EBA’s consultation on ESG Guidelines

Draft feedback by the Forests & Finance Coalition

16 April 2024

Forests & Finance is an initiative by a coalition of campaign and research organisations including Rainforest Action Network, TuK Indonesia, Profundo, Amazon Watch, Repórter Brasil, BankTrack, Sahabat Alam Malaysia and Friends of the Earth US. Collectively we seek to prevent financial institutions from facilitating environmental and social abuses common in forest risk commodities. We seek to achieve this through improved financial sector transparency, policies, systems and regulations.

F&F responses to selected EBA questions

Question 1 Do you have comments on the EBA’s understanding of the plans required by Article 76(2) of the CRD, including the definition provided in paragraph 17 and the articulation of these plans with other EU requirements in particular under CSRD and the draft CSDDD?

The EBA’s understanding of Article 76(2) of the Capital Requirements Directive (CRD) is not well aligned with other EU requirements, particularly under Corporate Sustainability Reporting Directive (CSRD) and the draft Corporate Sustainability Due Diligence Directive (CSDDD). In our view, there are three primary sources of inconsistency:

- The EBA’s guidelines ignore that CSRD and CSDDD are based on the principle of double materiality. The EBA has adopted a principle of financial risk materiality by emphasising the adverse effects of ESG issues on all categories of financial risk to which financial institutions are exposed. The EBA is not mentioning that institutions are, in turn, responsible for the creation of ESG issues by, for example, financing business and economic activities that damage the environment or violate human rights. According to the CSRD and the CSDDD, institutions are not only exposed to and impacted by ESG issues, but institutions contribute to the creation of those ESG issues and therefore have a responsibility not only to prevent their own financial risk but to prevent risks for other stakeholders including nature and society. Even if banks are temporarily exempt from specific obligations under CSDDD, the principle of double materiality remains intact. The CSDDD mandates financial institutions to establish transition plans to address climate change in line with this principle.

  By perpetuating a narrative that positions the economy and financial institutions as separate from, or even at odds with, efforts to address ESG issues, the EBA’s guidelines obscure the fundamental role that institutions play in shaping the trajectory of environmental degradation, social inequality, and governance failures.

- The EBA’s guidelines miss that CSRD and CSDDD are aligned with a clear objective of achieving climate neutrality by 2050. The EBA’s definition of a prudential transition plan in paragraph 17 limits the time scope of prudential plans to a “forward-looking business environment analysis” and misses the opportunity to require in a clear way that, in alignment with CSRD and CSDDD, all prudential plans should aim to achieve climate neutrality by 2050. This would also have consequences for the scope of the required prudential transition plans, in the sense that all plans should be indicating the structural changes that each institution will implement in its business model to achieve the objective of climate neutrality by 2050. Such structural changes would not only touch on the institution's analysis of financial risks but also on - among others - its selection of clients, due diligence procedures and remuneration policies.

- Given the close connection between climate issues and deforestation, the EBA's guidelines must include in their alignment principles the EU Deforestation Regulation (EUDR) for banks. This regulation ensures that seven commodity products - soy, beef, palm oil, wood, cocoa, coffee, and rubber, all of which are major drivers of deforestation - will no longer be sold in the EU if sourced from areas affected by deforestation or forest degradation practices. A similar requirement should prohibit banks from financing the production and procurement of these commodities, if sourced from areas affected by deforestation or forest degradation practices.

These inconsistencies in the EBA's proposals could lead to confusion and fragmentation in approaches, as institutions may face divergent expectations from different EU guidelines regarding ESG risk management and reporting. Furthermore, it undermines the coherence and effectiveness of the EU regulatory framework aimed at promoting sustainable business practices and ensuring accountability.

Question 2: Do you have comments on the proportionality approach taken by the EBA in these guidelines?

