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EU Commission

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## European Commission consultation: Revised European sustainability reporting standards

### Position statement by Ethos Foundation

Established in 1997 by and for Swiss pension funds, the Ethos Foundation aims to enable them to invest sustainably and responsibly. The Ethos Foundation currently represents over 250 Swiss pension funds, insuring more than 2.3 million people in Switzerland and managing assets totalling over CHF 400 billion.

Through Ethos Services we provide institutional investors with services dedicated exclusively to responsible investment. In this role, we analyse hundreds of listed companies. We are therefore directly affected by the CSDR / ERSR regulations and have practical experience in applying them.

We support the EU's objective of reducing reporting burden while preserving high-quality sustainability-related information for capital markets and other stakeholders but identified four areas of concern in the proposed delegated regulation that could undermine investors' ability to assess sustainability-related risks and opportunities and to inform capital allocation decisions.

#### 1. Materiality

Section 24 of the Annex introduces a negative obligation: "a company *shall not* disclose information required by an ESRS Disclosure Requirement if that information is not material". Ethos does not support this proposal as it transforms the absence of a reporting obligation into a prohibition on reporting. Given that materiality inevitably involves judgement, preparers should be given sufficient discretion to broaden their disclosure if deemed relevant rather than be required to report this information as "supplementary information" (section 8.2). Ethos therefore recommends retaining the wording of the 2023 ESRS: "the undertaking (...) *may omit* the information prescribed by a datapoint of a Disclosure Requirement if it assesses such information to be not material" (paragraph 34(b)) to minimize the risk of important non-material information not being reported or relegated to the supplementary section of the sustainability statement.

#### 2. Omission of information

Section 100(a) allows a company, in exceptional cases, to omit information whose disclosure would be 'seriously prejudicial' to its commercial position. This exemption is explicitly extended, by AR 17, to information on anticipated financial effects. Intrinsically subjective and difficult to control, this exemption gives companies considerable leeway to essential information from disclosure, particularly related to climate targets, transition plans, or exposure to physical risks. This is precisely the information that investors consider most useful for assessing ESG risks in their portfolios. Ethos recommends providing guidance on when companies can use this provision.

#### 3. Anticipated financial effects

Section 29 allows a company to omit quantitative information about the anticipated financial effects of material risks or opportunities if "it does not have the skills, capabilities or resources to provide that quantitative information". Ethos does not support this proposal in its current form. This provision introduces an exemption based on a criterion that is entirely self-assessed and unverifiable, which risks becoming the de facto route to exemption for the vast majority of companies

wishing to avoid quantifying the financial impacts of their climate and sustainability risks. Other provisions already allow for the use of ranges and non-monetary metrics (section 32) and confirm that updates on anticipated financial effects can be made as more information becomes available, without implying a reporting error (see AR 17, paragraph 27). In Ethos' view this allows companies sufficient flexibility to provide quantitative information on a best-effort basis.

#### **4. Undue cost of effort**

Paragraphs 93 to 95 regarding the “undue cost of effort” concept, allow undertakings to omit or partially cover mandatory metrics whenever gathering the required information would involve excessive cost or effort. This possibility is extended to apply broadly across all metrics, including those relating to the undertaking's own operations, value chain data, the materiality assessment process, and the disclosure of anticipated financial effects. Ethos does not support this extended possibility where each undertaking determines unilaterally whether the exemption applies, based on its own context and circumstances. This is an inherently subjective assessment with no independent benchmark, no verification requirement, and no obligation to disclose a plan to close identified data gaps over time. This removes the incentive to invest in data collection infrastructure and risks creating permanent, self-serving blind spots in sustainability disclosures.