagement with affected communities, existence of channels for affected communities to raise concerns or needs and approaches to remedy*

9. (20 amended) The objective of this DR is to enable an understanding of the undertaking's general approach to engagement with **affected communities**, including the availability of **channels to raise concerns or needs** such as **grievance mechanisms**, and its approach to **remedy**.
10. (21 and 22 amended) The undertaking shall disclose how it engages directly with **affected communities**, their **legitimate representatives**, or with **credible proxies** and how the perspectives of affected communities inform its decisions or activities aimed at managing the **actual** and **potential impacts** on affected communities during the reporting year. This shall include how the undertaking gains insight into the perspectives of affected communities who may be particularly vulnerable to impacts and/or who are marginalised (for example, women, girls, migrants, **persons with disabilities**), if the undertaking takes action to understand those perspectives.
11. (23 amended) Where **affected communities** are **indigenous peoples**, the undertaking shall also disclose how it takes into account and ensures respect of their particular rights in its **stakeholder engagement** approach, including their right to **free, prior and informed consent (FPIC)** with regard to: (i) their cultural, intellectual, religious and spiritual property; (ii) activities affecting their lands and territories; and (iii) legislative or administrative measures that affect them. Where engagement occurs with indigenous peoples it shall also disclose whether and how indigenous peoples have been consulted on the mode and parameters of engagement (for example, in designing the agenda, nature, and timeliness of engagement).
12. (27(b)(d) amended) The undertaking shall describe the channels available to **affected communities** to bring their concerns or needs directly to its attention and have them addressed. In particular, it shall state whether it has a **grievance mechanism** in place<sup>1</sup>. It shall also explain how it assesses the effectiveness of these channels.
13. (27(a) amended) The undertaking shall describe its general approach to and **processes to provide or cooperate in remediation** where it has caused or contributed to a material negative **impact** on **affected communities**.

#### APPLICATION REQUIREMENTS

AR 2 for para. 10 (Engagement)	(AR 15 amended) Engagement with <b>affected communities</b> can take different forms, such as information sessions, consultation or participation, and take place at different intervals.
AR 3 for para. 11 (Engagement with indigenous peoples)	(AR 13 amended) Examples of the engagement disclosure in paragraph 11 include the process to obtain consent from <b>indigenous peoples</b> and to ensure good faith negotiations where the undertaking affects lands, territories or resources through relocation or occupation.
AR 4 for para. 12 (Grievance mechanism)	(AR 24 amended) The 'effectiveness criteria for non-judicial <b>grievance mechanisms</b> ', as laid out in the UN Guiding Principles on Business and

<sup>1</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from an additional indicator related to principal adverse impacts, as set out by Indicator #11 in Table I of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments ('Lack of processes and compliance mechanisms to monitor compliance with the UNGPs and the OECD Guidelines for Multinational Enterprises').

	Human Rights, in particular Principle 31, can be used for assessing the effectiveness of the <b>channels</b> .  (28 amended) If the undertaking has <b>policies</b> for protecting individuals that use these channels against retaliation, and they are disclosed under ESRS G1-1, the undertaking may refer to that disclosure.
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#### Disclosure Requirement S3-3 – *Actions and resources related to affected communities*

14. (31 amended) The undertaking shall describe the key **actions** and resources used to manage its material positive and negative **impacts, risks** and **opportunities** related to **affected communities** in accordance with ESRS 2 GDR-A.
15. (32(a)(b)(d) amended) In relation to material negative **impacts** on **affected communities**, the undertaking shall describe:
  - (a) its key **actions** taken, planned or underway to prevent, mitigate and **remediate** material negative impacts on affected communities, including its approach in situations where tensions arise between such actions and other business pressures (for example, its practices in relation to planning and land acquisition or in relation to the exploitation and financing of raw materials); and
  - (b) how it tracks and assesses the effectiveness of these actions in delivering outcomes for affected communities. This disclosure can be omitted if the undertaking discloses how it tracks the effectiveness of its actions in accordance with ESRS 2 GDR-T or GDR-M. In that case, a reference to that disclosure is sufficient.
16. (36 amended) For the sub-topics assessed as material for this Standard, subject to the relevant privacy regulation, the undertaking shall disclose **human rights incidents** connected to **affected communities** identified in the reporting period<sup>2</sup>.

