Commission de Surveillance du Secteur Financier

ENFORCEMENT OF THE 2024 ANNUAL REPORTS PUBLISHED BY ISSUERS SUBJECT TO THE TRANSPARENCY LAW

Pursuant to Article 22 of the law of 11 January 2008 on Transparency requirements for issuers (hereinafter "Transparency Law"), the *Commission de Surveillance du Secteur Financier* ("CSSF") is monitoring that financial and non-financial information published by issuers is drawn up in compliance with the applicable reporting frameworks.

As issuers are now preparing their reporting for the 2024 financial year, the CSSF wishes to draw the attention to a number of topics and issues that will be the subject of specific monitoring during the CSSF's enforcement campaign planned for 2025. These matters concern those issuers preparing their financial statements in accordance with IFRS and/or their sustainability reports in accordance with the Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 (hereinafter "European Sustainability Reporting Standards" or "ESRS"), as well as their auditors.

European Common Enforcement Priorities (hereinafter "ECEPs")

As in previous years, the European Securities and Markets Authority (ESMA), together with the European national accounting enforcers, including the CSSF, identified ECEPs for the 2024 annual reports to which particular attention will be paid when monitoring and assessing the application of the relevant reporting requirements. ESMA issued on 24 October 2024 a public statement which describes these 2024 ECEPs (ESMA32-193237008-8369). This document is available on the CSSF's website under Enforcement of Issuer Disclosure. Issuers are encouraged to consider the ECEPs in addition to the CSSF's enforcement priorities outlined below as the latter are derived from the ECEPs.

More information on inspections and findings by the CSSF within the framework of its mission under Article 22 (2) h) of the Transparency Law are given under Enforcement of Issuer Disclosure

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1 IFRS Financial Statements

1. Liquidity considerations (1/2)

It is crucial for issuers to provide relevant information on their liquidity risk in their financial statements, as it allows investors to assess the issuers' ability to meet their short-term obligations and have a clear view on potential risk factors. Transparent liquidity risk disclosures help stakeholders to understand the issuers' financial resilience, especially during periods of market volatility or economic uncertainty. Therefore, among the criteria and elements to be considered, the CSSF particularly recommends that issuers pay attention to the following ones:

Covenants

Given the current economic uncertainties stemming from inflationary trends and fluctuating interest rates, the compliance with some debt covenants in loan agreements can prove difficult for issuers. In this context, issuers should consider the recent clarifications and additional disclosure requirements under IAS 1 *Presentation of Financial Statements* regarding non-current liabilities subject to covenants, as well as the disclosure obligations under IFRS 7 *Financial Instruments: Disclosures* for loans payable, particularly in cases of defaults, breaches, or renegotiations of loan agreements. Paragraph 76ZA of IAS 1, newly introduced, mandates the disclosure of information that allows users of financial statements to assess the risk of liabilities becoming repayable within twelve months after the reporting period. This is relevant when an issuer classifies liabilities arising from loan agreements as non-current but where the ability to defer settlement is contingent on covenant compliance within that period.

The amendments clarify that if a liability does not meet the conditions set forth in paragraph 69 of IAS 1, it should be classified as non-current, even if management expects or intends to settle it within the next twelve months. If this is significant, issuers should provide information on the timing of settlement to help users gauge the financial impact of these liabilities. This includes disclosing the settlement of non-current liabilities occurring after the reporting period but before the financial statements are authorised for issue, as non-adjusting events per IAS 10 *Events after the Reporting Period.*

Lastly, the CSSF highlights that any liabilities subject to breached covenants as of the year-end must be reclassified as current, even if a waiver is obtained after the reporting period.

1. Liquidity considerations (2/2)

Statement of Cash flows ("SoCF")

The CSSF would like to emphasise certain requirements where past cases of non-compliance have been identified at local and European levels: (i) cash flows in the SoCF must be presented on a gross basis, (ii) non-cash transactions should not be included in the SoCF, and (iii) material non-cash transactions related to investing and financing activities must be disclosed elsewhere in the financial statements.

Additionally, the CSSF reminds issuers that bank borrowings are generally classified under financing activities, except for bank overdrafts that are repayable on demand and form an integral part of the issuer's cash management. In such cases, these overdrafts are treated as a component of cash and cash equivalents.

The CSSF finally urges issuers to maintain a high level of transparency regarding the accounting policies and judgments applied when classifying cash flows—such as those related to interest, dividends, leases, supplier finance arrangements, and other complex or infrequent transactions—and the components of cash and cash equivalents.

2. Accounting policies, judgements, significant estimates (1/2)

Providing clear information on accounting policies and estimates is essential, as it helps users to understand how financial results are determined and what assumptions lie behind key figures.

Cross-cutting requirements

The CSSF reminds issuers to customise their disclosures of material accounting policies, judgments, and sources of estimation uncertainty to ensure they are (i) entity-specific (e.g., issuers should focus only on the accounting policies and valuation methods they use), and (ii) consistent with other information in the financial statements (e.g., issuers should consider including sensitivity analyses where there is a risk that small changes in assumptions or estimates could result in material adjustments to carrying amounts). Generic disclosures that merely repeat IFRS requirements should be avoided, as such boilerplate information may obscure key details and provide little value to users of the financial statements.