The EBA's draft guidelines consider that smaller institutions may not be immune to ESG risks, for example, due to potential concentrations of exposures in ESG-sensitive economic sectors or geographical areas prone to physical risks. All institutions should, therefore, implement ESG risk management approaches that reflect the materiality of ESG risks associated with their business model and scope of activities.

However, we believe that this principle of proportionality will be flawed without using an approach of double materiality. Small institutions can play a great role in impacting the ESG landscape, creating higher risks for other institutions and society. Therefore, the principle of proportionality should be based on an exercise of identifying double materiality risks.

Question 3: Do you have comments on the approach taken by the EBA regarding the consideration of, respectively, climate, environmental, and social and governance risks? Based on your experience, do you see a need for further guidance on how to handle interactions between various types of risks (e.g. climate versus biodiversity, or E versus and/or G) from a risk management perspective? If yes, please elaborate and provide suggestions.

ESG issues are deeply interconnected, and addressing one aspect often requires considering its impact on others. For example, issues related to high emissions are closely linked to biodiversity and forest conservation, as well as human rights concerns with local communities. Similarly, issues typically considered as social, such as labour rights and fair remuneration in value chains, can add pressure or even originate environmental issues.

It is imperative that financial institutions have a clear understanding of these interconnections and consider them comprehensively in their risk management practices. Merely following a checklist to reduce emissions numbers, for instance, may not yield positive results for addressing double material risks if it overlooks the broader context of environmental, social, and governance factors.

We suggest the EBA to provide more explicit guidance on how financial institutions can integrate the consideration of interactions between various types of ESG risks into their risk management frameworks. This could include providing case studies or best practices illustrating how to identify and assess these interconnections and incorporate them into decision-making processes. Moreover, emphasis should be placed on the importance of holistic and integrated approaches to ESG risk management, which take into account the complex relationships between different types of risks. This could involve promoting collaboration with external stakeholders, including civil society organisations and experts in relevant fields outside the financial sector.

Question 4: Do you have comments on the materiality assessment to be performed by institutions?

The EBA has adopted a principle of financial risk materiality by emphasising the adverse effects of ESG issues on all categories of financial risk to which institutions are exposed and not mentioning that institutions are, in turn, responsible for the creation of ESG issues by, for example, financing business and economic activities that damage the environment or violate human rights. According to the CSRD and the CSDDD, institutions are not only exposed to and impacted by ESG issues, but institutions contribute to the creation of those ESG issues and therefore have a responsibility not only to prevent their own financial risk but to prevent risks for other stakeholders including nature and society. Even if banks are temporarily exempt from specific obligations under CSDDD, the principle of double materiality remains intact. The CSDDD mandates financial institutions to establish transition plans to address climate change in line with this principle.

By perpetuating a narrative that positions the economy and financial institutions as separate from, or even at odds with, efforts to address ESG issues, the EBA's guidelines obscure the fundamental role that institutions play in shaping the trajectory of environmental degradation, social inequality, and governance failures.

Question 5: Do you agree with the specification of a minimum set of exposures to be considered as materially exposed to environmental transition risk as per paragraphs 16 and 17, and with reference to the EU taxonomy as a proxy for supporting justification of non-materiality? Do you think the guidelines should provide similar requirements for the materiality assessment of physical risks, social risks and governance risks? If yes, please elaborate and provide suggestions.

We believed that a minimum set of exposures should be considered as material for each type of risk - environmental (E), social (S), and governance (G). However, it is essential to recognise that materiality may vary depending on the context and nature of each financial institution's operations. Therefore, while the EU taxonomy can serve as a guide, financial institutions should conduct their own due diligence to identify and assess risks that are double material to them.

We recommend that the guidelines provide similar requirements for the materiality assessment of physical risks, social risks, and governance risks. This could involve establishing standardised criteria and indicators to guide financial institutions in identifying material exposures across different types of risks.

For example, financial institutions should incorporate biodiversity and deforestation exposures into their risk assessments. Biodiversity loss and deforestation pose significant environmental risks and have far-reaching social and governance implications, including impacts on local communities, indigenous rights, and supply chain integrity. To facilitate this process, the EBA can provide examples of criteria and indicators for assessing materiality in the areas of social and governance risks.

