

EFET response to the EU Commission proposal for a Delegated Act on sustainability reporting standards

The European Federation of Energy Traders (EFET¹) appreciates the opportunity to submit our comments to the draft EU Commission Delegated Regulation, supplementing Directive 2013/34/EU (the “Accounting” Directive), as amended by the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464). Our feedback focuses on the annexed ESG standard ESRS E1 (“Climate Change”²) and its effect on sustainability reporting requirements laid on corporate biomethane users.

Market-based reporting of biomethane consumption should be clearly enabled if ruled out by the revised GHG Protocol principles

Institutionalized and well-functioning trading based on certificates, either bundled with or unbundled from the underlying biomethane or hydrogen, will, in line with the proposed and adopted EU regulatory framework, support the envisioned market maturity for the achievement of the 2030 targets. Based on feedback received from biomethane traders in the course of the drafting of the EFET Biogas Certificates Standard Agreement³, the voluntary market for trade in biomethane and certificates is well developed, with reporting companies using biomethane purchases for offsetting/ reduction of emissions across the different Scopes, as categorised by the Greenhouse Gas Protocol⁴.

The ESRS E1 requires⁵ undertakings to comply with the GHG Protocol Corporate Standard for reporting on the percentage of Scope 1 emissions from regulated emission trading schemes. It moreover references the dual reporting concept from the glossary of the GHGP “Scope 2 Guidance” of 2015 for reporting on gross Scope 2 emissions⁶.

However, the ESRS E1 does not consider the review of the GHGP reporting guidelines initiated in the fourth quarter of 2022 through the consultation of the draft Land-use and Carbon Removals Guidance⁷, which excludes biomethane certificates from Scope 1 reporting in favour of the location-based approach (e.g., local grid factor * emission factor). The final version of this Guidance is expected by the end of 2023, i.e., likely following the entry into force of the Delegated Act supplementing the Accounting Directive. It also doesn't

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 140 energy trading companies, active in over 27 European countries. For more information: www.efet.org

² <file:///C:/Users/MarianaLiakopoulou/Downloads/090166e5fce81f07.pdf>

³ EFET Biogas Certificates Standard Agreement – Version 1.1/ June 2023 and Guidance Note <https://efet.org/home/documents?id=42>

⁴ https://ghgprotocol.org/sites/default/files/standards/Scope3_Calculation_Guidance_0.pdf

⁵ Disclosure requirements E1-6, AR 40 and 45.

⁶ Disclosure requirements E1-6, AR 46 and 50.

⁷ <https://ghgprotocol.org/land-sector-and-removals-guidance>

factor in the wider review of market-based reporting across all three GHGP Scopes consulted in the beginning of this year, with revised texts expected in 2024 and final Guidance in 2025⁸.

We refer to our EFET response to the GHGP market-based accounting approaches survey for a more detailed outline of the bibliographical inaccuracy of the background information provided by the WRI and WBCSD⁹. As a result of the revision of the Scope 2 Guidance in 2020 with the deletion of the market-based reporting option for corporate reporting users seeking to lower their Scope 1 biomethane emissions, uncertainty and different interpretations have prevailed amongst market participants, with the location-based and market-based approaches being used interchangeably.

Therefore, if the GHGP standard becomes mandatory for sustainability reporting under articles 19a and 29a Accounting Directive, through the ESRS E1 annex to the consulted Delegated Act, we identify the double risk of:

- A) Relying on an outdated version of the Scope 2 Guidance, whilst its current wording is differently interpreted by market parties regarding biomethane injected into a pipeline,
- B) Referencing principles and requirements which may fundamentally be revised as accounting approach in two to three years' time.

For this reason, we ask for the ESRS E1 accompanying the Delegated Act to include a clear option for the use of market-based instruments when/ in case this is ultimately not properly recognized by the GHG Protocol standard.

The proposed accounting methodologies should ensure coherence with the EU legal framework

As explained in detail in our response to the GHGP survey¹⁰, banning companies from using the market-based approach under Scopes 1 and 3 would undermine the EU-wide effort to increase biomethane and hydrogen production through new investments in hardware stimulated by the cross-border trading of standardised and mutually fungible certification instruments, based on a harmonised EU regulatory framework¹¹.

Therefore, if the GHGP corporate reporting standards are ultimately revised towards the location-based method relying on the average bio-content of gas in the grid, they will, following their enforcement to EU entities through the Delegated Act, conflict with the ETS

⁸ <https://ghgprotocol.org/blog/standards-update-process-frequently-asked-questions>

⁹ EFET response to the GHGP market-based accounting approaches survey, question 12 <https://efet.org/files/documents/20230315%20EFET%20RES%20Gas%20WG%20CR%20GHGP.pdf>

¹⁰ Ibid, question 15.

¹¹ For completeness, we also provide our feedback on the Scope 2 Guidance, consulted by the GHGP Secretariat during a consultation process separate but parallel to the market-based approaches survey: <https://efet.org/home/documents?id=13>

purchase record accounting for biomethane based on the mass balancing methodology of Directive (EU) 2018/2001 (RED II)¹².

The ESRS E1 should thus ensure coherence with the EU framework and clearly reference article 19 (on GoOs) and articles 25 and 30 (relevant for PoS) of RED II. In this respect, we welcome the EU Commission intention, as outlined in the explanatory memorandum of the Delegated Act, to introduce an interpretation mechanism to provide formal interpretation of the standards and ask EFRAG to publish additional guidance and educational material.

¹² Commission Implementing Regulation on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_COM:Ares\(2021\)4234307](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_COM:Ares(2021)4234307) , as replicated in: a) the EU ETS Monitoring and Reporting Regulation Guidance 03 on zero-rating of biomethane https://climate.ec.europa.eu/system/files/2022-10/gd3_biomass_issues_en.pdf , b) under articles 30-31 RED III (provisional agreement) <https://content.euissuetracker.com/wp-content/uploads/sites/2/2023/06/16-JUN-23-Provisional-agreement-on-the-revision-of-the-Renewable-Energy-Directive.pdf> , c) the draft recast article 8 recast Gas Directive <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0803&qid=1640002501099>