Issuers are also expected to clearly disclose: (i) the key judgments that had the most significant impact on amounts recognised in the financial statements, and (ii) the assumptions about the future and other major sources of estimation uncertainty that carry a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year. This requires an assessment of whether, and how, estimation uncertainty is influenced by significant current developments, with additional elaboration to be provided where necessary.

Going concern

When preparing financial statements, management must assess the entity's ability to continue as a going concern and disclose any material uncertainties that may cast significant doubt on this ability. Depending on the circumstances (e.g., low profitability, limited access to financing), management may need to conduct a thorough analysis to justify the going concern assumption. Such analyses could include evaluating various factors like availability of funding (e.g., issuing new debt or equity), government support, the launch of new products, business restructuring (e.g., spin-offs), and the effects of long-term market changes. The CSSF expects issuers to provide detailed, entity-specific disclosures about the significant judgments made in this regard, supported by clear information on the potential consequences if expectations are not met, including the possible impact on the issuer’s ability to continue as a going concern. Transparency is crucial, especially when material uncertainties remain after considering mitigating actions.

Control, joint control and significant influence

The CSSF highlights that determining whether control (including joint control) or significant influence is exercised may involve substantial judgment. This is particularly relevant when factors beyond voting rights must be considered, such as: (i) the existence of special contractual rights, originating from by-laws or shareholder agreements, that influence voting or director nomination processes, (ii) the investee being subject to a specific legal framework, (iii) investors facing legal restrictions, such as caps on capital involvement in the investee, or (iv) other circumstances, such as the issuer holding options on the investee's equity.

As a result, paragraphs 7 through 9 of IFRS 12 *Disclosure of Interests in Other Entities*, require customised disclosures regarding the significant judgments made when assessing control, joint control, or significant influence. These disclosures should be tailored to provide clear insights into how these judgments were reached, particularly in complex cases where legal or contractual factors play a critical role.

Provisions

The CSSF emphasises that the accounting of provisions often involves significant judgment and estimation uncertainty. This is particularly relevant when a provision is not recognised because a reliable estimate of the obligation cannot be made, even though the conditions of paragraphs 14(a) and 14(b) of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* are met (i.e., recognition fails only because the condition in paragraph 14(c) is not satisfied). In such cases, issuers are expected to provide appropriate disclosures in compliance with paragraphs 122 and 125 of IAS 1.

Furthermore, the CSSF draws attention to the recent IFRS Interpretations Committee (IFRS IC) agenda decision on climate-related commitments, which may affect the accounting for provisions.

2 Sustainability report

1. Materiality considerations in reporting under ESRS

The double materiality assessment, which considers both impact materiality and financial materiality, is fundamental in determining the information that must be disclosed in the sustainability report. This approach ensures that companies not only assess the financial impact of sustainability-related matters on their performance but also evaluate the broader societal and environmental impacts of their activities. The CSSF encourages issuers to use EFRAG Implementation Guidance on Materiality Assessment (IG1) when applying the relevant requirements of the ESRS. This guidance helps issuers navigate the double materiality assessment and ensures comprehensive, transparent, and relevant sustainability reporting.

The CSSF highlights that the disclosure should not only reflect the outcome of the materiality assessment but should also explain the process itself, including through providing sufficiently granular information on the activities, business relationships, geographies and stakeholders considered. As for the latter, the CSSF stresses that it is key to ensure full transparency on how issuers identify and prioritise the stakeholders with which they engage (refer to FAQ 16 of EFRAG IG1 Materiality Assessment and Disclosure Requirement (DR) SBM-2 and DR IRO-1 of ESRS 2).

The CSSF would also like to draw the issuers' attention to the fact that all DR and datapoints laid down in ESRS 2, including those related to DR IRO-1 in topical standards, are mandatory, irrespective of the materiality assessment.

2. Scope and structure of the sustainability report

The CSSF emphasises that the sustainability report must cover the same reporting entity as the financial statements. However, the scope of the sustainability disclosures should extend to the issuer's entire value chain. Although a transitional relief period of three years is granted for full value chain reporting, issuers are still required to detail the efforts made to obtain necessary information about their value chains during this period. If issuers choose to take advantage of this transitional relief, they must explain why certain information could not be obtained and how they plan to address this going forward.

The CSSF also notes that the structure of the sustainability report is outlined in Section 8 and Appendix D of ESRS 1, where incorporation by reference is allowed under certain conditions. Issuers that use alternative presentation formats must ensure that their sustainability report aligns with the general presentation objectives.

Lastly, the CSSF underscores the importance of connectivity between the sustainability report and financial statements. Direct references to amounts disclosed in the sustainability report should link to relevant sections of the financial statements, ensuring consistency and transparency across both reports.

3 ESEF Reporting

Common markup errors

For the examination of 2024 annual financial reports subject to ESEF requirements, the CSSF will focus, inter alia, on common ESEF markup errors affecting the issuers' statements of financial position. During the first years of examination, the CSSF and its EU counterparts have come across common mistakes in the field of:

- Correctness of mark-ups;
- Extension of taxonomy elements and anchoring;
- Consistency and completeness of mark-ups;
- Correctness of signs, scaling and accuracy; and
- Consistency of calculations.

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