Additionally, financial institutions can leverage existing global data and expertise from NGOs and civil society organisations to enhance their understanding of these risks and their potential impacts. As an example, Forests & Finance (a coalition of NGOs) assesses the finance received by over 300 companies directly involved in the beef, soy, palm oil, pulp and paper, rubber and timber supply chains, whose operations may impact natural tropical forests and the communities that rely on them in Southeast Asia, Central and West Africa, and parts of South America. A beta dataset also assesses the finance received by 22 mining companies operating in the same regions.

Question 6: Do you have comments on the data processes that institutions should have in place with regard to ESG risks?

Institutions should always perform due diligence. This due diligence process should not be exclusive to large corporations. Once the double material risks have been identified, the principle of proportionality can apply here.

While leveraging data from ESG data providers is essential, institutions should complement these with their own comprehensive due diligence process. This should involve collecting information directly from counterparties and utilising data from additional sources, including NGOs, governments, and civil society organisations. Some examples of sources to identify issues can be:

- Forests&Finance: This is a coalition of NGOs that assesses the finance received by over 300 companies directly involved in the beef, soy, palm oil, pulp and paper, rubber and timber supply chains, whose operations may impact natural tropical forests and the communities that rely on them in Southeast Asia, Central and West Africa, and parts of South America. A beta dataset also assesses the finance received by 22 mining companies operating in the same regions.

- Global Oil & Gas Exit List: This is a comprehensive publicly available database on the oil & gas industry, covering 1,623 companies active in the upstream, midstream or gas-fired power sector. Companies listed on GOGEL account for 95% of global oil and gas production. It is tailored to the needs of financial institutions looking to phase out fossil fuels.
- ENCORE (Exploring Natural Capital Opportunities, Risks and Exposure): This is a free, online tool that helps organisations explore their exposure to nature-related risk and take the first steps to understand their dependencies and impacts on nature.

In relation to issues of biodiversity and deforestation, we can provide an additional list of criteria to be considered across each of the E, S, and G issues. These criteria have been drawn with expertise from the field and following international standards such as the Global Biodiversity Framework, the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the ILO conventions, and other relevant standards. These criteria are included in the Forests & Finance Policy Assessment Methodology, which is used to assess the quality of the ESG policies of financial institutions involved in the financing of deforestation-risk commodities.

- **Environment**

  Financial institutions must ensure that:

  1. Companies and their suppliers must commit to zero-deforestation and no-conversion of natural forests and ecosystems.
  2. Companies and their suppliers must not drain or degrade wetlands and peatlands.
  3. Companies and their suppliers must not convert or degrade High Carbon Stock (HCS) forest areas.
  4. Companies and their suppliers must not operate in, or have negative impacts on, protected areas.
  5. Companies and their suppliers must identify and protect High Conservation Value (HCV) areas under their management.
  6. Companies and their suppliers must not use fire for land clearing activities and fight fires.
  7. Companies and their suppliers must minimise their impacts on groundwater levels and water quality.
  8. Companies and their suppliers must not harvest, nor trade in, endangered species and must protect the habitats of endangered species.
  9. Companies and their suppliers must not use nor introduce genetically modified species or invasive alien species into the environment.
  10. Companies and their suppliers must minimise or eliminate the use of pesticides.
  11. Companies and their suppliers must minimise pollution caused by their mills and other operations.
  12. Companies and their suppliers must disclose targets and credible transition plans to mitigate their GHG emissions.

- **Social**

  Financial institutions must ensure that:

  1. Companies and their suppliers must respect the right of indigenous peoples to give or withhold Free, Prior and Informed Consent (FPIC) if they could be affected by planned operations.
  2. Companies and their suppliers must respect the right of all communities with customary land rights to give or withhold Free, Prior and Informed Consent (FPIC) if they could be affected by planned operations.