#### APPLICATION REQUIREMENTS

<b>AR 5 for para. 15</b> <b>(Key actions)</b>	(AR 26 and AR 27 amended) The <b>actions</b> taken by the undertaking differ depending on its connection to the <b>impact</b> (causation, contribution, direct linkage) and how it has identified the actions as appropriate for addressing material impacts.  This disclosure requirement also applies to key actions to provide, cooperate in, or enable <b>remediation</b> in cases of actual negative impacts. Key actions to prevent, mitigate or remediate impacts include the use of different types of <b>leverage</b> and/or collective actions taken through multi-stakeholder and/or industry initiatives.
<b>AR 6 for para. 15</b> <b>(Climate transition)</b>	(9(b) amended) The undertaking shall present its <b>actions</b> in a way that enables users to understand the connections that exist between different <b>topics</b> in accordance with Chapters 3.3 and 9.1 of ESRS 1 <i>General Requirements</i> . This applies to measures taken to mitigate negative <b>impacts</b> on <b>affected communities</b> that arise from the transition to a low-carbon and climate-resilient economy. For example, innovation and

<sup>2</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 because it is derived from a mandatory and additional indicator related to principal adverse impacts, as set out by Indicator #10 in Table I of Annex I, by Indicator #14 in Table III of Annex I of Commission Delegated Regulation (EU) 2022/1288 with regard to disclosure rules on sustainable investments (“Violations of the UNGPs and the OECD Guidelines for Multinational Enterprises” and “Number of identified cases of severe human rights issues and incidents”), and the information needs of benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator ‘Number of benchmark constituents subject to social violations (absolute number and relative divided by all benchmark constituents), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law’ in Section 1 and 2 of Annex II.

	restructuring can lead to mine closures or increased mining of minerals that are needed for the transition to a sustainable economy.
<b>AR 7 for para. 16</b> <b>(Human rights incidents)</b>	<p>(New) The <b>human rights incidents</b> in scope for this disclosure are those that relate to not respecting internationally recognised human rights as defined in CSRD Art. 29b (2) (b) (iii). These incidents are understood as the substantiated instances of:</p> <p>(a) judicial and non-judicial proceedings that have been initiated (such as cases before domestic courts and tribunals, mediation, complaints filed with the National Contact Points for OECD Multinational Enterprises); and/or</p> <p>(b) incidents registered by the undertaking, including those it identified through its internal processes.</p>
<b>AR 8 for para. 16</b> <b>(Human rights incidents)</b>	(AR 12 amended) When determining the <b>human rights incidents</b> connected to <b>affected communities</b> , the undertaking shall consider any legal disputes related to land rights and to the <b>free, prior and informed consent (FPIC)</b> of <b>indigenous peoples</b> .
<b>AR 9 for para. 16</b> <b>(Human rights incidents)</b>	(New) When applying the filter of information materiality (paragraph 23 of ESRS 1 <i>General Requirements</i> ) to the information about incidents referred to under paragraph 16, the undertaking's assessment is primarily based on the severity of the <b>impacts</b> on <b>affected communities</b> .
<b>AR 10 for para. 16</b> <b>(Human rights incidents)</b>	(New) The undertaking is not expected to disclose a list of each <b>human rights incident</b> , and may aggregate the information provided, such as by relevant types of incidents and/or communities affected.
<b>AR 11 for para. 16</b> <b>(Cross-referencing)</b>	<p>(New) If the undertaking considers that changes in <b>human rights incidents</b> are relevant for understanding the effectiveness and availability of <b>channels to raise concerns or needs</b>, including <b>grievance mechanisms</b>, it may cross-reference paragraph 16 and paragraph 12.</p> <p>(New) The way the undertaking has addressed or is addressing human rights incidents may be cross-referenced to information disclosed in accordance with paragraph 15.</p>

## Metrics and Targets

### Disclosure Requirement S3-4 – *Targets related to affected communities*

17. (41 amended) The undertaking shall disclose qualitative and/or quantitative **targets** related to **affected communities** in accordance with ESRS 2 GDR-T.

### APPLICATION REQUIREMENTS

<b>AR 12 for para. 17</b> <b>(Tracking performance)</b>	<p>(42(b)(c) amended) Engagement with <b>affected communities</b>, their <b>legitimate representatives</b>, or with <b>credible proxies</b>, can inform the undertaking's tracking and assessment of the effectiveness of its <b>actions</b> disclosed under paragraph 15(b), including the development of <b>metrics</b>, target-setting and/or tracking of performance against those metrics and <b>targets</b>.</p> <p>In particular, in relation to the tracking of performance, such engagement can inform the understanding of the effectiveness of the undertaking's management of material negative <b>impacts</b> and the identification of lessons learnt or improvements.</p>
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