3. Companies and their suppliers must establish human rights due diligence processes and monitoring systems
4. Companies and their suppliers must respect the broader social, economic and cultural rights of communities affected by their operations, including the right to health and the right to an adequate standard of living
5. Companies and their suppliers must commit to the resolution of complaints and disputes through an open, transparent and consultative process
6. Companies and their suppliers must maintain zero tolerance towards violence and the criminalisation of land, environmental, and human rights defenders
7. Companies and their suppliers must not engage in forced labour nor in child labour
8. Companies and their suppliers must uphold the rights to freedom of association, collective bargaining and freedom from discrimination
9. Companies and their suppliers must pay at least a living wage
10. Companies and their suppliers must protect the safety and health of workers
11. Companies and their suppliers must have a gender-sensitive zero-tolerance policy towards all forms of gender-based discrimination and violence

- **Governance of financial institutions:**

  1. The financial institution has integrated sustainability objectives in its governance structure.
  2. The financial institution is transparent on the actions through which its ESG policies are implemented and enforced.
  3. The financial institution applies its ESG policies to the entire corporate group to which its client or investee company belongs to.
  4. The financial institution is transparent on its investments and financings in deforestation-risk sectors.
  5. The financial institution discloses its financed GHG emissions related to Agriculture, Forestry and Other Land Use.
  6. The financial institution discloses targets and a credible transition plan to mitigate GHG emissions from Agriculture, Forestry and Land Use across its portfolio.
  7. The financial institution is transparent on its engagements with companies in deforestation-risk sectors.
  8. The financial institution commits to a transparent and effective grievance mechanism regarding its financing of, or investments in, companies in deforestation-risk sectors.

- **Governance of investee companies and bank clients:**

  Financial institutions must ensure that:

  1. Companies and their suppliers must provide proof of legality of their operations and commodity supplies, in particular proof of compliance with all prevailing laws and regulations on land acquisition and land operation.
  2. Companies and their suppliers must ensure supply chain transparency and traceability.
  3. Companies and their suppliers must publish geo-referenced maps of all the concession areas and farms under their management.
  4. Companies must publish Environmental and Social Impact Assessments for all their operations.
  5. Companies and their suppliers must not get engaged in corruption, bribery and financial crimes.
  6. Companies and their suppliers must comply with the letter and the spirit of the tax laws and regulations in the countries in which they operate and must not set up international corporate structures solely for tax avoidance purposes.
  7. Companies and their suppliers must publish their group structure and country-by-country data.

Question 7: Do you have comments on the measurement and assessment principles?

We have four comments:

- Incorporating a principle of double materiality: It is essential to incorporate a principle of double materiality into the measurement and assessment principles for ESG risks. This principle ensures that assessments consider not only the impact of ESG issues on financial performance but also the reciprocal impact of economic activities on the environment, society, and governance structures. By adopting this approach, institutions can better understand the interconnectedness of ESG risks and make more informed decisions.
- Alignment with EU directives (CSRD, CSDDD, and EUDR): The measurement and assessment principles should align with the EU directives on Corporate Sustainability Reporting, Corporate Sustainability Due Diligence and EU Deforestation Regulation. This alignment promotes consistency and coherence in regulatory frameworks, ensuring institutions adhere to established standards and guidelines. By aligning with other EU directives, institutions can contribute to the harmonisation of ESG reporting practices and facilitate comparisons across different jurisdictions.
- Commitment to perform due diligence: Institutions should commit to performing due diligence to gather comprehensive data on ESG risks. This involves collecting information directly from counterparties and utilising data from diverse sources such as NGOs, governments, and civil society organisations.
- Acting with precaution in data gaps: In sectors highly exposed to specific risks such as deforestation (e.g., beef, timber, cocoa, palm oil), institutions must exercise precautionary measures when facing data gaps. In situations where data is lacking or incomplete, institutions should act cautiously and apply the precautionary principle. This involves taking proactive measures to mitigate risks, even without complete information, in the first place by not financing clients who do not comply with minimum ESG criteria, and who do not have full traceability.. By acting with precaution, institutions can reduce the likelihood of negative impacts associated with ESG risks and uphold commitments to sustainability and responsible business practices.

Question 8: Do you have comments on the exposure-based methodology?

We recommend including the Global Biodiversity Framework in the list of guiding international standards. Financial institutions are pivotal in influencing biodiversity loss through the industries and activities they finance. The GBF and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) identify land use change, pollution, climate change, and over-exploitation of natural resources as major drivers of biodiversity loss. Sectors such as fossil fuels, large hydropower, industrial logging, industrial livestock farming, and industrial monoculture plantations significantly contribute to nature loss. Urgent action is needed to address the twin biodiversity and climate crises, and financial institutions can play a critical role.

The following 5 principles from the GBF, should guide institutions in their efforts:

1. **Halting and Reversing Biodiversity Loss**: Financial institutions should cease financing activities and sectors driving nature destruction and prohibit harmful financing that negatively impacts critical ecosystems essential for conserving biodiversity and regulating the climate.
2. **Respecting and Prioritizing Indigenous Peoples' and Local Communities' Rights**: Banks must protect and prioritise the human rights of affected communities, including Indigenous Peoples, in line with the GBF's human rights-based approach and international best practices.

3. **Fostering a Just Transition**: Financial institutions should prioritise ecological and social well-being, engage meaningfully with affected communities, and avoid false solutions and dependency on unproven technologies.
4. **Ensuring Ecosystem Integrity**: Funding proposals should assess cumulative ecosystem-wide impacts before financing, and financing should be prohibited for activities seriously and negatively impacting ecosystem integrity.
5. **Aligning Institutional Objectives**: Banks should ensure coherence between biodiversity-related targets, climate objectives, and human rights protection in their due diligence and decision-making processes.

Additional international standards that financial institutions should specifically address about biodiversity and deforestation in intersection with all ESG issues are:

- CBD Voluntary Guidelines on Biodiversity-Inclusive Impact Assessments;
- FAO International Code of Conduct on the Distribution and Use of Pesticides;
- FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT);
- Forest Stewardship Certification scheme;
- ILO Convention on Indigenous and Tribal Peoples;
- ILO Convention on Occupational Health and Safety;
- ILO Declaration on Fundamental Principles and Rights at Work;
- International Finance Corporation Performance Standards;
- OECD Guidelines for Multinational Enterprises;
- Round Table on Responsible Soy (RTRS) certification scheme;
- Roundtable on Sustainable Palm Oil (RSPO) certification scheme;
- United Nations Convention against Corruption;
- United Nations Declaration on the Rights of Indigenous Peoples;
- United Nations Global Compact;
- United Nations Guiding Principles on Business and Human Rights;
- United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR);
- Women's Empowerment Principles.

Question 9: Do you have comments on the portfolio-based methodologies, including the reference to the IEA net zero scenario? Should the guidelines provide further details on the specific scenarios and/or climate portfolio alignment methodologies that institutions should use? If yes, please elaborate and provide suggestions.

Under a principle of double materiality, we recommend:

- Alignment with earlier target metrics and targets on deforestation and biodiversity: Financial institutions should not only align with the IEA net zero scenario's 2050 target but also with established objectives and target metrics for earlier dates in 2030 and 2040. By aligning with shorter-term milestones, institutions can ensure that their portfolios contribute to tangible progress in the transition to a net-zero economy. This approach enables more focused and actionable strategies to address climate-related risks. In addition to climate targets, financial institutions should have clear objectives aimed at drastically reducing and eliminating deforestation and biodiversity loss in their portfolios.
- Alignment with all targets of the Global Biodiversity Framework.
- Prudential approach for data gaps and perceived lower risk levels of deforestation and biodiversity loss: Given the significance of biodiversity and deforestation issues and their complex interconnections with climate and social issues, a prudential approach is necessary when facing data gaps or perceived lower levels of risk. Financial institutions should recognise the potential for underestimated risks in these areas and adopt risk

mitigation strategies accordingly. This may include conducting additional research, engaging with experts, and applying precautionary measures to mitigate potential impacts, even in the absence of complete data or when risks are deemed relatively low.

- Further guidance on natural capital dependencies (p 38): The guidelines should provide additional guidance on methods to identify natural capital dependencies as part of the analysis of nature-related or biodiversity risks. This could involve incorporating specific indicators such as deforested hectares or utilising tools like ENCORE (Exploring Natural Capital Opportunities, Risks, and Exposure) to assess the impact of environmental degradation on financial portfolios. By integrating natural capital dependencies into risk analyses, institutions can better understand the materiality of biodiversity and deforestation risks and develop more effective strategies to manage and mitigate these risks.

Question 11: Do you have comments on section 5.2 – consideration of ESG risks in strategies and business models?

The guideline must emphasise the importance of financial institutions examining structural changes in their business models to achieve climate neutrality by 2050 and to achieve the targets of the GBF. This requires a fundamental shift in how institutions conduct their business and allocate resources. It's not just about short-term risk analysis over a 10-year window but about developing clear strategies to finance a climate transition that has implications for all aspects of environmental, social, and governance (ESG) factors, including reforestation and biodiversity loss. This affects the institution's selection of clients, due diligence procedures and remuneration policies.

Financial institutions need to go beyond superficial adjustments and embrace transformative changes that align with the goals of the Paris Agreement and other international climate commitments. This will involve reallocating investments away from carbon-intensive industries towards sustainable and renewable energy sources, integrating climate considerations into lending and investment decisions, and fostering innovation in green finance products and services. Furthermore, the guideline should underscore the importance of considering the broader implications of climate transition on ESG factors. This includes assessing social and governance aspects such as job creation, labour rights, community engagement, and corporate governance practices in the context of climate-related initiatives.

Question 13: Do you have comments on section 5.4 – consideration of ESG risks in internal culture, capabilities and controls?

To effectively integrate ESG considerations into internal practices, institutions should establish key performance indicators (KPIs) that reflect climate, biodiversity, and other relevant ESG targets. These KPIs should be integrated into performance evaluation frameworks and used to assess individual and team performance. Employees who contribute to achieving ESG targets should be appropriately rewarded.

Remuneration schemes must be consistent with the institution's prudential plan and formulated strategies, ensuring alignment with broader business objectives and risk management priorities. This consistency should be maintained across all management and operational levels, fostering a culture where sustainability is embedded into decision-making processes and day-to-day operations.

Question 18: Do you have comments on the key principles set by the guidelines for plans in accordance with Article 76(2) of the CRD?

We have addressed some of these principles in the previous answers however we summarize here:

- Double materiality principle: The guidelines should adopt the double materiality principle, as outlined in EU directives (CSRD and the CSDDD). This ensures that institutions consider both the impact of ESG issues on financial performance and the impact of economic activities on environmental and social factors. Even if banks are temporarily exempt from specific obligations under CSDDD, the principle of double materiality remains intact. The CSDDD mandates financial institutions to establish transition plans to address climate change in line with this principle.
- Alignment with climate neutrality by 2050: Plans should align with climate neutrality goals by 2050 and include targets for climate and deforestation in the short and medium term, not limited to the coming 10 years. This ensures that institutions contribute to achieving the objectives of the Paris Agreement and address critical environmental challenges effectively. The biodiversity framework can provide guidance on setting targets, in particular target 14 on integrating biodiversity in decision-making at every level, target 15 on assessing, disclosing and reducing biodiversity-related risks and negative impacts, and target 19 on mobilizing at least USD 200 billion per year for biodiversity from all sources, including USD 30 billion through international finance.
- Structural changes to business models: Institutions should present strategies that incorporate structural changes to their business models to support the transition to a sustainable economy. This includes the selection of clients, due diligence procedures, remuneration policies, reallocation of investments, fostering of innovation, and more in general the adoption of practices aligned with international standards and regulations, including the Global Biodiversity Framework.
- Intersections between ESG issues: The guidance should provide better clarification on the intersections between different ESG issues. For instance, it should couple emission reduction targets with deforestation and biodiversity loss targets to address the interconnectedness of these challenges. By integrating these targets, institutions can develop more holistic strategies that mitigate environmental impacts comprehensively and avoid unintended consequences in their sustainability efforts.
- Precautionary principle: An important principle that institutions should adhere to is acting with precaution when identifying or assessing potential risks related to environmental degradation, deforestation, biodiversity loss, or any other ESG issue, including human rights abuses. This entails conducting thorough risk assessments and taking proactive measures to prevent or mitigate adverse impacts, even in the absence of conclusive evidence, in some cases by refusing to finance certain companies. By applying the precautionary principle, institutions can minimize harm to the environment, society, and their stakeholders, demonstrating a commitment to responsible and sustainable business practices.
- Due diligence and alternative data sources: Due diligence should be performed at all times by all institutions, proportionate to their double materiality exposure. This involves using alternative sources of data, such as information from Civil Society Organizations (CSOs) and Non-Governmental Organizations (NGOs), when assessing deforestation, biodiversity, and human rights issues.
- Consistency in plans and remuneration: There should be consistency between plans and remuneration to employees across all management and operational levels. Remuneration

schemes should align, reward and encourage with ESG goals and be transparently disclosed to stakeholders.

- Transparent disclosure: Institutions should transparently disclose their plans, goals, and metrics, the companies they are financing or investing in, and their governance structure, including remuneration policies. This promotes accountability, fosters stakeholder trust, and facilitates benchmarking and comparison with industry peers.

Question 19: Do you have comments on section 6.2 – governance of plans required by the CRD?

Regarding the governance of plans required by the CRD, we believe that institutions must consider:

- Positive incentives for management and operations: Institutions should ensure that positive incentives are in place for management and operations to execute the plan successfully. This involves aligning performance incentives with achieving ESG targets and sustainability objectives. By incentivizing positive outcomes, institutions can motivate employees at all levels to actively contribute to the implementation of the plan and drive sustainable practices throughout the organisation.
- Alignment of risk appetite and prudential plans: There should be no conflict between the institution's risk appetite and its prudential plans. Governance structures should be designed to ensure that ESG considerations are integrated into risk management frameworks and decision-making processes. This alignment helps mitigate ESG-related risks effectively while maintaining overall financial stability and regulatory compliance.
- Reward and encouragement for employees: Employees working directly or indirectly with ESG issues should possess the technical capabilities required and be rewarded and encouraged to achieve the set targets. This involves recognising and incentivising contributions towards ESG objectives, fostering a culture of sustainability, and providing ongoing support and training to enhance ESG expertise across the organization.

Question 25: Where applicable and if not covered in your previous answers, please describe the main challenges you identify for the implementation of these guidelines, and what changes or clarifications would help you to implement them.

We encourage EBA to adopt a stronger stance on double materiality and to clearly state that financial institutions have a responsibility for creating and perpetuating ESG issues and, therefore, an obligation to address those issues. The narrative that ESG issues are an issue for institutions solely because of financial risk is outdated, inaccurate, and dangerous. It obscures the responsibility of financial institutions to contribute effectively to the major economic and societal transformations needed to deal in a sustainable way with environmental and social challenges.

We suggest to explicitly include in the list of recommended international standards the Global Biodiversity Framework and its five key principles and targets. In particular:

- Target 14: Integrate Biodiversity in Decision-Making at Every Level

  Ensure the full integration of biodiversity and its multiple values into policies, regulations, planning and development processes, poverty eradication strategies, strategic environmental assessments, environmental impact assessments and, as appropriate, national accounting, within and across all levels of government and across all sectors, in particular those with significant impacts on biodiversity, progressively aligning all relevant public and private activities, and fiscal and financial flows with the goals and targets of this framework.

- Target 15: Businesses Assess, Disclose and Reduce Biodiversity-Related Risks and Negative Impacts
  - Take legal, administrative or policy measures to encourage and enable business, and in particular to ensure that large and transnational companies and financial institutions:
    a) Regularly monitor, assess, and transparently disclose their risks, dependencies and impacts on biodiversity, including with requirements for all large as well as transnational companies and financial institutions along their operations, supply and value chains, and portfolios;
    b) Provide information needed to consumers to promote sustainable consumption patterns;
    c) Report on compliance with access and benefit-sharing regulations and measures, as applicable;
  - in order to progressively reduce negative impacts on biodiversity, increase positive impacts, reduce biodiversity-related risks to business and financial institutions, and promote actions to ensure sustainable patterns of production.
- Target 19: Mobilize US$ 200 Billion per Year for Biodiversity From all Sources, Including US$ 30 Billion Through International Finance

  Substantially and progressively increase the level of financial resources from all sources, in an effective, timely and easily accessible manner, including domestic, international, public and private resources, in accordance with Article 20 of the Convention, to implement national biodiversity strategies and action plans, mobilizing at least US$ 200 billion per year by 2030, including by:

  a) Increasing total biodiversity related international financial resources from developed countries, including official development assistance, and from countries that voluntarily assume obligations of developed country Parties, to developing countries, in particular the least developed countries and small island developing States, as well as countries with economies in transition, to at least US$ 20 billion per year by 2025, and to at least US$ 30 billion per year by 2030;
  b) Significantly increasing domestic resource mobilization, facilitated by the preparation and implementation of national biodiversity finance plans or similar instruments according to national needs, priorities and circumstances;
  c) Leveraging private finance, promoting blended finance, implementing strategies for raising new and additional resources, and encouraging the private sector to invest in biodiversity, including through impact funds and other instruments;
  d) Stimulating innovative schemes such as payment for ecosystem services, green bonds, biodiversity offsets and credits, and benefit-sharing mechanisms, with environmental and social safeguards;
  e) Optimizing co-benefits and synergies of finance targeting the biodiversity and climate crises;
  f) Enhancing the role of collective actions, including by indigenous peoples and local communities, Mother Earth centric actions and non-market-based approaches including community based natural resource management and civil society cooperation and solidarity aimed at the conservation of biodiversity;
  g) Enhancing the effectiveness, efficiency and transparency of resource provision and use;

We also invite the EBA to explain the intersections of climate issues and targets with other ESG elements, such as the close connection between climate change, deforestation, biodiversity loss, and the violation of local community rights. In doing so, the EBA can add to the suggested international guidelines of sustainability the Global Biodiversity Framework and its five key principles:

1. halting and reversing biodiversity loss
2. respecting and prioritising indigenous peoples' and local communities' rights
3. fostering a just transition
4. ensuring ecosystem integrity
5. aligning institutional objectives.

We encourage the EBA to strongly recommend that financial institutions revise not only their assessment and management of financial risks but also look at structural changes in their business models, basing it on a 1.5 °C scenario aligned with the Paris Agreement or at least on global climate neutrality by 2050 as implied in the EU directives (CSRD and the CSDDD).

In addition, given the close connection between climate issues and deforestation, the EBA's guidelines must include in their alignment principles the EU deforestation regulation (EUDR) for banks. This regulation ensures that seven commodity products - soy, beef, palm oil, wood, cocoa, coffee, and rubber, all of which are major drivers of deforestation - will no longer be sold in the EU if sourced from areas affected by deforestation or forest degradation practices. A similar requirement should prohibit banks from financing the production and procurement of these commodities, if sourced from areas affected by deforestation or forest degradation practices.

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